

**EXHIBIT A**

**CITY OF LITHONIA ZONING ORDINANCE  
ORDINANCE NO. 14-05-01**

**Adopted July 6, 2015**



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**(Re-adopted with amendments July 6, 2015)**

**CITY OF LITHONIA ZONING ORDINANCE**

**ARTICLE I. GENERAL REGULATIONS**

**DIVISION 1. GENERAL PROVISIONS**

Sec. 27-1. Short title

This chapter shall be known and may be cited as the Zoning Ordinance of The City of Lithonia, Georgia.

Sec. 27-2. General purposes.

This chapter is enacted by the mayor and city council in order to promote the public health, safety, morals and general welfare of the residents of The City of Lithonia, Georgia, and to implement the City of Lithonia Comprehensive Plan. To these ends, the chapter is intended to achieve the following purposes:

- (a) To guide and regulate the orderly growth, development, redevelopment and preservation of The City of Lithonia in accordance with a well-considered comprehensive plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.
- (b) To protect the established character and the social and economic well-being of both private and public property.
- (c) To promote, in the public interest, the wise utilization of land.
- (d) To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers.
- (e) To reduce or prevent congestion in the public streets.
- (f) To facilitate the creation of a convenient, attractive and harmonious community.
- (g) To encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations.
- (h) To expedite the provision of adequate police and fire protection, safety from crime, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements.
- (i) To protect against destruction of, or encroachment upon, historic areas.
- (j) To protect against overcrowding of land, overcrowding of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life or health or property from fire, flood, or other danger.
- (k) To encourage economic development activities that provide desirable employment and enlarge the tax base.
- (l) To promote the preservation of the unique natural and physical resources of the city including forested areas, riverbeds, stream beds, and archaeological sites.
- (m) To achieve compliance with all applicable state and federal regulations.
- (n) To provide for and promote housing for all income groups and all citizens within the city.

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- (o) To reduce or eliminate the secondary effects of adult entertainment establishments and other establishments that create such secondary effects while protecting legitimate constitutional rights of said establishments.
- (p) To provide for protection of the constitutional rights and obligations of all citizens within the city.

**Sec. 27-3. Minimum requirements.**

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements for the promotion of the public health, safety, morals and general welfare, as set forth in the provisions hereof establishing the intent and purpose of this chapter in general and its various sections in particular.

**Sec. 27-4. Authority.**

This chapter is enacted pursuant to The City of Lithonia's authority to adopt plans and exercise the power of zoning granted by the Ga. Const. art. IX, section II, ¶ IV; by the City of Lithonia's authority to enact regulations and exercise powers granted by the Ga. Const. art. IX, section II, ¶¶ II and III; by Official Code of Georgia Annotated (O.C.G.A.) § 36-66-2(b); by the city's general police powers; and by other powers and authority provided by federal, state and local laws applicable hereto.

**Sec. 27-5. General applicability.**

All buildings and structures erected hereafter, all uses of land, water, buildings or structures established hereafter, all structural alterations or relocations of existing buildings occurring hereafter, and all enlargements of, additions to, changes in and relocations of existing uses occurring hereafter shall be subject to all regulations of this chapter which are applicable to the zoning district in which such buildings, structures, uses or land are located. Existing buildings, structures and uses which comply with the regulations of this chapter shall be subject to all regulations of this chapter. Existing buildings, structures and uses which do not comply with the regulations of this chapter shall be authorized to continue subject to the provisions of Article V of this chapter relating to nonconformities.

**Sec. 27-6. General prohibition.**

No building or structure, and no use of any building, structure, land, or property, and no lot of record, now or hereafter existing, shall hereafter be established, constructed, expanded, altered, moved, diminished, divided, eliminated or maintained in any manner except in conformity with the provisions of this chapter. No use of any land, building, structure or property shall be permitted unless expressly and specifically authorized in the district within which said use is located or by supplemental regulations established by this chapter.

**Sec. 27-7. Applicability to all property.**

The regulations in this chapter shall apply to all buildings, structures, land and uses within the incorporated area of The City of Lithonia, Georgia.

**Sec. 27-8. Components of zoning ordinance.**

This chapter and the official zoning map of the city on file and maintained in city hall shall together constitute the zoning ordinance of The City of Lithonia.

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Sec. 27-10. Interpretation of zoning maps.

Where uncertainty exists as to the boundaries of zoning districts as shown on the official zoning map, the following rules shall apply:

- (a) Boundaries indicated as approximately following the centerlines of streets, highways, or alleys shall be construed to follow centerlines of rights-of-way or prescriptive easements. In case of closure of a street or alley, or vacation of any easement, the boundary shall be construed as remaining at its prior location unless ownership of the closure or vacated area is divided other than at the center, in which case the boundary shall be construed as moving to correspond with the ownership, but not beyond any previous right-of-way or easement line.
- (b) Boundaries indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Boundaries indicated as following city limit lines shall be construed as following such city limits.
- (d) Boundaries indicated as following railroad lines shall be construed to be midway in the right-of-way.
- (e) Boundaries indicated as following shorelines of bodies of water shall be construed to follow such shorelines. Boundaries indicated as approximately following the centerlines of creeks, streams, rivers, or other predominantly linear bodies of water shall be construed to follow such centerlines.
- (f) Boundaries indicated as parallel to or concentric with, or extensions of features indicated in paragraphs (a) through (e) above, shall be so construed. Distances and dimensions not specifically indicated on the zoning maps shall be determined from the zoning map by the Zoning Administrator.
- (g) Where areas appear to be unclassified on the zoning maps, and classification cannot be established by the above rules, such areas shall be considered to be classified R-200 until action is taken by the mayor and city council to amend the zoning maps.
- (h) Where uncertainties continue to exist or further interpretation is required beyond that presented in the above paragraphs, the question shall be presented by the Zoning Administrator to the mayor and city council to enact a clarifying ordinance and said action shall be recorded on the zoning map as is provided herein.

Sec. 27-11. Rules applicable to parcels split into two or more zoning districts.

Where a parcel of land is split into two (2) or more zoning districts, each such portion of said parcel may be used only for purposes allowed within the zoning district that each such portion is classified. No principal or accessory use of land, building or structures, and no use or building or structure authorized by special administrative permit, special land use permit, or special exception, shall be authorized unless said use or building or structure is authorized or permitted within the applicable zoning district.

Sec. 27-12. Applicability to prior permits.

See section 27-944.

Sec. 27-13. Relation to and conflict with other provisions.

The provisions of this chapter shall be interpreted and applied so as to constitute the minimum requirements for the promotion of the public health, safety, morals, or general

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welfare. Whenever any provision of this chapter imposes a greater requirement or a higher standard than is required in any federal or state law or other city ordinance, resolution or regulation, the provision of this chapter shall govern unless preempted by said federal or state law. Whenever any provision of any federal or state law or other city ordinance, resolution or regulation imposes a greater requirement or a higher standard than is required by this chapter, the provision of such state or federal statute or other city ordinance or regulation shall apply.

**Sec. 27-14. Relation to private agreements.**

This chapter is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship provided that when the regulations of this chapter are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this chapter shall govern.

**Sec. 27-16. Severability.**

The several provisions of this chapter shall be separable in accordance with the following rules:

(a) Should any court of competent jurisdiction adjudge any section or provision of this chapter to be invalid, such judgment shall not affect the validity or continued application of this chapter as a whole or any section or provision thereof other than the section(s) or provision(s) specifically adjudged invalid.

(b) Should any court of competent jurisdiction adjudge invalid the application of any section or provision of this chapter to a particular property, building or structure, such judgment shall not affect the application of said section or provision to any other property, building or structure.

**Sec. 27-17 Conflicts.**

In any case where the standards and requirements stated in a section of this ordinance conflict with those in another section of the Zoning Ordinance, the standards and requirements that are stricter in nature shall govern.

Secs. 27-18--27-30. Reserved.

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DIVISION 2. DEFINITIONS

Sec. 27-31. Definitions.

Except as specifically defined herein, all words used in this chapter have definitions as quoted in the online version of Merriam-Webster Dictionary. For the purposes of this chapter, certain words or terms used herein shall be defined as follows:

1. Words used in the singular include the plural and words used in the plural include the singular.
2. Words used in the present tense include the future tense.
3. The word "building" includes the word "structure."
4. The word "erected" includes the words "constructed," "moved," "located" or "relocated."
5. The word "lot" includes the word "plot" or "parcel."
6. The word "map" or "zoning map" means the zoning map of the City of Lithonia, Georgia.
7. The word "person" includes the words "individuals," "firms," "partnerships," "trusts," "estates," "corporations," "associations," "governmental bodies" and all other legal entities.
8. The word "shall" is always mandatory and never discretionary.
9. The words "used" or "occupied" include the words "intended, arranged or designed to be used or occupied."
10. Words shall have the male, female or neuter gender as appropriate for the content.

Definitions of specific terms:

*"A" weighted sound level* means the sound level reported in units of dB(A) approximating the response of human hearing when measuring sounds of low to moderate intensity as measured using the "A" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

*Abut* means to directly touch and have common boundaries. Parcels across a public right-of-way or easement would not be abutting.

*Accessory building* means a detached, subordinate structure, the use of which is incidental to, customarily associated with, and related to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

*Accessory dwelling unit* means a separate and complete dwelling unit established in conjunction with and clearly subordinate to a primary dwelling unit, whether a part of the same structure as the primary dwelling unit or a detached dwelling unit on the same lot.

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*Accessory structure* means a structure detached from the principal building located on the same lot and customarily incidental and subordinate in area, extent, and purpose to the principal building or use.

*Accessory use* means a use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.

*Addition* means a modification to an existing building that expands the square footage of the building.

*Adjacent* means to be abutting, adjoining, and surrounding area, to the extent that the proposal may impact or be impacted by the area. The width of public rights-of-way and easements shall not be counted when determining distance for adjacent properties, uses, etc.

*Administrative decision* means decisions made by a person employed by the city.

*Adult day care facility* means an establishment operated by any person with or without compensation for providing for the care, supervision, and oversight only during day-time hours of four (4) or fewer adults who are elderly, physically ill or infirm, physically handicapped, or mentally handicapped.

*Adult entertainment establishment* means any one (1) or any combination of the following:

(a) *Adult bookstore* means an establishment having a substantial or significant portion of its stock in trade, books, printed materials, magazines or other periodicals or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five (5) percent of its total floor space, devoted to the sale or consisting of said printed material or novelty items which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(b) *Adult business* means an establishment other than those expressly specified in this section, where employees or patrons expose specified anatomical areas or engage in specified sexual activities.

(c) *Adult motion picture theater* means an enclosed building with a capacity of fifty (50) or more persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

(d) *Adult minimotion picture theater* means an enclosed building, or enclosed or semi-enclosed room or booth within an enclosed building, with a capacity of less than fifty (50) persons, used for presenting material distinguished or characterized by an emphasis on matter depicting, describing or relating to specified anatomical areas for observation by patrons therein.

(e) *Adult motion picture arcade* means any place to which the public is permitted or invited wherein coin or slug-operated or electronically, electrically or mechanically



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controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on matter depicting or describing specified sexual activities or specified anatomical areas.

(f) *Adult video store* means an establishment having a substantial or significant portion of its stock in trade, videotapes, movies, CD ROMS, or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section, comprising at least five (5) percent of its net sales from said videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

(g) *Erotic entertainment/dance establishment* means a nightclub, theater or other establishment which features live performances by dancers, entertainers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis on specified sexual activities or specified anatomical areas. These establishments are also regulated pursuant to Chapter 4, section 4-104 of the Code of DeKalb County.

(h) *Escort bureau, introduction services* means any business, agency or persons who, for fee, commission, hire, reward, profit or other consideration furnishes or offers to furnish names of persons or who introduces, furnishes or arranges for persons who may accompany other persons to or about social affairs, entertainments or places of amusements, or who may consort with others about any place of public resort or within any private quarters.

(i) *Lingerie modeling studio* means an establishment wherein a patron directly or indirectly is charged a fee or required to make a purchase in order to view entertainment or activity which consists of persons exhibiting or modeling lingerie or similar undergarments.

*Adult service facility* means a commercial establishment in which the patron directly or indirectly is charged a fee to engage in private, personal contact with employees, patrons, or personnel primarily for entertainment purposes, using steam rooms or other devices or equipment provided by the establishment, and that is not otherwise regulated as an adult entertainment establishment or massage establishment.

*Agriculture* means the comprehensive plan land use category which includes the following uses: crop lands, pasture lands, orchards, sod farms, and attendant farm residences and accessory buildings or structures.

*Alley* means a minor private or public thoroughfare which is not a street, which affords a secondary means of access to abutting property and is not intended for general traffic circulation which is generally used for service purposes.

*Alteration* means any change, addition to or reduction of a building; any change in use; or any relocation of a building.

*Alternative tower structure* means a telecommunications tower and antenna the visual presence of which is camouflaged or concealed in the form of a clock tower, campanile, light pole, artificial tree or similar alternative-design mounting structure.

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*Amplified sound reproduction device* means any device capable of producing, reproducing or emitting sounds by means of any loudspeaker or amplifier.

*Amateur radio service antenna structure* means a tower and antenna for radio transmission and reception which is maintained by a licensed amateur radio operator as an accessory structure.

*Animal clinic/hospital* means a building where care and treatment of small animals, including household pets, is provided.

*ANSI* means the American National Standards Institute.

*Antenna* means any exterior apparatus designed for telephonic, radio, or television communication through the sending and/or receiving of electromagnetic waves.

*Apartment.* See *dwelling, multifamily.*

*Apartment unit* means one (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained dwelling unit in a building containing four (4) or more dwelling units.

*Applicant* means any person, firm, partnership, joint venture, association, corporation, group or organization who may apply for any permit, approval or decision required by this Code.

*Arcade* means a private frontage conventional for retail use wherein the facade is a colonnade supporting habitable space that overlaps the sidewalk, while the facade at sidewalk level remains at the frontage line.

*Archaeological resource* means any material remains of past human culture or activities which are of archaeological interest, including, but not limited to the following: basketry, bottles, carvings, graves, human skeletal materials, pit houses, pottery, rock intaglios, rock paintings, soapstone quarries, structures or portions of structures, tools, weapons, weapon projectiles, or any portion or piece of any of the foregoing items. Nonfossilized and fossilized paleontological specimens, or any portion or piece thereof, shall not be considered archaeological resources under the regulations of this chapter, unless found in archaeological context. No item shall be deemed to be an archaeological resource under regulations of this chapter unless such item is at least two hundred (200) years of age.

*Architectural treatment* means exterior design features, materials of construction, and finishes which combine to produce an aesthetic structure in harmony with the architectural zone in which the building is located. Such treatment shall consist of one or more of the following materials: brick, stone, stucco, glass, or wood.

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*Architectural detail* means that portion of a building containing any architectural projection, relief, cornice, column, change of building material, or window or door opening.

*Architectural feature* means a prominent or significant part or element of a building or structure.

*Arterial street* means a connected network of continuous routes serving intra- and interstate travel, as well as interurban travel. They serve high traffic volumes generally at higher speeds. Service to abutting land is subordinate to moving through traffic.

*Assisted living facility* means a residential facility which provides meals and assistance with daily activities, such as dressing, grooming bathing, etc. for the elderly or adults unable to manage these activities themselves.

*Attic* means the interior part of a building contained within a pitched roof structure.

*Authorized use* means any use allowed by right in a zoning district and subject to the restrictions applicable to that zoning district.

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

*Automobile sales establishment and lot* means an open area under private ownership used for the display, sale or rental of new and/or used automobiles where no repair work is done, except minor incidental repair of automobiles to be displayed, sold or rented. (An office/shelter structure as an accessory to the use is permitted.)

*Automobile salvage* means the dismantling or disassembling of used motor vehicles or trailers, or the storage, sale, or dumping of dismantled, partially dismantled, or wrecked vehicles or their parts.

*Automobile service station* means a place where gasoline, kerosene, or any other motor energy source, or lubricating oil or grease for motor vehicles is offered for sale to the public. Deliveries are made directly into motor vehicles, including sale of accessories, and greasing, oiling, and light motor service on the premises, but in no case include services provided in the definition for "vehicle repair, major." A service station may include the sale of convenience grocery items.

*Awning* means a device made of cloth, or other material attached to a structure, which may be raised or retracted to a position against the structure when not in use, providing shade to a window or shelter.

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*Bank:* An officially state or federally chartered institution, empowered to receive deposits, make loans, and provide checking and savings account services.

*Basement* means a space having one-half or more of its floor-to-ceiling height below the average level of the adjoining ground and with a floor-to-ceiling height of not less than six and one-half (6 1/2) feet.

*Beer, Wine, or Package Liquor Store:* A retail establishment that sells beer, wine or distilled liquor for off-site consumption. Includes retail stores, less than 25,000 square feet, which may sell beer and/or wine, as well as other products.

*Bed and breakfast inn* means an owner-occupied, owner-operated private single-family residence which shall be the principal residence of the owner and the principal structure on the premises, with bedrooms available for rent to the general public, with breakfast served at no additional cost.

*Bedroom* means a habitable room with at least 70 square feet of floor space which is intended as a place for regular sleeping purposes with sleeping sessions generally lasting in excess of five hours per 24-hour period, and which contains at least one bed or soft mattress for every two occupants, and excludes: bathrooms, laundries, furnace rooms, pantries, kitchenettes and utility rooms, foyers or communicating corridors, stairways, closets, storage space, and hobby and recreation areas in unheated or uninsulated parts of structures below ground or in attics.

*Biomedical solid waste* means pathological waste, biological waste cultures and stocks of infectious agents and associated biologicals, contaminated animal carcasses (body parts, their bedding, and other wastes from such animals), sharps, chemotherapy waste, discarded medical equipment and parts, and similar waste products.

*Biomedical waste disposal facility* means any facility or location where the final deposition of biomedical solid waste occurs and which is limited to solid waste thermal treatment technology facilities.

*Blank wall* means a building façade that is characterized by a lack of transparency into which the pedestrian can see. A blank wall:

- A. Does not have glass on a high percentage of the façade, OR
- B. Does not have glass that is transparent, OR
- C. Does not have glass that is maintained (spaced) across the entire façade, OR
- D. Does not have glass that is placed at pedestrian eye-level.

*Block* means a unit of land, established by a recorded plat, abutting one side of a street and lying between the two nearest intersecting streets or bounded by a combination of streets and public land, waterways, or spaces for public or common use.

*Block face* means the aggregate of all the building facades on one side of a block.

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*Boardinghouse* means a building containing one (1) or more lodging units but not more than twenty (20) lodging units, all of which offer non-transient lodging accommodations, available only at weekly or longer rental rates to the general public. Meals may only be provided from a single central kitchen and compensation for such meals, if provided, shall be included in the weekly or longer rental rate. No restaurant, meeting, reception, or banquet facilities shall be provided.

*Boom box* means any self-contained, portable, hand-held music or sound amplification or reproduction equipment capable of emitting sound.

*Boom car* means any vehicle with loudspeakers, amplifiers, radio receiving sets, musical instruments, phonographs or other equipment capable of producing, reproducing or emitting sound which is cast upon the public streets for personal or commercial purposes.

*Borrow pit* means a pit from which sand, gravel or other construction material is taken for use as fill in another location.

*Brownfield* means an area previously used primarily as an industrial site.

*Buffer* means that portion of a lot set aside with adequate natural or planted vegetation to accomplish visual and sound screening to separate residential zoning districts from other zoning districts. In the event that insufficient existing vegetation or trees exist in the buffer zone, planting, fencing or other supplemental screening shall be required, with a density, or opacity to accomplish buffering as required by this chapter. Roads, parking areas, aboveground stormwater retention facilities, recreational facilities, or other aboveground construction shall not be permitted within the required buffer area. Public rights-of-way and utility easements shall not be considered as part of the buffer area. Required buffer zones are in addition to required yard areas. Buffers are measured from the common property line of the different uses.

*Buildable area* means the portion of a lot remaining after required yards have been provided and areas subject to flooding during the 100-year storm event have been deducted.

*Building* means any structure attached to the ground which has a roof and which is designed for the shelter, housing or enclosure of persons, animals or property of any kind.

*Building envelope* means the maximum three-dimensional volume on a lot within which a structure can be built, as permitted by applicable height, setback, stepback and landscaping requirements.

*Building height* means the vertical distance of a building measured from the average elevation of the finished grade at the front of the building to the highest point of the building.

*Building line* means a line established, in general, parallel to the front street line, between which line and the street no part of a building shall project.

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*Building official* means the person, officer, or official and the authorized representatives of said person, whom the Lithonia Mayor and City Council has designated as its agent for enforcing, in conjunction with the zoning administrator, the regulations of this chapter relating to building construction and permitting.

*Build-to line* means a line established, in general, parallel to the front street line, where the primary front façade of the building must be located.

*Building transparency* means the ability to clearly see into a building.

*Business services* means establishments or places of business engaged in the sale, rental, or repair of office equipment, supplies, and materials, or the provision of services used by office, professional, and service establishments. Typical uses include, but are not limited to, office equipment and supply firms, small business machine repair shops, convenience printing and copying establishments, and temporary labor services.

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

*Buildable area* means the area of a lot remaining after the minimum setbacks and open space requirements of this chapter have been met.

*Building* means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

*Building, accessory.* See *Accessory building*.

*Building footprint* means the outline of the total area covered by a building's perimeter at the ground level.

*Building height* means the vertical distance from finished grade to the top of the highest roof beams on a flat or shed roof, the deck level on a mansard roof, and the average distance between the eaves and the ridge level for gable, hip, and gambrel roofs.

*Building mass* means the overall visual impact of a structure's volume; a combination of height and width, and the relationship of the heights and widths of the building's components.

*Building, principal* means a structure in which is conducted the principal use of the lot on which it is located.

*Building scale* means the relationships of the size of the parts of a structure to one another and to humans.

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*Building setback line* means the minimum horizontal distance required between the street right-of-way line and the principal building or structure on a lot or any projection thereof except the projections of unenclosed porches, steps, eaves, gutters and similar elements which are authorized exceptions to building setback line requirements in this chapter.

*Business service establishment* means an entity primarily engaged in rendering services to businesses on a fee or contract basis, including the following and similar services: advertising and mailing; building maintenance; employment services; management and consulting services; protective services; commercial research; development and testing; photo finishing; and personal supply services.

*By right* means a proposal or component of a proposal for a building or development characterized by compliance with the zoning ordinance that is permitted administratively without a public hearing.

*"C" weighted sound level* means the sound level reported in units of dB(C) as measured using the "C" weighting network with a sound level meter meeting the standards set forth in ANSI S1.4-1983 or its successors.

*Camping trailer* means a vehicular structure designed as a temporary dwelling for travel, recreation, and vacation uses, which is not more than eight feet in body width, is less than 4,500 pounds in gross weight, and does not exceed 28 feet in length.

*Canopy* means a structure, other than an awning, made of cloth, metal or other material supported by a frame bearing on the ground. A canopy may be either freestanding or attached to a structure.

*Car wash* means a building or a portion of one that has facilities for washing vehicles, either using a production line with a conveyor, cleaning devices, blowers, or similar mechanical equipment, or by self-service washing and rinsing equipment.

*Care home* means an orphanage, rest home, assisted living facility, nursing home, boarding home for the aged, or similar use established to render long-term domiciliary care, but not including facilities for the care of mental patients, epileptics, alcohol and/or drug use patients, and not including day care centers.

*Carport* means a roofed structure, providing space for sheltering one (1) or more vehicles, attached to a principal structure.

*Cellar* means a space having less than one-half of its floor-to-ceiling height above the average finished grade of the adjoining ground or with a floor-to-ceiling height of less than six and one half (6 1/2) feet.

*Cemetery* means property used for the interring of the dead. See Georgia cemetery regulations.

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*Certificate of occupancy* means a permit authorized and issued by the zoning administrator indicating that the use or the building or land in question is in conformity with this chapter, or that a legal variance has been approved.

*Change of use* means a change in the essential character or nature of the activity conducted on a lot, as evidenced by:

- (a) A change from one principal use to another; or
- (b) A change in proportion of space devoted to principal uses within a property; or
- (c) An increase in the parking demand, traffic generation, water demand or wastewater demand as calculated pursuant to existing city regulations.

*Chapel* means a *place of worship*.

*Check cashing establishment* means any establishment licensed by the State of Georgia pursuant to O.C.G.A. § 7-1-700 et seq.

*Child Care and Daycare Definitions:*

A. *Child care center*. A facility other than a private residence that receives one or more preschool or school age children for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children. It includes a facility that provides care for more than four weeks during a calendar year, regardless of the number of hours of care per day. A child care center includes public and private preschools, day nurseries, nursery schools, parent cooperative preschools, drop-in centers, and daycare centers.

B. *Family daycare home*. A private residence operated by any person who has received a certificate of registration from the state and who received therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, three but not more than six children under 18 years of age who are not related to such persons and whose parents or guardians are not residents in the same private residence.

C. *Group daycare home*. A private residence that receives more than six but not more than 12 minor children, not including children related by blood, marriage, or adoption to an adult residing in the residence, for care for periods of less than 24 hours a day, and at which the parents or guardians are not immediately available to the children. It includes a facility that provides care for more than four weeks during a calendar year, regardless of the number of hours of care per day.

*Church or other place of worship* means a building either used for or intended to be used for public worship including temples, synagogues and related Sunday school or church school facilities.

*City* means the City of Lithonia, Georgia.



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*Civic* means not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking.

*Civic building* means a building operated by not-for-profit organizations dedicated to arts, culture, education, recreation, government, transit, and municipal parking, or for use approved by the Mayor and City Council.

*Civic space* means an outdoor area dedicated for public use.

*Clinic* means a facility for examining and treating patients for medical purposes on an outpatient basis, including ambulatory care or similar medical services that generally require a stay of less than 24 hours.

*Club, private* means a group of people organized for a common purpose to pursue common goals, interests, or activities and characterized by definite membership qualifications, payment of fees and dues, regular meetings, and a constitution and bylaws, such as country clubs and golf clubs, but excluding places of worship, personal service facilities, adult entertainment establishments, and adult service facilities which shall be defined and regulated as otherwise provided herein. Private club shall also mean, where the context requires, the premises and structures owned or occupied by members of such group within which the activities of the private club are conducted.

*Clubhouse* means a structure in which the activities of a private club are conducted.

*Cluster housing development* means a development that permits a reduction in lot area provided there is no increase in overall density of development, and in which all remaining land area is perpetually and properly protected, maintained and preserved as undivided open space or recreational or environmentally sensitive areas.

*Code* means, unless otherwise specified, the City of Lithonia Zoning Ordinance.

*Collector street* means a street or road designated as a collector street in the DeKalb County Transportation and Thoroughfare Plan.

*Colocation* means the placement and arrangement of multiple provider's antennas and equipment on a single support structure or equipment area.

*Commercial* means workplace, office, retail, and lodging functions.

*Commercial district* means any parcel of land which is zoned for any commercial use including regional commercial centers, neighborhood and community oriented stores, shopping centers and other developed centers where commercial land uses predominate. Such districts would include O-I, NS, C-1 and any property zoned OCR excluding property used for residential use.

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*Commercial parking garage* means a covered or sheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

*Commercial parking lot* means an uncovered or unsheltered structure of one (1) or more stories designed, constructed and used for the parking of motor vehicles for profit.

*Commercial solid waste* means all types of solid waste generated by stores, offices, restaurants, warehouses, and other non-manufacturing activities, excluding residential and industrial wastes.

*Commercial vehicle* means motor vehicle used to transport passengers for hire, constructed or used to transport goods, wares, or merchandise, or a motor vehicle designed and used for drawing other vehicle for business purposes. A commercial vehicle does not include a vehicle used exclusively to transport personal possessions or family members for non-business purposes

*Commission* means the Planning and Zoning Commission of the City of Lithonia.

*Common open space* means that open space that is a central organizing feature of a development and is readily accessible. Common open space includes, but is not limited to: squares, plazas, village greens, parks, trails and nature preserves.

*Complainant* means any person who has registered a noise complaint with an authorized enforcement agency that he or she is the recipient of noise on a protected property category. A complainant must have an interest in the protected property as an owner, tenant, or employee.

*Composting* means the controlled biological decomposition of organic matter into a stable, odor-free humus.

*Comprehensive plan* means the DeKalb County Comprehensive Plan, 1995-2015, adopted by the board of commission on June 18, 1996, as it may be amended from time to time, which divides the unincorporated areas of the county into land use categories and which constitutes the official policy of the county regarding long-term planning and use of land.

*Conditional approval or conditions* means the imposition of special requirements, whether expressed in written form or as a site plan or other graphic representation, made a requirement of development permission associated with a particular parcel or parcels of land and imposed in accordance with the terms of this chapter.

*Conditional use* means a use identified by this Code which requires action by the planning commission and city council, after a public hearing(s), and if approved, authorizes the recipient to make use of property in accordance with the requirements of this Code, as well as any additional requirements imposed by the council. A conditional use permit shall be issued by the department prior to commencing the use or construction for the use.

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*Condominium* means a building, or group of buildings, in which dwelling units, offices, or floor area are owned individually, and the structure, common areas, and facilities are owned by all the owners on a proportional, undivided basis in compliance with Georgia Law.

*Conservation easement* means a restriction or limitation on the use of real property which is expressly recited in any deed or other instrument of grant or conveyance executed by or on behalf of the owner of the land described therein and whose purpose is to preserve land or water areas predominantly in their natural scenic landscape or open condition or in an agricultural farming, forest or open space use.

*Construction activity* means any ground surface disturbing activities, which include, but are not limited to, clearing, grading, excavation, demolition, installation of new or improved roads, staging areas, stockpiling of materials.

*Continuous sound* means any sound with duration of more than one (1) second, as measured with a sound level meter set to the "slow" meter response.

*Convalescent home* means a building or portion thereof, not including a hospital, medical clinic, or nursing home, where for compensation, two or more persons not directly related to the owner are provided temporary food, sleeping accommodations, personal care, and physical assistance in regaining their health or strength following an illness or injury.

*Convenience store* means any retail establishment offering for sale items such as gasoline, household items, newspapers and magazines, prepackaged food products, sandwiches and other freshly prepared foods, and beverages, for off-site consumption.

*Conventional zoning districts* mean zoning districts that employ traditional, as-of-right or self-executing zoning regulation and procedures, and in which district regulations are explicit, uses are specified, and development requirements for lot area, lot width, building height, minimum setbacks, and other site-specific requirements are imposed. Conventional zoning districts are intended to separate incompatible land uses and generally do not consider form or character as requirements.

*Council* means the City Council of the City of Lithonia, Georgia

*County* means DeKalb County, Georgia. When appropriate to the context, the term "county" also includes authorized officers, employees and agents thereof.

*County solid waste* means any solid waste derived from household, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family, duplex, and multifamily residences, hotel and motels, picnic grounds and day use recreation areas. The term includes yard trimmings and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

*County solid waste disposal facility* means any facility or location where the final deposition of any amount of county solid waste occurs, whether or not mixed with or including

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commercial or industrial solid waste, and includes, but is not limited to, county solid waste landfills and county solid waste thermal treatment technology facilities.

*County solid waste landfill* means a disposal facility where any amount of county solid waste, whether or not mixed with or including commercial waste, industrial waste, nonhazardous sludges, or small quantity generator hazardous waste, is disposed of by means of placing an approved cover thereon.

*Covered parking* means a covered parking area which is not attached to a principal structure and has no side walls or panels.

*Cul-de-sac* means a short, dead-end street terminating in a vehicular turnaround area.

*Curb cut* means an area at which vehicular ingress and/or egress between property and an abutting public street.

*Customary home occupation* means an occupation customarily carried on within a dwelling unit for gain or support involving the sale of only those articles, products or services produced on the premises, conducted entirely within the dwelling by members of the immediate family residing in the dwelling unit with equipment customarily used for household purposes and involving no display of articles or products and no outdoor advertising.

*Day care facility* means any building used routinely for the daytime care or education of five or more preschool age children, and including all accessory and play areas, where the provider is licensed by the State of Georgia.

*Daylight basement* means a basement that has an exit at grade, although the majority of the basement remains below grade. Percentage of daylight basement floor area to be counted in the floor area ratio.

*Decibel (dB)* means the unit for the measurement of sound pressure based upon a reference pressure of twenty (20) micro pascals (zero decibels), i.e., the average threshold of hearing for a person with very good hearing.

*Deck* means an open structure at least 12 inches above the ground which is located in the front yard, rear yard, side yard of a property.

*Decorative wall* means a masonry wall constructed of materials such as brick, stone, or an architectural grade of concrete that reflects or complements the architectural materials on the same or adjoining properties.

*Demolition* means any dismantling, destruction or removal of buildings, structures, or roadways whether man-made or natural occurring both above and below ground.

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*Density* means the total number of dwelling units per acre. When calculating density per net acre, all rights-of-way and/or open spaces are excluded from the total acre factor.

*Development* means any construction project of multifamily dwellings, more than two single-family dwellings, or other types of structures, including commercial and industrial structures.

*Development permit* means any permit that authorizes land disturbance for the use, construction thereon or alteration of any real property within the unincorporated limits of the county.

*Disposal facility* means any facility or location where the final deposition of solid waste occurs which includes, but is not limited to landfills and solid waste thermal treatment technology facilities.

*Disturbed area* means that area of the land's surface disturbed by any work or activity upon the property by means including but not limited to grading; excavating; stockpiling soil, fill, or other materials; clearing; vegetation removal; removal or deposit of any rock, soil, or other materials; or other activities which expose soil. Disturbed area does not include the tillage of land that is zoned for agricultural use.

*Dormer* means a projection from a sloping roof that contains a window.

*Drinking establishment* means a premises used primarily for the service and consumption of alcoholic beverages on the premises, and in which the service of food may be a secondary use.

*Dripline* means a vertical line extending from the outermost edge of the tree canopy or shrub branch to the ground.

*Drive in or drive through facility* means an accessory use for a business where the delivery of customer services is done while patrons are in their motor vehicles, usually from within the building via a service window.

*Drive-in or drive-through restaurant* means any place or premises used for the sale, dispensing, or service of food, refreshments, or beverages to customers in automobiles, including those establishments where customers may eat or drink on the premises.

*Driveway* means a private vehicular lane within a Lot providing access for vehicles to a parking space, garage, dwelling, or other structure.

*Driveway, common* means a shared private vehicular lane for single and two family structures that provides access for vehicles to a parking space, garage, dwelling or other

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structure serving a maximum of three separate single-family structures or two separate duplex structures.

*Duplex* means a residential structure designed for two-family occupancy and consisting of two residential units with each family in a separate dwelling unit. To qualify as a duplex, a minimum of 25 percent of the length of two walls shall be shared between the units, regardless of whether the wall is shared by all floors of the units. The shared walls shall not be the walls of a breezeway or accessory structure, but may include the walls of a garage.

*Dwelling, multifamily* means a building either designed, constructed, altered, or used for four or more adjoining dwelling units, with each dwelling unit having a party wall or party floor-ceiling connecting it to at least one other dwelling unit in the building.

*Dwelling, single-family* means a structure designed for residential use and occupied by one family or household, which meets or exceeds the following minimum standards:

- (1) Minimum building dimension, or building face projection if irregular shaped building, shall be in excess of 24 feet.
- (2) Minimum gross floor area required by the zone in which located.
- (3) The roof shall have a minimum pitch of 4:12, and shall be covered with asphalt shingles, concrete or clay roof tiles, wood shingles and/or shakes, metal or similar materials.
- (4) The exterior siding materials shall consist of wood, glass, masonry, concrete, stucco, vinyl coated metal lap vinyl lap, or other materials of similar appearance and composition to above as approved by the zoning administrator.
- (5) Be permanently affixed or bolted to a permanent masonry or concrete foundation, fully enclosed around the structure.
- (6) Be permanently equipped with both gutters and downspouts.
- (7) Have a roof overhang around the entire exterior perimeter of the structure of no less than six inches.
- (8) All siding, wood, masonry siding, vinyl coated metal lap, and vinyl lap, shall be horizontally oriented to the ground with maximum width of each overlap being no more than eight inches per lap.
- (9) At each exterior door, have a masonry or wood landing that is a minimum of 36 inches by 48 inches.
- (10) A site-built home shall be constructed according to standards established by the city's building codes, as amended from time to time.
- (11) Not an industrialized building or mobile home.

*Dwelling, single-family attached* means a dwelling, single family unit on an individual lot attached to another dwelling unit by a common party wall.

*Dwelling, single-family detached* means a dwelling, single family unit on an individual lot unattached to another dwelling unit.

*Dwelling, three-family or triplex* means a building, either designed, constructed, altered or used for three adjoining dwelling units, with each dwelling unit having a party wall or party

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floor-ceiling connecting it to the other dwelling unit, each of which is totally separated from the other by an unpierced wall extending from ground to roof, or an unpierced ceiling and floor extending from exterior wall to exterior wall.

*Dwelling, two-family or duplex* means a building, either designed, constructed, altered or used for two adjoining dwelling units, with each dwelling unit having a party wall or party floor-ceiling connecting it to the other dwelling unit, each of which is totally separated from the other by an unpierced wall extending from ground to roof, or an unpierced ceiling and floor extending from exterior wall to exterior wall.

*Dwelling, townhouse* means a one-family dwelling in a row of at least three such units in which each unit has its own front and rear access to the outside, no unit is located over another, and each unit is separated from any other unit by one or more vertical common fire-resistant walls.

*Dwelling unit* means one room or rooms with internal connections for residential occupancy and including bathroom and kitchen facilities designed, arranged and used for living quarters for one or more persons living as a single housekeeping unit. Does not include units in hotels, motels, boardinghouses, and like uses, further not including temporary housing, recreational vehicles, tents, portable or industrialized buildings.

*Multiple dwelling units* exist if there is more than one address for the property or more than one kitchen. Multiple dwelling units may exist if there is more than one meter for any utility; or if there are separate entrances to rooms which could be used as separate dwelling units; or if there is a lockable, physical separation between rooms in one dwelling unit such that a room or rooms on each side of the separation could be used as a dwelling unit, or rooms with no internal connections.

*Dwelling unit, efficiency or studio* means a self-contained residential unit consisting of not more than one (1) room together with a private bath and kitchen facilities.

*Dwelling unit, multifamily* means one (1) or more rooms with a private bath and kitchen facilities comprising an independent, self-contained residential unit in a building containing four (4) or more dwelling units.

*Effective Parking* means the amount of parking required for a mixed use development after adjustment by the shared parking factor.

*Elevation* means an exterior wall of a building not along a Frontage Line.

*Emergency work* means any work or action necessary to deliver essential services including, but not limited to, repairing water, gas, electricity, telephone, sewer facilities, or public transportation facilities, removing fallen trees on public rights-of-way, dredging navigational waterways, or abating life-threatening conditions.

*Encroach* means to break the plane of a vertical or horizontal regulatory limit with a structural element, so that it extends into a required yard or above a height limit.

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*Encroachment* means any structural element that breaks the plane of a vertical or horizontal regulatory limit, extending into a required yard or above a height limit

*Extraneous sound* means a sound of high intensity and relatively short duration which is neither part of the neighborhood residual sound, nor comes from the sound source under investigation.

*Façade* means the exterior side of a building which faces and is most nearly parallel to a public or private street. The elevation of a façade is the vertical surface area.

*Façade variation* means shifts in the plane of walls, setbacks, stepbacks, reveals, overhangs, and details in order to create variations in a building's façade.

*Family* means a group of individuals related by blood, marriage, adoption, guardianship or other custodial relationship, or not more than four (4) persons not so related, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing organization and stability. This definition shall specifically include four (4) or fewer mentally handicapped, developmentally disabled persons, and other handicapped persons, as defined in the Fair Housing Act, 42 U.S.C. §§ 3601 et seq., living as a housekeeping unit and otherwise meeting the definition of "family" herein.

*Family day care home* means a private residence operated by any person who has received a certificate of registration from the state and who received therein for pay for supervision and care fewer than 24 hours per day, without transfer of legal custody, three but not more than six children under 18 years of age who are not related to such persons and whose parents or guardians are not residents in the same private residence.

*F.C.C.* means the Federal Communications Commission.

*Fence* means a structure designed to provide separation and security constructed of materials including chain link, wire, metal, artistic wrought iron, vinyl, plastic and other such materials as may be approved by the director of public works.

*Fenestration* means the arrangement, proportioning, and design of windows and doors in a building.

*Final plat* means a map establishing real estate interests for recording with the county clerk and recorder prepared by a Georgia Registered Surveyor. This survey shall be marked on the ground so that streets, blocks, lots and other divisions thereof can be identified and drawn in accordance with the requirements of this Code.

*Flea market* means an occasional or periodic market held in an open area or structure where groups of individual sellers offer goods for sale to the public.



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*Floodplain* means the area adjoining a river, stream, water course, or lake, subject to 100-year recurrence interval flood as delineated by the Federal Emergency Management Agency (FEMA). A floodplain shall include the stream channel, the overbank area, or the floodway, and the fringe areas of the floodway.

*Floodplain, one hundred-year* means land within the one hundred-year flood elevation as is defined in Chapter 14, Land Development, of the DeKalb County Code of Ordinances.

*Flood hazard district* means the same as that term is defined in Chapter 14, Land Development, of the DeKalb County Code of Ordinances.

*Floodway* means the same as that term is defined in Chapter 14, Land Development, of the DeKalb County Code of Ordinances.

*Floor area definitions:*

A. *Floor area* means the sum of the horizontal areas of all floors computed from the outside dimensions of the exterior walls of a building or from the center line of common walls separating two buildings, but excluding unenclosed porches, breezeways, patios, terraces, carports, decks, garages, unfinished attics and basements. Finished attic rooms with a ceiling height of seven and one-half feet or more shall be computed as usable floor area.

B. *Gross floor area* means the sum of all gross horizontal areas of the several floors of a building or buildings, measured from the outside dimensions of the structure.

C. *Gross leasable area* means the area within a shopping center, commercial or industrial condominium that is available for lease by tenants, not including any common elements such as hallways, mall public areas, etc.

D. *Usable floor area* means that area to be used for the sale of merchandise or services, or for use to serve patron, clients, or customers. Such floor area which is used principally for the storage or processing of merchandise, for hallways, stairways, and elevator shafts, or for utilities or sanitary facilities shall be excluded from this computation of usable floor area. Measurement of usable floor area shall be the sum of the horizontal areas of the several floors of the building, measured from the interior faces of the exterior walls.

*Floor area ratio (FAR)* means the ratio of the total above-grade gross floor area of all structures on a site to the area of the lot. (See also "gross floor area.") The following areas are to be included in gross floor area for the purpose of computing floor area ratio:

- Above grade floor area: Any room that has a wall surface that extends more than three feet above grade (these floor areas shall be counted at one hundred (100) percent).
- Daylight basement floor area: calculated as a percent of total basement floor area. (See daylight basement definition for floor area calculation)
- Exterior walls (that is, the thickness is included).
- Laundry rooms, mechanical rooms, closets, storage rooms, built-in cabinets and media niches.
- Mezzanines and lofts.
- Floor areas used by interior and exterior stairways, elevators, escalators and similar features. The floor area of each run of stairs shall be counted once (not twice by counting on two (2) floor levels). Usable spaces (generally defined as having a five-

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foot minimum height) such as rooms, closets and cabinets under a run of stairs shall also be counted.

- Porches, balconies, patios, and breezeways with a "solid" cover and enclosed by "solid" walls on more than two (2) sides.
- In single family and duplex residential uses, attached or detached garages and carports.
- Accessory buildings such as sheds, guest houses and second units, whether or not they include habitable space.

The following areas are to be excluded from gross floor area for the purpose of computing floor area ratio:

- Attic spaces.
- Below grade floor area: Any area that has a wall surface that extends no more than three (3) feet above grade.
- Porches, balconies, patios, breezeways, and decks (as well as overhangs, eaves, cantilevers, awnings and similar features) with a solid cover, but not enclosed by solid walls on more than two (2) sides.
- Porches, balconies, patios, breezeways, and decks that do not have a solid cover.
- Parking structures and garages that are incidental to a primary use on the same site in multi-family, commercial, office, industrial and public/semi-public uses.

*Form-based zoning* is a method of regulating development to achieve a specific urban form. Form-based codes create a predictable public realm primarily by controlling physical form, with a lesser focus on land use. Form-based codes address the relationship between building façades and the public realm, the form and mass of buildings in relation to one another, and the scale and types of streets and blocks. The regulations and standards in the form-based zoning chapters, presented in both diagrams and words, designate the appropriate form and scale (and therefore, character) of development, rather than mainly through distinctions in land-use types. The form-based zoning districts are intended to achieve a community vision to preserve, enhance or transform specified areas of the city.

*Foster Care* definitions:

A. *Foster care facility* means an establishment that provides supervision, assistance, protection, or personal care and room and board to persons.

B. *Adult foster care family home* means a private residence with the approved capacity to receive not more than six adults who are provided with foster care for five or more days a week and for two or more consecutive weeks.

C. *Adult foster care large group home* means an adult foster care facility with the approved capacity to receive at least 13 but not more than 20 adults to be provided with foster care.

D. *Adult foster care small group home* means an adult foster care facility with the approved capacity to receive not more than 12 adults who are provided with foster care.

*Freeway* means a multiple-lane roadway carrying local, regional, and interstate traffic of relatively high volumes which permits access only at designated interchanges and is so designated in the comprehensive plan.

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*Frequency* means the time rate of repetition of sound waves in cycles per second, reported as Hertz (Hz), also referred to as "pitch."

*Front yard.* (See: Yard, front)

*Frontage* means the horizontal distance for which the boundary line of a lot and a street right-of-way line are coincident.

*Frontage* means the distance where a property line is common with a street right-of-way line.

*Front parcel line* means the property line dividing a lot from a street right-of-way.

*Garage* means a building or part of one used primarily for the storage of motor vehicles, trailers, recreational vehicles or boats.

*Garage apartment* means 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 family and the enclosed space for at least one automobile is attached to such living quarters.

*Garage, parking* means a structure, lot or any portion thereof which is open to the public and in or on which one or more operable vehicles are housed or kept, not including exhibition or showroom or storage of cars for sale.

*Garage, public* means a garage other than a residential garage.

*Garage, repair* means a structure intended to be used for the performance of major and minor motor vehicle repairs.

*Garage, residential* means a garage accessory to a dwelling that is under the same ownership as the principal dwelling.

*Garage sale* means all general sales, open to the public, conducted from or on noncommercial property, for the purpose of disposing of personal property, including, but not limited to, all sales entitled "estate", "garage", "lawn", "yard", "attic", "porch", "backyard", "patio", "flea market", or "rummage" sale.

*Gasoline service station* means buildings and premises wherein a primary use is the supply and dispensation of retail gasoline, diesel fuel, oil, grease, batteries, tires and motor vehicle accessories, and where minor repair services may be provided. This service shall not include tire recapping, body painting or repair.

*Governing authority* means the mayor and council for the city of Lithonia.

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*Grade, natural* means the elevation of the ground level in its natural state, before construction, filling, or excavation.

*Grade, finished* means the average elevation at ground level at the front wall of the building.

*Grassed playing fields* mean reasonably flat and undeveloped recreation areas intended for a variety of informal recreational uses, including but not limited to: walking, kite-flying, flying disc-throwing, and recreational games of soccer, softball, or cricket. In the creation of grassed playing fields, minimal grading may be used, however, specimen trees may not be damaged or removed. Grassed playing fields may not include recreation areas with amenities for a particular sport, such as baseball diamonds or golf courses.

*Gravel pit* means an open land area where sand, gravel, and rock fragment are mined or excavated for sale or off-site use. Gravel pit includes sifting, crushing, and washing as part of the primary operation. To excavate the rock, blasting also may be necessary.

*Greenfield* means an area that consists of open or wooded land or farmland that has not been previously developed.

*Greenhouse/nursery* means a place where plants are raised, acquired and maintained for transplanting or sale. Sale or rental of small landscaping tools and supplies may be an accessory use.

*Greenspace* means undeveloped land that has been designated, dedicated, reserved, or restricted in perpetuity from further development, which is not a part of an individual residential lot.

*Greenway* means an open space corridor in largely natural conditions which may include trails for bicycles and pedestrians.

*Greyfield* means an area previously used primarily as a parking lot.

*Grid pattern* means a continuous web of streets in which most streets terminate at other streets to form multiple vehicular and pedestrian connections. Streets are to be laid out with primarily linear features, but the grid may be broken by circles, ovals, diagonals, and natural curves to add visual interest.

*Grocery store:* A store where most of the floor area is devoted to the sale of food products for home preparation and consumption, which may also offer other home care and personal care products, and which is substantially larger and carries a broader range of merchandise than convenience stores.

*Gross floor area* means the total square footage of a building measured along outside enclosing walls including all floors of a multistory building, whether finished or unfinished.

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*Gross leasable area* means the total floor area designed for tenant occupancy measured along outside enclosing walls excluding stairwells, elevator shafts, mechanical rooms, space related to the operation and maintenance of the building, lobbies, hallways and bathrooms located for common use.

*Gross vehicle weight rating* means the value specified by the manufacturer as the loaded weight of a vehicle or combination vehicle. In the absence of a value specified by the manufacturer for a combination vehicle, the gross vehicle weight rating of the combination vehicle shall be determined by adding the gross vehicle weight rating of the power unit and the total weight of the towed unit and any load on either unit.

*Group home* means a facility providing custodial care and treatment in a protective living environment for persons residing voluntarily or by court placement including, without limitation, correctional and post-correctional facilities, drug or alcohol abuse centers or sober living facilities, juvenile detention facilities, and temporary custody facilities.

*Guest* means any person who shares a dwelling unit in a nonpermanent status for less than 15 days.

*Guest house* means living quarters situated within an attached or detached accessory building located on the same premises as the principal building used only by bonafide, nonpaying guests of the owner or occupant of the principal building.

*Habitable building* means any structure or part thereof that shall be used as a permanent place of abode by one or more persons.

*Habitable room* means a room or enclosed floor space used or intended to be used for living, sleeping, cooking or eating purposes, excluding: bathrooms, laundries, furnace rooms, pantries, kitchenettes and utility rooms of less than 50 square feet of floor space, foyers or communicating corridors, stairways, closets, storage space, and hobby and recreation areas in unheated or uninsulated parts of structures below ground or in attics.

*Halfway house* means a home for persons who have demonstrated a tendency toward alcoholism, drug abuse, mental illness, or antisocial or criminal conduct, together with personnel providing supervision and other services for such persons.

*Hardship* means a condition of significant practical difficulty in using a lot because of physical problems relating solely to the size, shape or topography of the lot in question which are not economic difficulties and which are not self-imposed.

*Health department* means the DeKalb County Environmental Health Department.

*Health facility* means a commercial or not-for-profit establishment which has as its sole purpose the improvement of health and physical fitness through special fitness and health equipment, facilities, and related educational programs, but specifically excluding adult

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service facilities. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

*Height of building* means the vertical distance measured from the mean finished ground level at the front of the building to the highest point of the roof or parapet.

*Height to parapet* means, for a flat roof, the height to the top of the parapet from the natural or improved grade, whichever is the more restrictive.

*Height to roof ridge (total height)* means, for a sloping roof, the height to the top horizontal framing member of the roof ridge from the natural or improved grade, whichever is the more restrictive. Accessory structural elements located on the roof, such as solar panels, shall be subject to the total height requirements.

*Height, tower* in reference to a tower or other structure, means the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

*Height to wall plate* means, for a building with a sloping roof, the height to the top horizontal framing member of a wall from the natural or improved grade, whichever is the more restrictive.

*Historic* means a building, structure, site or district identified as historic by the City of Lithonia, the DeKalb County Historic Resources Survey, the comprehensive plan, by listing on the Georgia or National Register of Historic Places, by listing as a National Historic Landmark, or determined potentially eligible for listing in the National Register of Historic Places or as a result of review under Section 106 of the National Historic Preservation Act, as amended.

*Home occupation* means an occupation carried on by an occupant of a dwelling unit as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes and is operated in accordance with the provisions of this chapter. Home occupation does not include "private educational use" as defined in this chapter.

*Hospital* means any institution receiving inpatients, or a public institution receiving outpatients, providing a staffed twenty-four-hour emergency care facility and authorized under Georgia law to render medical, surgical, and/or obstetrical care. The term "hospital" shall include a sanitarium with an approved certificate of need (CON) from the state health planning agency for the treatment and care of various forms of mental illness, but shall not include office facilities for the private practice of medicine, dentistry or psychiatry. Does not include clinics, convalescent homes or rest homes.

*Hotel* means a building with more than six guest rooms in which lodging or boarding and lodging are offered to the public for compensation and in which ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge

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at all hours. As such, it is open to the public in contradistinction to a boardinghouse or an apartment. A hotel shall not have facilities for meal preparation within the guestrooms. Additional services such as meeting rooms and recreational facilities may be provided.

*Household* means one or more persons, including servants, who share the same dwelling and use some or all of its cooking and eating facilities.

*Household pets* means companion animals which are commonly kept as pets, whose primary value is personal enjoyment. These animals shall not be raised for commercial purposes and shall be limited to common species whose presence in the neighborhood does not arouse unusual community interest or curiosity sufficient to attract the community residents to a specific neighborhood. Household pet does not include livestock, poultry, potbellied pigs, pit bulls, and snakes.

*Impulsive sound* means either a single pressure peak or a single burst (multiple pressure peaks) that has a duration of less than one (1) second characterized with an abrupt onset and rapid decay.

*Improvements* means street pavements, curbs, gutters, sidewalks, paths, bikeways, sedimentation control facilities, revegetation, water mains, sanitary and storm sewers, drainways, gas lines, electrical and telephone lines and appurtenances, street signs, trees and lights, lot pin monuments, range point boxes, and any other item required in conformance with the regulations of this Code or any conditions of approval.

*Improvements agreement* means a contractual agreement between the city and the applicant which designates all improvements required to be constructed/installed by the approval of an application. Such agreement to be financially secured by the developer of a project.

*INCE* means Institute of Noise Control Engineering.

*Industrial* means the comprehensive plan land use category which includes light and heavy distribution, warehouse, assembly, manufacturing, quarrying, truck terminals, and landfills.

*Industrialized building* means any structure or component thereof which is or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site upon a permanent foundation and has been manufactured in compliance and conformity with the Industrialized Building Act of the State of Georgia, 1982 Ga. Laws, page 1637 (O.C.G.A. tit. 8, ch. 2, art. II, pt. 1) as the same may be amended from time to time.

*Infill* has two meanings: Noun - new development on land that had been previously developed, including most greyfield and brownfield sites and cleared land within urbanized areas; Verb - to develop such areas.

*Institutional* means the comprehensive plan land use category which includes the following uses: government-owned administration buildings and offices, fire stations, public hospitals

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and health care facilities, child day care centers, public schools, colleges and educational research facilities, places of worship, and cemeteries.

*Institutional use.* See *Public use*.

*Interim development control* means an ordinance that temporarily imposes developmental regulations when existing regulations do not adequately protect the public's health, safety and welfare in accordance with the standards specified in this chapter.

*Junk vehicle* means any vehicle which is nonoperable, or any vehicle which does not bear a current license plate.

*Junkyard* means 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 materials and equipment; or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof. An automobile is considered abandoned when a current license tag is absent.

*Kennel* means any lot or premises used to board, breed, sell, train, or treat more than three dogs, cats or other domestic pets who are more than six months old, and that are licensed and operated in conformity with the Animal Control Ordinance of the city of Lithonia, as amended.

*Kennel, noncommercial* means an establishment for the boarding, caring for and keeping of more than three (3) but not more than ten (10) dogs or cats or other small animals or combination thereof (except litters of animals of not more than six (6) months of age), not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

*Kindergarten* means an establishment operated by any person wherein compensation is paid for providing for the care, supervision, instruction, and protection of seven (7) or more children who are under the age of seven (7) years for less than twenty-four (24) hours per day, without transfer of legal custody.

*Kiosk* means a freestanding structure upon which temporary information and/or posters, notices, and announcements are posted.

*Kitchen* means any room containing any or all of the following equipment, or any other room within three feet of such equipment: sink and/or other device for dishwashing, stove or other device for cooking, refrigerator or other device for cool storage of food, cabinets and/or shells for storage of food, equipment and cooking utensils, and counter or table for food preparation.

*Kitchen facilities* means a room used to prepare food containing, at a minimum, a sink and a stove or oven.

*Kitchenette* means a small kitchen or an alcove containing cooking facilities.



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*Land use* means a description of how land is occupied or utilized.

*Landfill* means an area of land on which or an excavation in which solid waste is placed for permanent disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

*Landfill, inert waste disposal:* Disposal facility accepting only waste that will not or is not likely to cause production of leachate of environmental concern by placing an earth cover thereon. Such waste is limited to earth and earth-like products, concrete, cured asphalt, rocks, bricks, yard trash, stumps, limbs, and leaves. This definition excludes other types of industrial and demolition waste not specifically listed above. (Refer to the rules concerning Solid Waste Management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition).

*Landfill, solid waste disposal:* A disposal facility accepting solid waste excluding hazardous waste disposed of by placing an earth cover thereon. Solid waste includes waste from domestic, agricultural, commercial, and industrial sources. (Refer to the rules concerning Solid Waste Management of the Georgia Department of Natural Resources, Environmental Protection Division, as amended, for further definition).

*Landlocked parcel* means a parcel of land without road access.

*Landscape buffer* means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to a condition or conditions imposed by the board of commissioners in the enactment of a conditional zoning ordinance or special land use permit, to separate different use districts, or to separate uses on one property from uses on another property of the same use district or a different use district. Any such landscaped buffer shall not be graded or otherwise disturbed, and all trees and other vegetation shall remain, provided that additional trees and other plant material may be added to such landscaped buffer.

*Landscaped space* means the areas of a parking lot which are planted with trees, shrubs and ground cover, plazas, fountains and other hardscape elements and similar features which are located within such parking lot and which are generally accessible to patrons or the general public during normal business hours.

*Leachate collection system* means a system at a landfill for collection of the leachate which may percolate through the waste and into the soils surrounding the landfill.

*Light manufacturing establishment* means a manufacturing establishment or operation, other than light malt beverages manufacturers and other than those uses classified as heavy manufacturing establishments, which is housed wholly within a building, emits no excessive dust or vibrations beyond the property on which the establishment is located, and complies with the noise limitations contained in section 27-762.

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*Light servicing* means minor repairs to motor vehicles which include, but may not be limited to, repairing and changing tires; lubricating vehicles; cleaning, adjusting, and replacing spark plugs; changing oil, transmission fluid and filters; replacing, adjusting, repairing, or servicing hoses and air filters; changing, flushing or otherwise servicing the coolant system; changing or adjusting the battery, battery ground cable, battery hold-down strap, battery positive cable or battery-to-starter relay cable; changing or adjusting the fan belt, power steering pump belt or alternator drive belt; changing fuses, headlamp switches, horns, ignition coil output wire, light bulbs and headlamps; installing, replacing or repairing ornamental accessories; filling windshield washer tank and other fluids; changing or adjusting windshield wipers and wiper blades; and any other minor service which may be performed in less than three hours.

*Liquor store* means a retail shop which sells alcoholic beverages for off-site consumption.

*Livestock* means domestic animals and fowl customarily kept on a farm including horses, mules, donkeys, cows, cattle, sheep, goats, ducks, geese and turkeys.

*Live-Work* means a structure or portion of a structure combining a residential living space with an integrated workspace principally used by one (1) or more of the residents. The workspace is secondary or accessory to the primary residential use.

*Local street* means a street that provides direct access to adjacent land and access to higher street classification. All streets not otherwise classified are "local."

*Loading space* an off-street portion of a parcel for the temporary parking of commercial vehicles while loading or unloading materials for use or sale on the parcel. This area shall open onto a street or alley, and any use of the area shall not obstruct pedestrian or vehicular traffic upon the street or alley.

*Lodging unit* means one (1) or more rooms, designed, occupied, or intended for occupancy as a separate living quarter, with sleeping, and bathroom facilities provided within the lodging unit for the exclusive use of a single-family maintaining a household.

*Lot* means a designated parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

*Lot area* means the total area within the lot lines of a lot, excluding any street rights-of-way and any area used for a retention pond.

*Lot, buildable area of* means the portion of a lot remaining after required yards have been provided. Buildings may be located within any portion of the buildable area of a lot, except that if there are lot coverage limitations which exceed the area in required yards, the remaining required open space shall be provided within the buildable area of the lot.

*Lot, conforming* means a designated parcel, tract, or area of land which meets the lot area and lot width requirements of this chapter, which has the amount of frontage on a public street

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required by this chapter, and which has its own independent driveway located entirely within its boundaries and connected to a public street.

*Lot, corner* means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

*Lot coverage* means that portion of a lot that is covered by buildings, structures, driveways and parking areas, and any other impervious surface.

*Lot, double-frontage* means a lot that abuts two (2) parallel streets or that abuts two (2) streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

*Lot, interior* means a lot, other than a corner lot, abutting only one street.

*Lot of record, nonconforming* means a designated parcel, tract, or area of land legally existing at the time of enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public street frontage and access requirements of this chapter.

*Lot Lines* definitions:

A. *Front lot line.* The line separating a lot from the street or street right-of-way. On a corner lot, the front lot line shall be established on the plat of subdivision or land division; if no front lot line has been so designated, the street upon which the property is addressed shall determine the front lot line. On a double frontage lot, each line separating the lot from a street or street right-of-way shall be a front lot line. In those cases where, because of lot or right-of-way configuration, the front lot line as defined on an existing lot of record consists of only a small segment of a continuous lot line, the entire line shall be considered a front lot line

B. *Rear lot line.* The line opposite the front lot line. In the case of a lot that is pointed at the rear, the rear lot line shall be an imaginary line parallel to the front lot line, not less than 10 feet long, lying farthest from the front lot line and wholly within the lot.

C. *Side lot line.* Any lot line other than the front lot line or rear lot line. A side lot line separating a lot from a street or street right-of-way is a street side lot line. A side lot line separating a lot from another lot is an interior side lot line.

D. *Interior lot line.* Any lot line that is not adjacent to a street or street right-of-way.

*Lot, substandard* means a designated parcel, tract, or area of land created after the time of enactment of this chapter or amendment of this chapter which does not meet the lot area, lot width, or public street frontage and access requirements of this chapter. Such a lot is illegal except where created by governmental action in which case such lot shall have the status of a nonconforming lot of record.

*Lot width* means the horizontal between the side lines of a lot measured at right angles to its depth along a straight line parallel to the street.

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*Low density residential* means the comprehensive plan land use category which includes single-family residential development at a density not exceeding four (4) dwelling units per acre.

*Low intensity commercial* means the comprehensive plan land use category which includes neighborhood and community oriented stores and shopping centers. Properties classified as low intensity commercial tend to be single-use oriented, have less intensive employee/acre ratios and rarely exceed two (2) stories in height.

*Low-medium density residential* means the comprehensive plan land use category which includes single-family detached and attached dwellings, two-family dwellings, three-family dwellings, townhouses, condominiums, and multifamily apartments at a density not exceeding eight (8) dwelling units per acre. This category also includes mobile home parks when such mobile home parks are designated on the land use element of the comprehensive plan.

*Machine shop* means a structure containing machinery for the manufacture, modification or repair of metal goods and automotive equipment.

*Major automobile repair* means repairs, improvements or additions to a motor vehicle which include, but are specifically not limited to, replacing or rebuilding of engines, transmissions, or differentials; repair of bodies, fenders or frames of motor vehicles and trailers; painting of motor vehicles and trailers; dismantling or storage of wrecked or junked vehicles or trailers; muffler and exhaust repair and replacement; other major work customarily undertaken by motor vehicle repair shops; or repairs which are not performed in less than three hours.

*Major shopping center* means a group of architecturally unified commercial establishments center-built on a site which is planned, developed, and managed as an operating unit related in its location, size and type of shops to the trade area that the unit serves. The unit provides on-site parking in definite relationship to the types and total size of the stores. The gross leasable area is in excess of two hundred fifty thousand (250,000) square feet.

*Major subdivision* means a subdivision consisting of six (6) or more proposed lots to be constructed with new streets and utility lines.

*Major thoroughfare* means a street, road or highway shown as a major thoroughfare in the DeKalb County Transportation and Thoroughfare Plan.

*Manufactured home, Class I* means a single-family dwelling unit that is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and bears an insignia issued by the U.S. Department of Housing and Urban Development, or a single-family dwelling unit that, if constructed prior to applicability of such standards and insignia requirements, was constructed in conformity with the Georgia State Standards in effect on the date of manufacture. *Class II* means a single-family dwelling unit meeting the requirements of a Manufactured Home Class I and, in addition, bears the insignia of the Southern Standard Building Code Congress International.

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*Manufacturing* means premises available for the creation, assemblage and/or repair of artifacts, using table-mounted electrical machinery or artisanal equipment, and including their Retail sale.

*Massage establishment* means any business properly licensed under the Code of Ordinances of the City of Lithonia and that is established for profit and employs one (1) or more massage therapists, operates or maintains for profit one (1) or more massage apparatus, and which, for good or valuable consideration, offers to the public facilities and personnel for the administration of massages, within the meaning as set forth in the City of Lithonia Code of Ordinances. This term shall not include hospitals or other professional health care establishments separately licensed as such by the State of Georgia.

*Mayor and City Council* means the Mayor and City Council of the City of Lithonia, Georgia.

*Manufactured home* means factory-built, single-family structures transportable in one or more sections, which is built on a permanent chassis and designed to be used as a one-family dwelling with or without a permanent foundation when connected to the required utilities. Recreational vehicles and modular homes are not included in this definition.

*Manufactured home park* means a site containing spaces with required improvements and utilities that are leased for the long-term placement of manufactured houses and that may include services and facilities for the residents.

*Manufactured home space* means a plot of ground within a manufactured home park used to accommodate a single manufactured home.

*Mass retailer* means retail stores, generally in excess of 75,000 square feet, which either offer discount, general merchandise or offer a wide selection of goods in specific narrow categories. Because of the variety of goods, and the discounted prices, such stores draw on a much larger customer base than similar size local retail merchandise and grocery stores. They typically maintain long store hours, sometimes 24 hours, seven days a week.

*Medical/dental/optical laboratory* means facilities used for the express purpose of the design, fabrication and repair of dental and optical goods, and/or a medical laboratory or clinical laboratory where tests are performed on biological specimens in order to obtain information about the health of a patient.

*Medium density residential* means the comprehensive plan land use category which includes single-family detached and attached dwellings, two-family dwellings, three-family dwellings, townhouses, condominiums, and multifamily apartments at a density not exceeding twelve (12) dwelling units per acre.

*Medium-high density residential* means the comprehensive plan land use category which includes single-family detached and attached dwellings, two-family dwellings, three-family

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dwelling, townhouses, condominiums, and multifamily apartments at a density not exceeding eighteen (18) dwelling units per acre.

*Menu signs* means signs at restaurants which are not designed to be read from the public right-of-way and are not visible beyond the boundaries of the lot or parcel upon which they are located or from any public thoroughfare or right-of-way.

*Mine* means (1) a cavity in the earth from which minerals and ores are extracted; and (2) the act of removing minerals and ores.

*Mining* means the extraction of minerals, including solids, such as coal and ores; liquids, such as crude petroleum; and gases, such as natural gases. The term mining includes quarrying; ground-water diversion; soil removal; milling, such as crushing, screening, washing, and flotation; and other preparation customarily done at the mine site as part of a mining activity.

*Miniwarehouse.* See *Self-storage warehouse.*

*Minor automobile repair and maintenance shop* means an establishment wherein tires, carburetors, ignitions and other minor accessory parts as are necessary for normal upkeep of any automobile are repaired, replaced or serviced. Minor automobile repair and maintenance does not include dismantling, repairing or painting of engines, transmissions, drive shafts, axles, bodies and fenders.

*Minor arterial* means a street or road interconnecting with the principal arterial system having a relatively high overall travel speed and minimal interference to through movement.

*Minor thoroughfare* means a street, road or highway shown as a minor thoroughfare in the DeKalb County Transportation and Thoroughfare Plan.

*Mixed Use* means multiple functions within the same building through superimposition or adjacency, or in multiple buildings by adjacency, or at a close proximity.

*Mixed Use Residential* means the residential component suitable for placement in the same structure with other uses in a mixed-use development, including but not limited to apartments, condominiums, and lofts.

*Mixed use component* means a definable and compact area of a development in a Pedestrian Community District that contains a mix of residential and non-residential uses.

*Mobile home* means a detached, single-family dwelling designed for long-term occupancy, designed to be transported on its own wheels, arriving at the site as a complete dwelling unit, usually including major appliances and furniture, and ready for occupancy. Removal of the wheels and placement on a foundation does not change its classification.

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*Mobile home lot* means a parcel of land, approved pursuant to the subdivision requirements of Division 18 of Article II of this chapter of the Lithonia Code of Ordinances, in a mobile home park which is intended and used for the placement of a single mobile home and for the exclusive use of its occupants.

*Mobile home park* means a parcel of land which has been planned and improved pursuant to the requirement of this chapter and Division 18 of Article II of this chapter of the Lithonia Code of Ordinances, for the placement of mobile homes for nontransient use.

*Mobile home stand* means that part of a mobile home lot which has been reserved for the placement of a mobile home for nontransient use.

*Modular home* means a factory-manufactured single-family dwelling which is constructed in one (1) or more sections and complies with the definition of "industrialized building."

*Modular home* means a factory-fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a structure and which does not comply with the Georgia Industrial Building Act, as the same may be amended from time to time.

*Mosque* means *place of worship*.

*Motel* means a *hotel*.

*Motor home* means a motorized vehicular unit primarily designed for temporary dwelling in connection with travel and/or recreation use.

*Muffler* means a sound-dissipative device or system for lessening the sound of the exhaust of an internal combustion machine where such a device is part of the normal configuration of the equipment.

*Multifamily dwellings, supportive living*, means four (4) or more dwelling units in a single building or group of buildings which are designed for independent living for persons with disabilities of any kind and in which are provided supportive services to the residents of the complex but which supportive services do not constitute continuous twenty-four-hour watchful oversight, and which does not require licensure as a personal care home by the Office of Regulatory Services of the State of Georgia Department of Human Resources.

*Multi-use property* means any distinct parcel of land that is being used for more than one (1) land use purpose.

*Neighborhood* means an area of the county within which residents share a commonality of interests including distinct physical design and street layout patterns, a shared developmental history, distinct housing types, or boundaries defined by physical barriers such as major roads and railroads or natural features such as creeks or rivers.

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*Neighborhood recreation club* means a not-for-profit association of people organized for the purpose of providing recreation facilities and programs for a neighborhood or neighborhoods and characterized by certain membership qualifications, payment of fees and dues, and a charter or bylaws. Neighborhood recreation club shall also mean, where the context requires, the premises and structures owned or occupied by members of such association within which the activities of the neighborhood recreation club are conducted.

*Neighborhood residual sound level* means that measured value that represents the summation of the sound from all of the discrete sources affecting a given site at a given time, exclusive of extraneous sounds, and those from the source under investigation. Neighborhood residual sound level is synonymous with background sound level. Neighborhood residual sounds are differentiated from extraneous sounds by the fact that the former are not of a relatively short duration, although they are not necessarily continuous.

*Node* means a concentration of population, retail, and employment within a well-defined area that has a diverse mix of land uses and a pedestrian and transit orientation.

*Noise control officer* means a county employee or agent who has received noise enforcement training and is currently certified in noise enforcement.

*Noise sensitive facility* means any facility whose operations may be detrimentally impacted by excessive sound levels. Such facilities include but are not limited to schools, hospitals, and places of worship.

*Nonconforming characteristic(s) of building or structure* means a building or structure, legally existing on the effective date of this chapter, but which fails to comply with one (1) or more of the district or general non-use development regulations adopted under the terms of this chapter which are applicable to said building or structure, including, but not limited to, setbacks, lot frontage, lot area, building height limitations, off-street parking or loading, buffers, landscaping or any other applicable development regulation.

*Nonconforming lot* means a lot that was legal at the time this ordinance or any amendment was adopted and which does not conform to the current regulations of the district in which it is located.

*Nonconforming structure* means a structure that was legal at the time this ordinance or any amendment was adopted and which does not conform to the current regulations of the district in which it is located.

*Nonconforming use* means use of a structure or land that was legal at the time this ordinance or any amendment was adopted and which does not conform to the current regulations of the district in which it is located.

*Nonconforming use of land* means a use of land, including any land whereon the value of all the improvements is less than ten thousand dollars (\$10,000.00) based on the assessed value of said improvements as established by the DeKalb County Board of Tax Assessors at the date of enactment of this chapter, legally existing on the effective date of this chapter, but



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which is not an authorized use under the terms of this chapter in the district in which such use is located.

*Nonconforming use of land and building(s) or nonconforming use of land and structure(s)* means a use of land and building(s) or land and structure(s), in combination, legally existing on the effective date of this chapter, but which is not an authorized use of land and building(s) or land and structure(s), in combination, under the terms of this chapter in the district in which such use is located.

*Nonresidential development* means all commercial, office, institutional, industrial and similar lands and uses.

*Nontransient lodging accommodations* means long-term or permanent sleeping accommodations offered to persons as a residence, domicile, or settled place of abode.

*Nursery* means a building or lot, or portion thereof, used for the commercial cultivation or growing of plants, and including all accessory buildings.

*Nursing care facility* means an establishment providing inpatient nursing and rehabilitative services to patients who require health care but not hospital services. Care must be ordered by and under the direction of a physician. The staff must include a licensed nurse on duty continuously with a minimum of one (1) full-time registered nurse on duty during each day shift. Included are establishments certified to deliver skilled nursing care under the Medicare and Medicaid programs. The term includes convalescent homes with continuous nursing care, extended care facilities, mental retardation hospitals, skilled nursing homes and intermediate care nursing homes.

*Occupant* means any person over one year of age, living, sleeping, cooking or eating or actually having possession of a dwelling unit; except that in dwelling units a guest will not be considered an occupant.

*Office* means premises available for the transaction of general business but excluding retail, artisanal, warehouse and manufacturing uses.

*Office/mixed use* means the comprehensive plan land use category which includes intensively developed office and mixed use centers where office uses represent fifty (50) percent or more of the land use. Mixed commercial, entertainment, recreation, and residential land uses may be located in lesser amounts within this land use category.

*Office/professional* means the comprehensive plan land use category which includes the less intensive office and professional center land uses including low-rise office parks, single freestanding office buildings, banks and similar financial institutions, and residential structures converted to office use. Office land uses tend to be single-use oriented and have less intensive employee/acre ratios.

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*Official zoning map or maps* means the zoning maps of the City of Lithonia which are adopted with and incorporated into this chapter and shall be a part of the zoning ordinance.

*One-part commercial block style* means a single-story building that has a flat roof, a facade that is rectangular in shape, and in which the fenestration in the facade is equal to seventy-five (75) percent of the width of the front facade of the building.

*Open space* means that portion of a lot, including yards, established pursuant to the requirements of this chapter as open space, which is open and unobstructed from ground level to the sky, with the exception of natural foliage or accessory recreational facilities or walkways, which is accessible to all persons occupying a building on the lot and is not a part of the roof of any portion of any building.

*Open space* means permanently protected land and/or water, including agricultural and forestry land that is in its undeveloped, natural state or that has been developed or restored only to the extent consistent with one or more of the following goals:

- A. Water quality protection for rivers, streams, and lakes;
- B. Flood protection;
- C. Wetland protection;
- D. Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;
- E. Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and/or animal species;
- F. Scenic protection;
- G. Protection of archaeological and/or historic resources;
- H. Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, roller skating, observing or photographing nature, picnicking, playing non-organized sports, and/or engaging in free play; and/or
- I. Connection of existing or planned areas contributing to one or more of the goals set forth in this paragraph.

*Ornamental fence* means a barrier with a maximum height of no more than four feet constructed of either wood rail, stone, brick or similar material but not including wire mesh or wood stockade fence. The principal function of such fence shall be to mark the property boundaries not to provide protection or confinement.

*Outbuilding* means an accessory building, usually located toward the rear of the same lot as a principal building.

*Outdoor commercial recreation* means commercial recreation premises consisting of woodlands, water courses and fields used for active recreational activities that do not require modification of the existing natural features or characteristics of a property. Examples of such uses may include, but are not limited to zip line courses, orienteering, bird watching, nature photography, rock climbing, frisbee, and golf.

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*Outdoor sales area* means any other outdoor area dedicated to sales and display of goods and/or services.

*Outdoor storage* means the keeping, in an unenclosed area, of any goods, material, merchandise, or vehicles in the same place for more than twenty-four (24) hours.  
*Parapet* means either the edge of the roof or the top of a wall which forms the top line of a building silhouette. When a building has several roof levels, the roof or parapet shall be the one belonging to that portion of the building where the sign is located.

*Parcel* means a contiguous area of land under one (1) ownership, defined by a legal description(s) recorded at the office of the county clerk and recorder. As used in sections 27-649.1 through 27-649.16 means the entire acreage covered by an application for rezoning or special land use permit to or for the Pedestrian Community District.

*Parking garage, structure* means a structure or portion thereof composed of two (2) or more floors, with at least one (1) floor above grade, used exclusively for the parking or storage of motor vehicles.

*Parking garage, subterranean and ground level, structure* means a structure or portion thereof composed of a ground-level floor, or ground-level floor and subterranean level(s) used exclusively for the parking of motor vehicles.

*Parking lot* means a ground-level open area or plot of ground, usually improved, used for the temporary storage or parking of motor vehicles either for compensation or to provide an accessory service to a business, industrial or residential use.

*Parking space* means a paved area of not less than one hundred twenty (120) square feet (small car space) or not less than one hundred fifty-three (153) square feet (large car space) space with dimensions of not less than eight (8) feet wide by fifteen (15) feet deep (small cars) or eight (8) feet six (6) inches wide by eighteen (18) feet deep (large cars), the exclusive purpose of which is for the parking of a vehicle.

*Passive park/passive recreation* means a park dedicated to passive recreation. Passive parks specifically do not include swimming pools, gymnasiums, or playing fields and do not generally require a developed site. These include, but are not limited to, hiking, bicycling, picnicking, fishing, horseback riding, interpretive trails, and bird watching.

*Paved* means an area which is covered by asphalt, concrete, or other impervious surface.

*Pawn shop* means any entity engaged in whole or in part in the business of lending money on the security of pledged goods (as that term is defined in O.C.G.A. § 44-12-130(5)), or in the business of purchasing tangible personal property on a condition that it may be redeemed or repurchased by the seller for a fixed price within a fixed period of time, or in the business of purchasing tangible personal property from persons or sources other than manufacturers or licensed dealers as part of or in conjunction with the business activities described in this paragraph.

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*Pedestrian-oriented development* means development that accommodates the needs of pedestrians and cars equally, with parking to the side or rear of a building, mixed uses and a variety of interesting and detailed streetscapes.

*Permitted use* means any use which can be undertaken only after approval by the designated authority of the special land use permit, special exception, or special administrative permit which is required by the terms of this chapter.

*Personal care home* means a facility licensed as a rest home, nursing home, convalescent home, home for the aged, or similar use established and operated on a profit or nonprofit basis to provide lodging and/or meals and/or domiciliary care for the aged, infirm, chronically ill, terminally ill, ill, mentally incapacitated, or convalescent persons. A building or group of buildings, a facility or place in which is provided two (2) or more beds and other facilities and services, including room, meals, and personal care for nonfamily adults. For the purpose of this section, personal care homes shall be classified as: Family personal care home, group personal care home, or congregate personal care home. This term does not include buildings which are devoted to independent living units which include kitchen facilities in which residents have the option of preparing and servicing some or all of their own meals or boarding facilities which do not provide personal care.

A. "*Family personal care home*" means a home in a family-type residence, non-institutional in character, which offers care to persons as described above and in which a maximum of six (6) persons reside, inclusive of the caregiver(s).

B. "*Group personal care home*" means a home in a residence or other type building(s), noninstitutional in character, which offers care to persons as described above and in which seven (7) to fifteen (15) persons reside, inclusive of the caregiver(s).

C. "*Congregate personal care home*" means a home which offers care to persons as described above and in which sixteen (16) or more persons reside, inclusive of the caregiver(s).

*Personal care home, registered* means a personal care home which offers care to at least one (1) but not more than three (3) persons.

*Personal services* means an establishment primarily engaged in providing services involving the care of a person or providing personal goods where the sale at retail of such goods, merchandise, or articles is only accessory to the provision of such services, including barber shops, beauty shops, tailor shops, laundry shops, dry cleaning shops, shoe repair shops, funeral services, diaper services, and similar uses, but specifically excluding adult service facilities and adult entertainment establishments.

*Pet cemetery* means property used for the interring of dead domestic animals.

*Pitch of roof lines* means the ratio of the rise to the run.

*Place of worship* means a lot or building wherein persons assemble for religious worship and which is maintained and controlled by a religious body organized to sustain public worship.

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The term shall also include any of the following accessory uses and buildings: schools, religious education, social gathering rooms, food service facilities, indoor and outdoor recreation facilities, child day care center, and kindergarten.

*Plainly audible* means any sound that can be detected by a person using his or her unaided hearing faculties.

*Planned unit development (PUD)* means tract of land developed as a unit under single ownership or unified control that includes one or more principal buildings or uses and is processed under the planned unit development provisions of this ordinance.

*Plat* means a map of surveyed and legally described land, which may have appropriate dedication and/or restrictions, and which is an instrument for recording of real estate interests at the DeKalb County Tax Assessor's Office.

*Porch, enclosed* means a horizontal surface consisting of a deck, slab or other similar construction attached to a main building and designed for outdoor seating or as a means of entry to the building. A porch is enclosed if covered by a structure that is supported by pillars or other similar means and enclosed by windows, screens, or some other similar method.

*Porch, unenclosed* means a horizontal surface consisting of a deck, slab or other similar construction attached to a main building and designed for outdoor seating or as a means of entry to the building. The deck, slab or similar construction shall be unenclosed and uncovered.

*Primary conservation area* means that portion of a site for which application is made for cluster housing development which consists of areas that are unbuildable due to the presence of wetlands, floodplains, steep slopes, or other similar environmental conditions.

*Principal use* means the primary or predominant use of any lot.

*Principal building or structure* means the primary building containing the principal use of a lot, usually located toward the frontage.

*Principal entrance* means the main point of access for pedestrians into a building.

*Principal frontage* means that on corner Lots, the frontage designated to bear the address and principal entrance to the building, and the measure of minimum lot width.

*Principal use* means the principal purpose for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.

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

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*Private educational use* means the instruction, teaching or tutoring of students by an occupant of a residential dwelling as a secondary use of the dwelling that is incidental to the primary use of the dwelling unit for residential purposes. No articles or products shall be sold on the premises other than by telephone. Such instruction, teaching or tutoring shall be limited to a maximum of two (2) students at a time and shall be limited to the hours of 9:00 a.m. to 9:00 p.m. Such private educational Use shall be allowed as a permitted use in all districts where home occupations are allowed but private educational uses shall be subject to the provisions of section 27-751(a), (b), (c), (d) and (h).

*Private golf course* means a tract of land laid out for at least nine (9) holes for playing the game of golf and improved with tees, greens, fairways, and hazards and which may also include a clubhouse and shelter.

*Private industry solid waste disposal facility* means a disposal facility which is operated exclusively by and for a private solid waste generator for the purpose of accepting solid waste generated exclusively by said private solid waste generator.

*Private restrictive covenants* means private restrictions on the use of land or structures imposed by private contract, such as subdivision covenants.

*Private right-of-way* means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is not owned, leased, or controlled by a governmental entity.

*Private street* means any vehicular access serving properties whose average daily traffic volume does not exceed 60 trips a day, and has been platted and recorded as a private street.

*Produce stand* means an open-air stand for selling of agricultural products. This stand may be portable for dismantling or moving in an off-season.

*Public and private parks and open space* means the comprehensive plan land use category which includes the following uses: parks, golf courses, reservations, state forests, and floodplains. These areas may be either publicly or privately owned and may include playgrounds, nature preserves, wildlife management areas, recreation centers, and similar uses.

*Public notice* means notice to the public of an official public hearing. This notice shall be, according to applicable requirements, published one time in the official legal organ of the city at least 15 days prior to the hearing. Notice shall also be posted on any property considered as part of an application requiring public hearing. Posting shall consist of one sign posted in a conspicuous place, accessible to the public and in printed letters stating "Public Notice" readable from a distance of twenty (20) feet. Newspaper ad and posted sign shall also state the legal description, common location of the property, the time, date and location of any public hearing or review, and describe the matter to be considered.

*Public right-of-way* means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased, or controlled by a governmental entity.

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*Public street* means right-of-way dedicated to the city or owned by the city for public purposes.

*Public use* means churches, schools teaching academic subjects, hospitals, parks, civic centers, libraries, and similar public or quasi-public uses, but not including uses by such institutions or public agencies such as material storage, equipment repair, processing, or similar activities of a commercial or industrial nature.

*Public utility* means a person, firm, corporation, municipal department, or board authorized to furnish and furnishing to the public under municipal or state regulations water, sewage, gas, electricity, communications and power, including but not limited to sewage treatment plants, water pumping facilities, water treatment plants, water storage tanks, electrical substations and bulk gas metering facilities.

*Quarry* means a mine where rock, ore, stone, and similar materials are excavated for sale or for off-site use. Quarry includes rock crushing, asphalt plants, the production of dimension stone, and similar activities.

*Quasi-public use* means a use owned or operated by a charitable and/or religious institution and providing educational, cultural, recreational, religious, or similar types of programs.

*Real property line* means either (a) the imaginary line, including vertical extension, that separates one parcel of real property from another; (b) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-family dwelling unit; or (c) on a multi-use property, the dividing line(s) that separate various portions of the property used for different purposes.

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

*Recycling* means any process by which materials which would otherwise become solid waste are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

*Required building line* means the required location for the setback of a building (a requirement, not a permissive minimum as in a setback). The required building line runs parallel to the front property line and is established to create an even building façade line on a street. Also referred to as “build-to line.”

*Residential component* means the primarily residential neighborhood of a development in a Pedestrian Community District that may contain a mix of single-family detached, single-family attached and multi-family dwelling units and may include small scale, non-residential uses.

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*Residential district* means any parcel of land which is zoned for any single-family detached or attached residential district classification, two- or three- family residential district classification, any multifamily residential district classification, mobile home park district classification, the traditional neighborhood development district classification, any property zoned O-I or OCR which is used for multifamily dwellings, and any property zoned C-1 which is used for multifamily dwellings.

*Residential use* means the occupation of a building and land for human habitation.

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

*Restaurant, drive-through* means an establishment where food and drink are prepared which may be consumed within the principal building or which may be ordered and picked up from a service window.

*Restaurant definitions:*

A. *Restaurant, casual.* A restaurant in which the principal business is the sale of food and beverages to customers in a ready-to-consume state for consumption either on or off the premises. Food and beverages may also include items such as coffee, bagels, ice cream, pizza, sandwiches and similar items. A casual restaurant may or may not include drive in or drive-through facilities.

B. *Restaurant, standard.* A restaurant having the following primary characteristics:

1. The principal business is the sale of food and beverages to sit-down customers in a ready-to consume state for consumption within the building.

2. Customers usually order food from a menu and are served food and beverage by a restaurant employee at the same table or counter at which the food and beverage are ordered and consumed.

3. Food and beverages are usually served in or on nondisposable tableware and glassware.

4. Drive in or drive-through facilities are not provided, and the restaurant is not dependent on a driveway approach or parking spaces for motor vehicles to serve customers food and beverages while in a motor vehicle, rather than within the building. Carry-out orders are provided only on an incidental basis.

5. Restaurants providing cafeteria-type service that have the other primary characteristics of standard restaurants may also be considered standard restaurants.

*Retail* means a place of business involved in the activities of direct selling of goods in small quantities to ultimate consumers for personal or household consumption.

*Retaining wall* means a manmade barrier constructed for the purpose of stabilizing soil, retarding erosion, or tracing a parcel or site. If a retaining wall, with or without a fence, exceeds six feet on any part of the property, it is a conditional use (code reference section).



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*Right-of-way* means land, property or interest therein (including an easement), usually in a strip, acquired for or devoted to a street, highway, bikeway, walkway, or other public improvement.

*Row house* means at least three side by side multifamily dwelling units in which each household has a private entrance.

*Rooming house* means *boardinghouse*.

*Sand pit* means a surface mine or excavation used for the removal of sand, gravel, or fill dirt for sale or for use off-site.

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

*Sanitary sewer system* means a system that provides for collection of sanitary sewage via a pipe network, transportation to a common collection point for treatment to required Department of Natural Resources criteria prior to release.

*Satellite television antenna* means an apparatus capable of receiving but not transmitting television, radio,

*School* means:

A. *Public school*: Any school licensed by the state, under the purview of the state board of education and administered by a legally organized school district.

B. *Private or Nonpublic school*: All private parochial and independent schools which provide education of compulsory school age pupils and which satisfy the state compulsory education requirements.

C. *Vocational/technical/special schools*: Educational facilities primarily teaching usable skills to prepare students for jobs in a trade or profession. Examples include, but are not limited to, schools such as art schools, business colleges, trade schools and secretarial colleges.

D. *College/university*: Educational institutions authorized by the state or other nationally recognized agencies to award baccalaureate or higher degrees.

*Scientific or research laboratories/research facility* means a building or group of buildings occupied by facilities for scientific research, investigation, testing or experimentation, but not facilities for the manufacture or sale of products.

*Screening fence* means an opaque structure designed to provide a visual barrier constructed of materials including wood, chain link with wood or plastic inserts, metal, vinyl, plastic and other such materials as may be approved by the director of public works.

*Seasonal business* means a business operated on less than a year-round basis and generally associated with a specific period of time or "season" such as the holiday season.

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*Secondary conservation area* means that portion of a site for which application is made for cluster housing development which consists of those areas of land which are outside the primary conservation area but which are environmentally sensitive, historically or culturally significant, scenic, or which possess other unusual attributes that merit conservation.

*Secondhand store* means a facility for retail or consignment sales of previously used merchandise, such as clothing, household furnishings or appliances, sports/recreational equipment. This classification does not include secondhand motor vehicles, parts, or accessories.

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

*Semi-nude* means the exposure of one (1) or more, but not all, of the following: human genitals or pubic region, buttocks, or female breasts below a point immediately above the top of the areola.

*Semi-trailer* means a detachable trailer for hauling freight, with wheels at the rear end, with the forward end being supported by the rear of a truck tractor, when attached.

*Service yard and entrance* means an area and entrance to a structure, which is used for pickup and delivery of goods and services especially in conjunction with retail and wholesale outlets. These areas are usually provided to accommodate commercial trucks and not for general customer use.

*Setback* means the minimum required horizontal distances measured from front, side, and rear lot lines which describe an area beyond which the main walls of a principal building may not extend. See Yard definitions.

*Shared parking* means parking shared by two (2) or more lots or uses for which the peak parking demands are not at the same time, and parking that can reasonably be shared by such lots or uses. Shared parking areas must have interconnected or shared driveways and be subject to formal agreements for shared use of parking spaces.

*Shelter for homeless persons* means a building or buildings in which is provided overnight housing and sleeping accommodations for one (1) or more persons who have no permanent residence and are in need of temporary, short-term housing assistance, and in which may also be provided meals and social services including counseling services. (See also definition of *transitional housing facility*).

*Shopping center* means a retail and/or service building or group of buildings planned and managed as a single unit with off-street parking and loading facilities provided on the property, and housing one or more retail stores with a separate entrance provided for each tenant.

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*Side lot line* means any lot lines other than the front or rear lot lines.

*Single-family residence* means a structure designed exclusively for an occupied exclusively by one (1) family.

*Site development plan* means reproducible drawing, drawn to scale that includes, but is not limited to, the following:

- A. The dimensions of and intended and/or existing use of a parcel or lot;
- B. The proposed improvements including streets, driveways, buildings, landscaping, yard spaces, parking spaces, parking areas, sidewalks, signs, drainage facilities, and other similar improvements; and
- C. The existing use of all properties within a distance specified by subdivision rules and this ordinance.

*Solid waste* means any garbage or refuse; sludge from a wastewater treatment plant, water supply treatment plant, or air pollution control facility; and other discarded material including solid, semisolid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and community activities, but does not include recovered materials; solid or dissolved materials in domestic sewage; solid or dissolved materials in irrigation return flows or industrial discharges that are point sources subject to permit under 33 U.S.C. Section 1342; or source, special nuclear, or byproduct material as defined by the Federal Atomic Energy Act of 1954, as amended (68 State. 923).

*Sound level meter* means an instrument that conforms to ANSI S1.4-1983 or its successors.

*Special administrative permit* means a written authorization granted by the director of planning or the director of public works for a use of land pursuant to an application which that official is authorized to decide as specified within a zoning district or in Article IV, Division 1, pursuant to the procedures and criteria contained in Article V, Division 3 of this chapter.

*Special event* means a temporary outdoor use on private property which extends beyond the normal uses and standards allowed under the city's Code of Ordinances and includes, but is not limited to, art shows, pumpkin and Christmas tree sales, haunted houses, carnivals, special auto sales, grand openings, festivals, home exhibitions, weddings and receptions, and bazaars.

*Special events facility* means a building and/or premises used as a customary meeting or gathering place for personal social engagements or activities, where people assemble for parties, weddings, wedding receptions, reunions, birthday celebrations, other business purposes, or similar such uses for profit, in which food and beverages may be served to guests. This definition shall not include places of worship, as defined elsewhere in this chapter.

*Special exception* means a use or structure that, because of its unique characteristics, requires individual review and approval by the planning commission to ensure compatibility with the

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character of the surrounding area, the adjacent uses of land, the natural environment, the capacities of public services and facilities, and the public health, safety, and general welfare. Special exceptions may be permitted only in those zone districts as expressly provided by this ordinance and approved by the Mayor and Council.

*Special land use permit* means the approval by ordinance of a use of land which the board of commissioners is authorized to decide as specified within a zoning district pursuant to the procedures and criteria contained in *Article V, Division 2* of this chapter.

*Special permit* means a special administrative permit, special exception, or special land use permit.

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

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

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

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

*Staff* means, unless otherwise identified, the staff of the City of Lithonia.

*State* means the State of Georgia.

*Steady tonal quality* means sound emissions comprised of a single frequency or a narrow cluster of frequencies, which may be referred to as a whine, hum or buzz, with measured sound levels not fluctuating by more than plus or minus three (3) dB(A).

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*Stormwater management facility* means those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of stormwater runoff into and through the drainage system.

*Story* means that portion of a building, other than a basement, included between the surface of any floor and the surface of the floor next above or, if there is no floor above, the space between the floor and the ceiling next above. Each floor or level in a multistory building used for parking, excluding a basement, shall be classified as a story.

*Story, half* means an uppermost story, lying under a sloping roof, having an area of at least 200 square feet, with a clear height of seven feet six inches. For the purposes of this Ordinance, the usable floor area of a half story is only that area having at least four feet clear height between floor and ceiling.

*Street* means public or private rights-of-way that affords traffic circulation and primary vehicular access to abutting properties, or other thoroughfares, but not including alleys or driveways to buildings.

*Street, collector* means a street that serves local traffic movements within and to commercial, industrial, and residential areas.

*Street, local* means a street that serves interior residential areas and provide access from such areas to collector and arterial streets.

*Street orientation* means the direction of the architectural front façade of a building in relation to the street.

*Street, principal arterial* means a roadway facility which serves longer trips within an urban area, sometimes extending beyond municipal boundaries to connect to adjacent population centers or larger arterials.

*Street, minor arterial* means a roadway that provides connection between intra-urban land uses and serves slightly shorter trips than major arterial streets.

*Street right-of-way line* means the dividing line between a lot, tract or parcel of land and a street right-of-way.

*Street trees* mean trees that, depending on local conditions, are planted in a street right-of-way, on the right-of-way line, or next to the street right-of-way.

*Street wall* means a freestanding wall built along or closely parallel to the front property line, or coplanar with the building facade. It may mask a parking lot from the street, provide privacy to a side yard, and/or strengthen the spatial definition of the public realm.

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*Streetscape* means the various components that make up the street, both in the right of way and on private lot frontages. It includes pavement, parking spaces, planting areas, street trees, streetlights, sidewalks, front yard fences, front yards, front porches, etc.

*Structure* means anything constructed, erected, or placed which requires location on or in the ground or is attached to something having such a location, including without limitation, buildings, manufactured buildings, mobile homes, gazebos, bridges, culverts, catch basins, drop inlets, retaining walls, cribbing, manholes, end walls, sewers, service pipes, underdrains, foundation drains, fences, and swimming pools.

*Structural alterations* means any change in the supporting members of a building or structure, such as bearing walls, columns, beams or girders.

*Structure, accessory.* See *Accessory structure*.

*Subdivider* means any person, group, corporation or other entity acting as a unit, or any agent thereof dividing or proposing to divide land so as to constitute a subdivision, as defined in this article.

*Subdivision* means the division of a lot, tract or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development. It includes any parcel of land which is to be used for condominiums, apartments or any other multiple dwelling units. Unless the method of disposition is adopted for the purpose of evading this Code, the term "subdivision" is not applicable to any division of land:

- (a) Which is created by order of any court in Georgia;
- (b) Which is created by a lien, mortgage, deed of trust, or any other security instrument;
- (c) Which is created by a security or unit of interest in any investment trust regulated under the laws of this state or any other interest in any investment entity;
- (d) Which creates cemetery lots;
- (e) Which is created by the acquisition of an interest in land in the name of a husband and wife or other persons in joint tenancy or as tenants in common; and such interest shall be deemed for the purposes of this Code as only one interest. It includes any parcel of land which is to be used for condominiums, apartments or any other multiple dwelling units, unless such land was previously subdivided and the filing accompanying such subdivision complied with city regulations applicable to subdivisions of substantially the same density.

*Subdivision* means a tract of land which has been divided into two or more lots, all fronting on a public street, and offered for sale as individual lots.

*Subdivision* as set forth in Chapter 14, Land Development Code, except that Cluster Housing Developments and Traditional Neighborhood Development Districts meeting all requirements of this Chapter 27 shall not be deemed to be a subdivision.

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*Substantial modification* means an alteration to a building that is valued at more than 50% of the replacement cost of the entire building, if new.

*Synagogue* means *place of worship*.

*Telecommunications antenna* means any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

*Telecommunications tower* means any structure that is designed or constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and alternative tower structures.

*Telecommunications tower or antenna height* means the vertical distance from grade to the highest point of the telecommunications tower, grade being the average level of the pre-existing or finished surface of the ground adjacent to the exterior of the tower, whichever is lower. When referring to a telecommunications antenna alone it shall mean the vertical distance from the base of the antenna to its highest point. Where telecommunications towers and antennae are used in combination, height shall mean the vertical distance from grade to the highest point of either the tower or antenna, whichever is highest.

*Temple* means *place of worship*.

*Telecommunications facilities* means the plant, equipment and property, including, but not limited to, cables, wires, conduits, ducts, pedestals, antennas, electronics and other appurtenances used or to be used to transmit, receive, distribute, provide or offer telecommunications services.

*Telecommunications provider* includes every person, firm, corporation, partnership, limited liability company or other entity who provides telecommunications services over telecommunications facilities without any ownership or management control of the facilities.

*Temporary building* means a temporary portable structure designed to transport freight, containing walls and a roof, including, but not limited to trailers, that is designed to be transported, either on its own wheels or on a flatbed or other trailer, or has detachable wheels. Storage sheds designed for placement on the ground or on a permanent foundation do not meet this definition.

*Temporary office structure* means a building which may be used to house an office use for a limited period of time pursuant to a special use permit.

*Temporary use*: any use deemed by the city administrator to be appropriate for a fixed amount of time, but no longer than 120 days.

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*Tent* shall mean a portable or temporary cover or shelter, with or without side panels, which is supported by poles or other manner other than by air or the contents it protects and is made of canvas, plastic or similar pliable materials.

*Through-block connection* means a paved pathway dedicated to pedestrians and separated from vehicles that extend entirely through a block from a street to a parallel street or alley.

*Total sound level* means that measured level which represents the summation of the sounds from the sound source under investigation and the neighborhood residual sounds which affect a given place at a given time, exclusive of extraneous sound sources.

*Townhouse* means a single-family dwelling unit that is connected to a similar single-family dwelling unit by one (1) or two (2) common side walls, and an owner of a townhouse also owns the land area on which the foundation of the townhouse is constructed.

*Tractor trailer* means a combination trucking unit consisting of a truck tractor coupled to a full-trailer or semi-trailer.

*Tractor truck* means a large commercial motor vehicle with a driver's cab but no body, designed for hauling or pulling a trailer or semi-trailer.

*Trailer* means a vehicle, including a motor home, designed and/or maintained for use as temporary or permanent storage, dwelling or sleeping place, or for travel or recreational purposes, having no foundation other than wheels or jacks.

*Trailer park* means a parcel of land which is used solely for the rental or lease of lots for transient campers, trailers, motor homes, or temporary parking of any other recreational vehicle excluding trailers used for temporary or permanent storage.

*Transfer station* means a facility at which refuse generated off-site, awaiting transportation to approved solid waste disposal sites, is transferred from one (1) type of containerized collection receptacle and placed in another; and which shall only accept residential and commercial waste and must comply with all federal, state and local regulations. A transfer station may include a recycling center or recycling facilities in conjunction with the transfer of solid waste.

*Transient lodging accommodations* means temporary sleeping accommodations, with or without independent kitchen facilities, offered to persons traveling from one place to another, stopping overnight, or otherwise in need of a temporary place to stay.

*Transitional buffer zone* means a natural or planted buffer area between two (2) different land use zones which is intended to provide protection between said land use zones and which meets the criteria for said buffer specified in this chapter.



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*Transitional housing facility* means a building or buildings in which is provided long-term but no permanent living accommodations for more than four (4) persons who have no permanent residence and are in need of long-term housing assistance.

*Transparency* means the ability to see through with clarity. An opening in the building wall allowing light and views between interior and exterior, measured as glass area for buildings and as open area for parking structures.

*Transportation/communications/utilities* means the comprehensive plan land use category which includes public, semi-public and private land uses which provide transportation, communication, and utility land uses. These uses may include road and railroad rights-of-way, oil, gas and water, electric power and telephone transmission lines and facilities.

*Tree* means any self-supporting woody plant that usually provides one (1) main trunk and produces a more or less distinct and elevated head with branches.

*Tree canopy* means the area directly beneath the crown and within the outermost edges of the branches and leaves of a tree.

*Truck delivery services and facilities* mean a truck terminal where goods are received by trucks with over three-fourths ( $\frac{3}{4}$ ) ton capacity. Facilities include freight transfer areas and/or terminals which provide for sorting, redistribution and/or storing of goods and trucks.

*Truck* means every motor vehicle designed, used, or maintained primarily for the transportation of property.

*Truck stop* means any building, premises, or land in which or upon which a business, service, or industry involving the maintenance, servicing, storage, or repair of commercial vehicles is conducted or rendered, including the dispensing of motor fuel or other petroleum products directly into such commercial vehicles and the sale of accessories or equipment for trucks and similar commercial vehicles. A truck stop may also include overnight accommodations and restaurant facilities primarily for the use of truck crews.

*Two-part commercial block style* means a building of two (2) stories or greater in height that has a flat roof and is characterized by a horizontal division of the building facade into two (2) distinct zones. These zones may be similar in design but shall be clearly separated from one another. The ground floor level of the building shall contain fenestration equal to seventy-five (75) percent of the width of the front facade of the building.

*Unit*: See *Dwelling unit*.

*Urgent care* means the delivery of ambulatory care in a facility dedicated to the delivery of unscheduled, walk-in care outside of a hospital emergency department.

*Usable satellite signals* means satellite signals from all major communications satellites that, when viewed on a conventional television set, are at least equal in picture quality to those received from local commercial television stations by way of cable television.

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*Use* means the purpose or activity for which land or buildings are designed, arranged, or intended or for which land or buildings are occupied or maintained.

Utility service lines means electric, gas, communication, water, sewer, irrigation and drainage lines providing local distribution or collection service.

*Utility* means any public or private agency that provides for the generation, transmission or distribution of electricity, gas, water, stormwater, wastewater, communication, transportation, or other similar service, excluding those utilities that are public uses.

*Vacant and undeveloped* means the comprehensive plan land use category which includes forested areas, undeveloped land and land not used for any other identified purpose.

*Van service* means a commercial or not-for-profit service in which the provider offers transportation service to clients from their home to another destination, such as a medical service facility or other destination, and in which service is usually provided in a closed vehicle with a capacity of eight (8) to twelve (12) passengers.

*Variance* means a relaxation of the terms of the zoning ordinance where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property, and not as a result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship pursuant to the requirements of Article V, Division 4.

*Vehicle, abandoned* means a vehicle which does not bear a current license plate and decal, if applicable, unless said vehicle is stored within a completely enclosed building or unless it is stored on a bonafide sales lot and is in a satisfactory operating condition.

*Vehicle repair, major* means general repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers; collision service, including body frame or fender straightening or repair; painting and engine steam cleaning.

*Vehicle repair, minor* means minor repairs, incidental body and fender work, painting and upholstering, replacement of parts and motor service to passenger automobiles and trucks not exceeding one-ton capacity, but not including any operation specified in the definition for "vehicle repair, major."

*Veterinary Clinic/Hospital* means a structure where animals are brought for medical or surgical treatment and may be held during the time of treatment and recuperation. Overnight, indoor boarding may be permitted as necessary for medical treatment or observation only. Outdoor holding facilities are prohibited in connection with the accessory use.

*Viewshed* means the total visible area from an identified observation position or positions.

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*Village center* means the central shopping or gathering place within a traditional neighborhood which contains commercial uses and open space and which may contain public space.

*Wall* means a solid retaining or security barrier constructed of materials including brick, stone, concrete, concrete block, ceramic tile or other aggregate materials and other such materials as may be approved by the director of public works.

*Wall plane, front* means a wall running parallel (or approximately so) to the front property line.

*Wall plane, side* means a wall running parallel (or approximately so) to a side property line.

*Warehouse* means a building or structure for storage, used for the reception, delivery, consolidation, distribution, and storage of freight, bulk storage of raw materials or finished or partly finished goods, merchandise, commodities pending either onward transit or division into smaller batches for subsequent distribution or sale; excluding structures and activities meeting the definition of mini-warehouse or self-storage facilities.

*Warehousing* means those activities of holding and handling goods in a warehouse, as defined above.

*Waters of the state* means any and all surface waters that are contained in or flow through the State of Georgia. This definition includes all water courses, even if they are usually dry.

*Weekday* means the time period of the week that begins at 7:00 a.m. on each Monday and ends at 6:00 p.m. on each Friday.

*Weekends* means the time period of each week that begins at 6:00 p.m. on each Friday and ends at 7:00 a.m. on each Monday.

*Wetlands* means an area of land meeting the definition of "wetlands" set forth in 33 C.F.R. Part 328.3(b) of the Code of Federal Regulations, as amended, and that is subject to federal, state or local regulations governing land meeting that definition.

*Yard* means that area of a lot between the principal building and adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. The minimum required width or depth of a yard shall be determined as the horizontal distance between lot or street lines and minimum setback lines as established by this chapter. Yard areas do not include required buffer zones.

*Yard, front* means 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 right-of-way line and the facade of the principal building facing the street right-of-way (if various projections of the front facade, then from the projection nearest the street right-of-way) or the boundary of the use nearest the street right-of-way, projected to the sidelines of the lot. In the case of

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corner lots and double frontage lots, front yards of the required depth shall be provided on both frontages.

*Yard, rear* means an open space on the same lot with a principal building or use, unoccupied except by an accessory building or use, extending the width of the lot and located between the rear line of the lot and the facade of the principal building facing the rear lot line (if various projections or the rear facade, then the projection nearest the rear lot line) or the boundary of the use nearest the rear lot line, projected to the sidelines of the lot. In the case of through or double frontage lots and corner lots, there will be no rear yards.

*Yard, side* means an open, unoccupied space on the same lot with a principal building or use, located between the side facade of the building facing the applicable side lot line (if various projections of the side facade, then the projection nearest the applicable side lot line) or the boundary of the use nearest the applicable side lot line, and the sideline of the lot and extending from the rear line of the front yard to the front line of the rear yard. In the case of through or double frontage lots, side yard shall be defined as the open, unoccupied space on the same lot with a principal building or use, located between the side facade of the building facing the side lot line (if various projections of the side facade, then the projection nearest the applicable side lot line) or the boundary of the use nearest the applicable side lot line, and the sideline of the lot, extending from the rear line of both front yards. In the case of corner lots, side yard is defined as the remaining yard area after full depth front yards have been established on both street frontages.

*Yard, special* means a yard behind any required yard adjacent to a public street, required to perform the same functions as a side or rear yard, but adjacent to a lot line and so placed or oriented that neither the term "side yard" nor the term "rear yard" clearly applies. In such cases, the zoning administrator shall require a yard with minimum dimensions as generally required for a side yard or a rear yard in the district. The appropriate yard shall be determined based on the relation of the portion of the lot on which the yard is to be located to the adjoining lot or lots, with due regard to the orientation and location of structures and buildable areas thereon.

*Zoning Administrator* shall mean the administrator of the City of Lithonia's Zoning Ordinance or his/her employees, agents or designees.

*Zoning decision* shall mean final legislative action by a local government which results in:

- (a) The adoption of a zoning ordinance;
- (b) The adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
- (c) The adoption of any amendment to a zoning ordinance which rezones the property from one zoning classification to another;
- (d) The adoption of an amendment to a zoning ordinance by a municipal local government which zones property to be annexed into the municipality; or
- (e) The grant of a permit relating to a special use of property, as defined in O.C.G.A. § 36-66-3, and as may hereafter be amended by Georgia law.

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*Zoning district* means an area established in the zoning ordinance, and delineated on the zoning map, in which certain uses are permitted, and in which other uses are prohibited.

*Zoning ordinance* means the zoning ordinance of the City of Lithonia, Georgia.

Sec. 27-32. Rules for interpretation of language.

For the purpose of this chapter, certain words and terms are to be interpreted as follows:

- (a) Words used in the present tense include the future; words used in the masculine gender include the feminine and neuter; words in the singular number include the plural; and words in the plural include the singular, unless the obvious construction of the wording indicated otherwise.
- (b) The word "shall" is mandatory.
- (c) Unless otherwise specified, all distances shall be measured horizontally and at right angles or radially to the line in relation to which the distance is specified.
- (d) The word "lot" includes the word "plot"; the word used shall be deemed also to include designed, intended, or arranged to be used; the term erected shall be deemed also to include constructed, reconstructed, altered, placed, relocation or removed.
- (e) The terms "land use" and "use of land" shall be deemed also to include "building use" and "use of building."

Sec. 27-33. Public uses.

Public uses shall be authorized in all districts except where otherwise prohibited. A government proposing to construct or operate a public use within the incorporated area of The City of Lithonia shall notify The City of Lithonia in writing of its plans to establish said public use and shall submit a site plan to the Zoning Administrator for approval in accordance with the applicable provisions of the Code of Ordinances and shall obtain at no cost a building permit for information purposes only.

Sec. 27-34. Compliance with other laws required.

Compliance with the provisions of this chapter shall not be interpreted to obviate the requirements for compliance with any and all other provisions of federal or state law, or the City of Lithonia Code of Ordinances, including but not limited to requirements for licenses or permits of any kind.

Sec. 27-35. Private restrictive covenants.

Private restrictive covenants to which the city is not a party shall not be regulated or enforced by the city under this chapter.

Secs. 27-36--27-40. Reserved.

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**ARTICLE II. ZONING CATEGORIES**

Division 6	R85	Single-Family Residential
Division 8	R60	Single-Family Residential
Division 9	RA5	Single-Family Residential
Division 10	R50	Single-Family Residential
Division 11	RA8	Single-Family Residential
Division 15	RM85	Multi-Family Residential
Division 16	RM75	Multi-Family Residential
Division 18	MHP	Mobile Home Park
Division 20.1	NCD	Neighborhood Conservation District
Division 21	O-I	Office-Institution District
Division 23	OCR	Office-Commercial-Residential
Division 24	NS	Neighborhood Shopping District
Division 25	C-1	Local Commercial

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**DIVISION 6. R-85 (SINGLE-FAMILY RESIDENTIAL) DISTRICT**

Sec. 27-161. Scope of provisions.

The provisions contained within this section are the regulations of the R-85 (Single-family Residential) District.

Sec. 27-162. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-85 (Single-family Residential) District is as follows:

- (a) To provide for the protection of neighborhoods within the city where lots have a minimum area of twelve thousand (12,000) square feet;
- (b) To provide for infill development in neighborhoods having twelve thousand (12,000) square foot lots in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the R-85 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-163. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the R-85 (Single-family Residential) District:

- (a) Detached single-family dwelling.

Sec. 27-164. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the R-85 (Single-family Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Garages for parking of automobile.
  - (2) Storage buildings.
  - (3) Swimming pools.
  - (4) Tennis courts and other play and recreation areas.
- (b) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-165. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special land use permit from Mayor and City Council:*
  - (1) Home occupation involving any customer contact.
  - (2) Home stay bed and breakfast residence.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Sec. 27-166. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the R-85 (Single-family Residential) District:

- (a) *Lot width*: All lots shall have at least eighty-five (85) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least eighty-five (85) feet of frontage as measured at the required front yard building setback line.
- (b) *Minimum lot area*: Twelve thousand (12,000) square feet.
- (c) *Minimum yard adjacent to public street*:
  - (1) *From major thoroughfares*: Fifty (50) feet.
  - (2) *From minor thoroughfares*: Forty (40) feet.
  - (3) *From collector streets*: Thirty-five (35) feet.
  - (4) *From other streets*: Thirty-five (35) feet.
- (d) *Interior side yard setbacks*: Eight and one-half (8 1/2) feet.
- (e) *Rear yard*: Forty (40) feet.

Sec. 27-167. Height of buildings and structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 27-168. Floor area of dwelling.

The floor area of each dwelling shall be no less than one thousand eight hundred (1,800) square feet.

Sec. 27-169. Lot coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 27-170. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-85 (Single-family Residential) District are as follows:

- (a) *Detached single-family dwelling*: Four (4) spaces.
  - (i) *Other uses*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 27-171. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-172. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

Secs. 27-173--27-180. Reserved.



**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 8. R-60 (SINGLE-FAMILY RESIDENTIAL) DISTRICT**

Sec. 27-201. Scope of provisions.

The provisions contained within this section are the regulations of the R-60 (Single-family Residential) District.

Sec. 27-202. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-60 (Single-family Residential) District is as follows:

- (a) To provide for the protection of neighborhoods within the city where lots have a minimum area of eight thousand (8,000) square feet;
- (b) To provide for infill development in neighborhoods having eight thousand (8,000) square foot lots in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the R-60 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-203. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the R-60 (Single-family Residential) District:

- (a) Detached single-family dwelling.

Sec. 27-204. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the R-60 (Single-family Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Garages for parking of automobiles.
  - (2) Storage buildings.
  - (3) Swimming pools.
  - (4) Tennis courts and other play and recreation areas.
- (b) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-205. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special exception permit from the Planning and Zoning Commission:*
  - (1) Utility structure necessary for the transmission or distribution of service.
- (c) *Special land use permit from mayor and city council:*
  - (1) Home occupation involving any customer contact.
  - (2) Home stay bed and breakfast residence.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Sec. 27-206. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the R-60 (Single-family Residential) District:

- (a) *Lot width*: All lots shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the required front yard building setback line.
- (b) *Minimum lot area*: Eight thousand (8,000) square feet.
- (c) *Minimum yard adjacent to public street*:
  - (1) *From major thoroughfares*: Forty-five (45) feet.
  - (2) *From minor thoroughfares*: Thirty-five (35) feet.
  - (3) *From collector streets*: Thirty (30) feet.
  - (4) *From other streets*: Thirty (30) feet.
- (d) *Interior side yard setbacks*: Seven and one-half (7 1/2) feet
- (e) *Rear yard*: Forty (40) feet.

Sec. 27-207. Height of buildings and structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 27-208. Floor area of dwelling.

The floor area of each dwelling shall be no less than one thousand two hundred (1,200) square feet.

Sec. 27-209. Lot coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 27-210. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-60 (Single-family Residential) District are as follows:

- (a) *Detached single-family dwelling*: Four (4) spaces.
  - (i) *Other uses*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 27-211. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-212. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

Secs. 27-213--27-220. Reserved.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 9. R-A5 (SINGLE-FAMILY RESIDENTIAL) DISTRICT**

Sec. 27-221. Scope of provisions.

The provisions contained within this section are the regulations of the R-A5 (Single-family Residential) District.

Sec. 27-222. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-A5 (Single-family Residential) District is as follows:

- (a) To provide for the protection of neighborhoods within the city where lots have an average area of no less than eight thousand (8,000) square feet; individual lots must have a minimum of six thousand (6,000) square feet;
- (b) To provide for infill development in neighborhoods having an average density of five (5) units per acre in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the R-A5 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-223. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the R-A5 (Single-family Residential) District:

- (a) Attached single-family dwelling.
- (b) Detached single-family dwelling.

Sec. 27-224. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the R-A5 (Single-family Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Garages for parking of automobiles.
  - (2) Storage buildings.
  - (3) Swimming pools.
  - (4) Tennis courts and other play and recreation areas.
- (b) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-225. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special land use permit from mayor and city council:*
  - (1) Home occupation involving any customer contact.
  - (2) Home stay bed and breakfast residence.

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**(Re-adopted with amendments July 6, 2015)**

Sec. 27-226. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the R-A5 (Single-family Residential) District:

(a) *Lot width:*

(1) *Single-family detached dwellings:* Sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the required front yard building setback line.

(2) *Single-family attached dwellings:* One hundred (100) feet of frontage as measured along the public street.

(b) *Minimum lot area, detached single-family dwellings:* Six thousand (6,000) square feet.

(c) *Maximum density for attached or detached single-family dwellings:* Five (5) dwelling units per acre.

(d) *Minimum setback requirements:*

(1) *Front yard setback:* Five (5) feet, except that where a garage door faces the street, the facade of said garage shall be set back no less than twenty (20) feet from back of curb, or where sidewalk is required, the facade of said garage shall be set back no less than twenty (20) feet from back of sidewalk.

(2) *Interior side yard setbacks* are as follows:

(A) *Single-family detached dwellings:* Seven and one-half (7 1/2) feet.

(B) *Single-family attached dwellings:* Fifteen (15) feet.

(3) *Side yard alongside street side on corner lot:* Fifteen (15) feet.

(4) *Rear yard:* Thirty (30) feet.

(e) Nothing herein shall prohibit the Mayor and City Council from granting a Special Land Use Permit for a development meeting the density requirements set forth in this division regardless of lot configuration.

Sec. 27-227. Transitional buffer zone requirement.

Where a lot in the RA-5 (Single-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than twenty (20) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 27-228. Height of buildings and structures.

No building or structure shall exceed a height of thirty-five (35) feet.

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**(Re-adopted with amendments July 6, 2015)**

Sec. 27-229. Floor area of dwelling.

The floor area of each dwelling shall be no less than one thousand four hundred (1,400) square feet.

Sec. 27-230. Lot coverage.

The lot coverage of each lot shall not exceed fifty (50) percent.

Sec. 27-231. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-A5 (Single-family Residential) District are as follows:

(a) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

(b) *Detached single-family dwelling:* Four (4) spaces.

(j) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 27-232. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-233. Public streets required.

All streets upon which detached single-family homes are constructed in the RA-5 district shall be public streets.

Sec. 27-234. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

Secs. 27-235--27-240. Reserved.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 10. R-50 (SINGLE-FAMILY RESIDENTIAL) DISTRICT**

Sec. 27-241. Scope of provisions.

The provisions contained within this section are the regulations of the R-50 (Single-family Residential) District.

Sec. 27-242. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-50 (Single-family Residential) District is as follows:

- (a) To provide for the protection of neighborhoods within the city where lots have a minimum area of six thousand (6,000) square feet;
- (b) To provide for infill development in neighborhoods having six thousand (6,000) square foot lots in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the R-50 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-243. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the R-50 (Single-family Residential) District:

- (a) Detached single-family dwelling.

Sec. 27-244. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the R-50 (Single-family Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Garages for parking of automobiles.
  - (2) Storage buildings.
  - (3) Swimming pools.
  - (4) Tennis courts and other play and recreation areas.
- (b) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-245. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special land use permit from mayor and city council:*
  - (1) Home occupation involving any customer contact.
  - (2) Home stay bed and breakfast residence.

Sec. 27-246. Lot width; lot area; setbacks.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

The following requirements shall apply to all lots and structures in the R-50 (Single-family Residential) District:

- (a) *Lot width*: All lots shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.
- (b) *Minimum lot area*: Six thousand (6,000) square feet.
- (c) *Front yard setback*: Five (5) feet, except that where a garage door faces the street, the facade of said garage shall be set back no less than twenty (20) feet from back of curb, or where sidewalk is required, the facade of said garage shall be set back no less than twenty (20) feet from back of sidewalk.
- (d) *Interior side yard setbacks*: Seven and one-half (7 1/2) feet.
- (e) *Rear yard*: Thirty (30) feet.

Sec. 27-247. Height of buildings and structures.

No building or structure shall exceed a height of thirty-five (35) feet.

Sec. 27-248. Floor area of dwelling.

The floor area of each dwelling shall be no less than one thousand six hundred (1,600) square feet.

Sec. 27-249. Lot coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 27-250. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-50 (Single-family Residential) District are as follows:

- (a) *Detached single-family dwelling*: Four (4) spaces.
  - (i) *Other uses*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 27-251. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-252. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

Secs. 27-253--27-260. Reserved.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 11. R-A8 (SINGLE-FAMILY RESIDENTIAL) DISTRICT**

Sec. 27-261. Scope of provisions.

The provisions contained within this section are the regulations of the R-A8 (Single-family Residential) District.

Sec. 27-262. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the R-A8 (Single-family Residential) District is as follows:

- (a) To provide for the protection of neighborhoods within the city where lots have a minimum area of six thousand (6,000) square feet;
- (b) To provide for infill development in neighborhoods having six thousand (6,000) square foot lots in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the R-A8 (Single-family Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-263. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the R-A8 (Single-family Residential) District:

- (a) Attached single-family dwelling.
- (b) Detached single-family dwelling.

Sec. 27-264. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the rear yard. Accessory buildings and structures shall not exceed twenty (20) feet in height or the height of the principal structure, whichever is less, and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the R-A8 (Single-family Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Garages for parking of automobiles.
  - (2) Storage buildings.
  - (3) Swimming pools.
  - (4) Tennis courts and other play and recreation areas.
  - (5) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-265. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special land use permit from mayor and city council:*
  - (1) Home occupation involving any customer contact.
  - (2) Home stay bed and breakfast residence.



**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Sec. 27-266. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the R-A8 (Single-family Residential) District:

(a) *Lot width:*

(1) *Single-family detached dwellings:* Sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the required front yard building setback line.

(2) *Single-family attached dwellings:* One hundred (100) feet of frontage as measured along the public street.

(b) *Minimum lot area, detached single-family dwellings:* Six thousand (6,000) square feet.

(c) *Maximum density for attached or detached single-family dwellings:* Eight (8) dwelling units per acre.

(d) *Minimum setback requirements:*

(1) *Front yard setback:* Five (5) feet, except that where a garage door faces the street, the facade of said garage shall be set back no less than twenty (20) feet from back of curb, or where sidewalk is required, the facade of said garage shall be set back no less than twenty (20) feet from back of sidewalk.

(2) *Interior side yard setbacks* are as follows:

(A) *Single-family detached dwellings:* Seven and one-half (7 1/2) feet.

(B) *Single-family attached dwellings:* Fifteen (15) feet.

(3) *Side yard alongside street side on corner lot:* Fifteen (15) feet.

(4) *Rear yard:* Thirty (30) feet.

(e) Nothing herein shall prohibit the Mayor and City Council from granting a Special Land Use Permit for a development meeting the density requirements set forth in this division regardless of lot configuration.

Sec. 27-267. Transitional buffer zone requirement.

Where a lot in the RA-8 (Single-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than twenty (20) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 27-268. Height of buildings and structures.

No building or structure shall exceed a height of thirty-five (35) feet.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Sec. 27-269. Floor area of dwelling.

The floor area of each dwelling shall be no less than one thousand two hundred (1,200) square feet.

Sec. 27-270. Lot coverage.

The lot coverage of each lot shall not exceed fifty (50) percent.

Sec. 27-271. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the R-A8 (Single-family Residential) District are as follows:

(a) *Attached single-family dwelling:*

(1) *Less than one thousand six hundred (1,600) square feet of floor area:* Two (2) spaces.

(2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area:* Three (3) spaces.

(3) *Two thousand (2,000) square feet or greater:* Four (4) spaces.

(b) *Detached single-family dwelling:* Four (4) spaces.

(c) *Other uses:* One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 27-272. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-273. Public streets required.

All streets upon which detached single-family homes are constructed in the RA-8 district shall be public streets.

Sec. 27-274. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 15. RM-85 (MULTIFAMILY RESIDENTIAL) DISTRICT**

Sec. 27-351. Scope of provisions.

The provisions contained within this section are the regulations of the RM-85 (Multifamily Residential) District.

Sec. 27-352. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RM-85 (Multifamily Residential) District is as follows:

- (a) To provide for the development of multifamily neighborhoods within the city at a density of fourteen (14) units per acre where so designated on the comprehensive plan;
- (b) To provide for infill development in multifamily neighborhoods having a density of fourteen (14) dwelling units per acre in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the RM-85 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-353. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the RM-85 (Multifamily Residential) District:

- (a) *Dwellings:*
  - (1) Attached single-family dwelling.
  - (2) Detached single-family dwelling.
  - (3) Multifamily dwellings.
  - (4) Multifamily dwellings, supportive living.
- (b) *Lodging:*
  - (1) Rooming house or boardinghouse.
- (c) *Medical and health services:*
  - (1) Nursing or convalescent home.
- (d) *Education:*
  - (1) Adult day care facility.
  - (2) Child day care center or child day care facility.
  - (3) Kindergarten.

Sec. 27-354. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the RM-85 (Multifamily Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Club house including meeting room or recreation room.
  - (2) Garages for parking of automobiles.
  - (3) Laundry facilities for residents.
  - (4) Leasing office.

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- (5) Mail room for residents.
  - (6) Storage buildings.
  - (7) Swimming pools.
  - (8) Tennis courts and other play and recreation areas.
- (b) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-355. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
- (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special exception permit from the Planning and Zoning Commission:*
- (1) Utility structure necessary for the transmission or distribution of service (section 27-770).
- (c) *Special land use permit from mayor and city council:*
- Home occupation involving any customer contact.
    - 1. Place of worship.
    - 2. Private elementary, middle or high school.
    - 3. Shelter for homeless persons.
    - 4. Transitional housing facility.

Sec. 27-356. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the RM-85 (Multifamily Residential) District:

- (a) *Lot width and area:*
- (1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding fourteen (14) dwelling units per acre.
  - (2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least sixty (60) feet of frontage as measured at the point of the required front yard setback line.
- (b) *Minimum setback requirements:*
- (1) *Multifamily dwellings:*
    - a. *Front yard:* Thirty-five (35) feet.
    - b. *Side yard:* Twenty (20) feet, except that where an RM-85 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.
    - c. *Rear yard:* Forty (40) feet, except that where an RM-85 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.
  - (2) *Single-family detached dwellings:*
    - a. *Front yard:* Twenty (20) feet.
    - b. *Interior side yard:* Seven and one-half (7 1/2) feet.
    - c. *Side yard alongside street side:* Fifteen (15) feet.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

d. *Rear yard:* Thirty (30) feet.

(c) Nothing herein shall prohibit the Mayor and City Council from granting a Special Land Use Permit for a development meeting the density requirements set forth in this division regardless of lot configuration.

Sec. 27-357. Spacing between buildings.

Spacing between multiple buildings within an RM-85 district is subject to the requirements of section 27-788.

Sec. 27-358. Transitional buffer zone requirement.

Where a lot in the RM-85 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 27-359. Height of buildings and structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 27-360. Floor area of dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings:*

(1) *One (1) bedroom:* Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms:* Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms:* One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living:* Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached:* One thousand (1,000) square feet.

Sec. 27-361. Lot coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 27-362. Off-street parking requirement.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Off-street parking requirements for uses and structures authorized and permitted in the RM-85 (Multifamily Residential) District are as follows:

- (a) *Adult day care facility*: Four (4) spaces.
- (b) *Detached single-family dwelling*: Four (4) spaces per dwelling unit.
- (c) *Child day care center*: One (1) space for each two hundred (200) square feet of floor area.
- (d) *Child day care facility*: Four (4) spaces.
- (e) *Elementary, middle or high school*:
  - (1) *Elementary and middle school*: Two (2) spaces for each classroom.
  - (2) *High school*: Five (5) spaces for each classroom.
- (f) *Kindergarten*: One (1) space per two hundred (200) square feet of floor area.
- (g) *Multifamily dwellings*: One and seventy-five hundredths (1.75) spaces per dwelling unit.
- (h) *Multifamily dwellings, supportive living*: Five-tenths (0.50) space per dwelling unit.
- (i) *Nursing or convalescent home*: Five-tenths (0.50) space per bed.
- (j) *Rooming house or boardinghouse*: One (1) space per bedroom.
- (k) *Other uses*: One (1) space for each three hundred (300) square feet of floor area within the principal structure.
- (l) *Attached single-family dwelling*:
  - (1) *Less than one thousand six hundred (1,600) square feet of floor area*: Two (2) spaces.
  - (2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area*: Three (3) spaces.
  - (3) *Two thousand (2,000) square feet or greater*: Four (4) spaces.
- (m) *Place of worship*: One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

Sec. 27-363. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-364. Outdoor play and recreation areas required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 27-365. Parking lot landscaping requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of section 27-753.

Sec. 27-366. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

Secs. 27-367--27-375. Reserved.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 16. RM-75 (MULTIFAMILY RESIDENTIAL) DISTRICT**

Sec. 27-376. Scope of provisions.

The provisions contained within this section are the regulations of the RM-75 (Multifamily Residential) District.

Sec. 27-377. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the RM-75 (Multifamily Residential) District is as follows:

- (a) To provide for the development of multifamily neighborhoods within the city at a density of eighteen (18) units per acre where so designated on the comprehensive plan;
- (b) To provide for infill development in multifamily neighborhoods having a density of eighteen (18) dwelling units per acre in a manner compatible with existing development;
- (c) To assure that the uses and structures authorized in the RM-75 (Multifamily Residential) District are those uses and structures designed to serve the housing, recreational, educational, religious, and social needs of the neighborhood.

Sec. 27-378. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the RM-75 (Multifamily Residential) District:

- (a) *Dwellings:*
  - (1) Attached single-family dwelling.
  - (2) Detached single-family dwelling.
  - (3) Multifamily dwellings.
  - (4) Multifamily dwellings, supportive living.
- (b) *Lodging:*
  - (1) Rooming house or boardinghouse.
- (c) *Medical and health services:*
  - (1) Nursing or convalescent home.
- (d) *Education:*
  - (1) Adult day care facility.
  - (2) Child day care center or child day care facility.
  - (3) Kindergarten.

Sec. 27-379. Accessory uses, buildings and structures.

Accessory uses, buildings and structures shall be located within the buildable area of the lot. Accessory buildings and structures shall not exceed twenty (20) feet in height and shall comply with the requirements of section 27-731. The following accessory uses of land and buildings and structures shall be authorized in the RM-75 (Multifamily Residential) District:

- (a) Accessory uses and buildings and structures incidental to any authorized principal use, including the following and similar uses:
  - (1) Club house including meeting room or recreation room.
  - (2) Garages for parking of automobiles.
  - (3) Laundry facilities for residents.
  - (4) Leasing office.

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- (5) Mail room for residents.
  - (6) Storage buildings.
  - (7) Swimming pools.
  - (8) Tennis courts and other play and recreation areas.
- (b) Signs in accordance with the provisions of this chapter and Chapter 21.

Sec. 27-380. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special exception permit from the Planning and Zoning Commission:*
  - (1) Utility structure necessary for the transmission or distribution of service (section 27-770).
- (c) *Special land use permit from mayor and city council:*
  - (1) Home occupation involving any customer contact.
  - (2) Place of worship.
  - (3) Private elementary, middle or high school.
  - (4) Shelter for homeless persons.
  - (5) Transitional housing facility.

Sec. 27-381. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the RM-75 (Multifamily Residential) District:

- (a) *Lot width and area:*
  - (1) All lots developed with multifamily dwellings shall have at least one hundred (100) feet of frontage as measured along the public street frontage and a lot area of not less than two (2) acres and may be developed at a density not exceeding eighteen (18) dwelling units per acre.
  - (2) All lots developed with detached single-family dwellings shall have a lot area of not less than six thousand (6,000) square feet and shall have at least sixty (60) feet of frontage as measured along the public street frontage, except that lots fronting on the cul-de-sac of a street shall have at least thirty-five (35) feet of frontage as measured along the public street and shall have at least 60 feet of frontage as measured at the point of the required front yard setback line.
- (b) *Minimum setback requirements:*
  - (1) *Multifamily dwellings:*
    - a. *Front yard:* Thirty-five (35) feet.
    - b. *Side yard:* Twenty (20) feet, except that where an RM-75 lot adjoins any R lot along a side lot line, the required yard shall be fifty (50) feet.
    - c. *Rear yard:* Forty (40) feet, except that where an RM-75 lot adjoins any R lot along a rear lot line, the required yard shall be fifty (50) feet.
  - (2) *Single-family detached dwellings:*
    - a. *Front yard:* Thirty (30) feet.
    - b. *Interior side yard:* Seven and one-half (7 1/2) feet.
    - c. *Side yard alongside street side:* Fifteen (15) feet.



**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

d. *Rear yard*: Thirty (30) feet.

(c) Nothing herein shall prohibit the Mayor and City Council from granting a Special Land Use Permit for a development meeting the density requirements set forth in this division regardless of lot configuration.

Sec. 27-382. Spacing between buildings.

Spacing between multiple buildings within an RM-75 district is subject to the requirements of section 27-788.

Sec. 27-383. Transitional buffer zone requirement.

Where a lot in the RM-75 (Multi-family Residential) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 27-384. Height of buildings and structures.

No building or structure shall exceed four (4) stories in height, provided however, that no building exceeding three (3) stories in height shall be authorized except after approval by the department of fire and rescue services for assurance of adequacy of fire protection facilities and service for such four-story building.

Sec. 27-385. Floor area of dwelling.

The minimum floor area of each dwelling shall be as follows:

(a) *Multifamily dwellings*:

(1) *One (1) bedroom*: Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one building may have a floor area of not less than five hundred twenty (520) square feet.

(2) *Two (2) bedrooms*: Eight hundred (800) square feet.

(3) *Three (3) or more bedrooms*: One thousand (1,000) square feet.

(b) *Multifamily dwellings, supportive living*: Three hundred (300) square feet.

(c) *Single-family dwelling, attached or detached*: One thousand (1,000) square feet.

Sec. 27-386. Lot coverage.

The maximum lot coverage by buildings shall not exceed thirty-five (35) percent.

Sec. 27-387. Off-street parking requirement.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Off-street parking requirements for uses and structures authorized and permitted in the RM-75 (Multifamily Residential) District are as follows:

- (a) *Adult day care facility*: Four (4) spaces.
- (b) *Detached single-family dwelling*: Four (4) spaces per dwelling unit.
- (c) *Child day care center*: One (1) space for each two hundred (200) square feet of floor area.
- (d) *Child day care facility*: Four (4) spaces.
- (e) *Elementary, middle or high school*:
  - (1) *Elementary and middle school*: Two (2) spaces for each classroom.
  - (2) *High school*: Five (5) spaces for each classroom.
- (f) *Kindergarten*: One (1) space per two hundred (200) square feet of floor area.
- (g) *Multifamily dwelling*: One and seventy-five one-hundredths (1.75) spaces per dwelling unit.
- (h) *Multifamily dwelling, supportive living*: Five-tenths (0.50) space per dwelling unit.
- (i) *Nursing or convalescent home*: Five-tenths (0.50) space per bed.
- (j) *Place of worship*: One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.
- (k) *Rooming house or boardinghouse*: One (1) space per bedroom.
- (l) *Other uses*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.
- (m) *Attached single-family dwelling*:
  - (1) *Less than one thousand six hundred (1,600) square feet of floor area*: Two (2) spaces.
  - (2) *One thousand six hundred (1,600) through one thousand nine hundred ninety-nine (1,999) square feet of floor area*: Three (3) spaces.
  - (3) *Two thousand (2,000) square feet or greater*: Four (4) spaces.

Sec. 27-388. Landscaping requirement.

Each lot shall provide and shall maintain trees and plant material as is required in Chapter 14.

Sec. 27-389. Outdoor play and recreation areas required.

Each lot developed and used for multifamily housing shall provide and shall maintain outdoor play and recreation areas equal to five (5) percent of the total area of the lot. In no case shall the contiguous area of any such outdoor play and recreation area be less than four thousand (4,000) square feet.

Sec. 27-390. Parking lot landscaping requirements.

Parking lots shall be landscaped and maintained in accordance with the standards and requirements of section 27-753.

Sec. 27-391. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.

Secs. 27-392--27-400. Reserved.

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**(Re-adopted with amendments July 6, 2015)**

**DIVISION 18. MHP (MOBILE HOME PARK) DISTRICT**

Sec. 27-426. Scope of provisions.

The provisions contained within this section are the regulations of the MHP (Mobile Home Park) District.

Sec. 27-427. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the MHP (Mobile Home Park) District is as follows:

- (a) To provide locations within the city for the location of mobile home parks consistent with the comprehensive plan.
- (b) To provide for the development of accessory uses which are necessary in order to provide appropriate recreational and educational opportunities to residents.

Sec. 27-428. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the MHP (Mobile Home Park) District:

- (a) Child day care center and kindergarten.
- (b) Community facilities as follows:
  - (1) Golf course and clubhouse, private.
  - (2) Neighborhood recreation center or swimming pool.
- (c) Dwellings, as follows:
  - (1) Mobile homes and mobile home parks.
- (d) Educational uses, as follows:
  - (1) Private elementary, middle or high school.

Sec. 27-429. Accessory uses and structures.

The following accessory uses of land and structures shall be authorized in the MHP (Mobile Home Park) District:

- (a) Decks, porches, storage buildings and similar accessory structures.
- (b) Parking lots for residents.

Sec. 27-430. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special exception permit from the Planning and Zoning Commission:*
  - (1) Utility structure necessary for the transmission or distribution of service.
- (c) *Special land use permit from mayor and city council:* None.

Sec. 27-431. Mobile home parks: lot width; lot area; setbacks.

The following requirements shall apply to all mobile home parks:

- (a) *[Frontage:]* All mobile home parks shall be located on a lot having a frontage of not less than four hundred (400) feet as measured along the public street frontage.

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**(Re-adopted with amendments July 6, 2015)**

- (b) *Lot width:* All mobile home parks shall be located on a lot having a lot area of not less than twenty (20) acres.
- (c) *Minimum yard adjacent to public street:*
  - (1) *From major thoroughfares:* Two hundred fifty (250) feet.
  - (2) *From minor thoroughfares:* One hundred fifty (150) feet.
  - (3) *From collector streets:* One hundred (100) feet.
  - (4) *From all other streets:* One hundred (100) feet.
- (d) *Minimum side yard:* Fifty (50) feet unless the site abuts an R or RM district in which case the minimum side yard setback shall be one hundred (100) feet.
- (e) *Minimum rear yard:* Forty (40) feet unless the site abuts an R or RM district in which case the minimum rear yard setback shall be one hundred (100) feet.
- (f) *Maximum height of buildings:* No building shall exceed thirty-five (35) feet in height.

Sec. 27-432. Mobile home lots: lot width; lot area; setbacks.

The following requirements shall apply to all individual lots within a mobile home park:

- (a) *Lot area for single-family dwelling:* Four thousand (4,000) square feet
- (b) *Lot width:* Fifty (50) feet.
- (c) *Minimum yard adjacent to public street:*
  - (1) *From major thoroughfares:* Two hundred fifty (250) feet.
  - (2) *From minor thoroughfares:* One hundred fifty (150) feet.
  - (3) *From collector streets:* One hundred (100) feet.
  - (4) *From other streets:* One hundred (100) feet.
- (d) *Minimum yard adjacent to interior driveways:* Ten (10) feet.
- (e) *Interior side yard:* Seven and one-half (7 1/2) feet.
- (f) *Minimum rear yard:* Seven and one-half (7 1/2) feet.
- (g) *Maximum height of buildings:* No building shall exceed thirty-five (35) feet in height.

Sec. 27-433. Transitional buffer zone requirement.

Where a lot in the MHP (Mobile Home Park) District is used for attached single-family dwellings and adjoins the boundary of any property which is zoned R (Single-family Residential) District, except single-family attached developments, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining single-family residential.

Sec. 27-434. Mobile home park design requirements.

The following design requirements shall apply to all mobile home parks:

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(a) *Density.* The maximum density shall not exceed eight (8) mobile home units per acre. Only fifty (50) percent of any portion of the land within a mobile home park that is located within a floodplain may be included for the purpose of density determination.

(b) *Street access requirements.* A mobile home park shall abut upon a major thoroughfare, a minor thoroughfare, or a local access road paralleling a freeway or railroad right-of-way. It shall have a minimum of four hundred (400) feet frontage in order to provide adequate and safe ingress and egress from the abutting road to the mobile home park. It shall have ingress and egress only from the above roads. The minimum distance between curb cuts shall be thirty (30) feet. The entrance or exit road to the development shall have a minimum right-of-way width of sixty (60) feet with a minimum pavement width of twenty-eight (28) feet. The entrance or exit road shall have a turning radius of at least thirty (30) feet and the road shall extend for at least one hundred (100) feet into the mobile home park with no parking and with no ingress to or egress from any individual mobile home lot.

(c) *Mobile home lots.* Each mobile home shall be located on a mobile home lot. Each lot shall conform to the following requirements:

(1) *Street frontage:* Each mobile home lot shall front on an interior driveway having a pavement width of not less than twenty (20) feet, or more, dependent upon the function and classification of the interior driveway as set forth in the "Mobile Home Court Development Guide," FHA G4200.7, published January, 1970, which is adopted by reference and made a part of this chapter.

(2) *Mobile home lot width and depth:* Each lot shall be not less than fifty (50) feet wide and eighty (80) feet deep.

(3) *Mobile home stand:* A mobile home stand shall be located on each lot for the placement of the mobile home and its appurtenant structures and for the tie-down of the mobile home. The stand shall provide for the retention of the mobile home on the lot in a stable condition and in a satisfactory relationship to its surroundings. Acceptable provisions for hurricane anchorage for each mobile home shall be provided.

(4) *Yard requirements:* Each mobile home lot shall have side and rear yards with a minimum width or depth of seven and one-half (7 1/2) feet and front yards with a minimum depth of ten (10) feet, but in no case shall the distance between mobile home stands on opposite sides of the street be less than forty (40) feet. No structural addition to a mobile home shall be built within a required yard.

(d) *Recreation area.* One (1) acre of land shall be set aside and developed within the mobile home park for open space and recreation purposes for each fifty (50) lots. The minimum size of a single open space and recreation area shall be ten thousand (10,000) square feet. Not more than fifty (50) percent of the land reserved for open space and recreation purposes shall be located within a floodplain.

(e) *Automobile parking spaces.* At least two (2) automobile parking spaces shall be provided for each mobile home lot. At least one (1) such space shall be provided on each mobile home lot. The second required space may be provided on the mobile home lot, in on-street parking lanes or bays, or in an off-street parking lot conveniently located to the mobile home it serves.

(f) *Boundary setbacks.* All mobile homes within a mobile home park shall be set back not less than fifty (50) feet from the boundary line of the mobile home park, except that where the boundary of the mobile home park adjoins a residential district, as that term is defined in Division 015, said setback shall be not less than one hundred (100) feet.

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(g) *Design standards.* All mobile home parks shall conform to the standards and requirements of "Mobile Home Court Development Guide," U.S. Department of Housing and Urban Development, FHA G4200.7, published January, 1970, which by this reference is made a part of this chapter. All mobile home parks shall also conform to all of the requirements of Chapter 14, Article III.

(h) *Site construction and development.* No site construction or development shall be undertaken and no development or building permits shall be issued until a preliminary subdivision plat shall have been approved for the mobile home park pursuant to the requirements of Chapter 14.

Secs. 27-435--27-440. Reserved.

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**(Re-adopted with amendments July 6, 2015)**

**DIVISION 20.1. NCD (NEIGHBORHOOD CONSERVATION) DISTRICT**

Sec. 27-481.0. Scope of provisions.

The provisions contained within this section are the regulations of the NCD (Neighborhood Conservation) District. This division establishes the procedures and the criteria that the mayor and city council shall utilize in making a decision on any application to amend the official zoning maps so as to change any parcel of land to the NCD (Neighborhood Conservation) District zoning classification.

Sec. 27-481.1. Reserved.

Sec. 27-481.2. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the NCD (Neighborhood Conservation) District is to establish a zoning district classification by which the city may permit a variety in type, design, and arrangement of residential structures and enable the coordination of project characteristics with features of a particular site in a manner consistent with the public health, safety, and general welfare. Appropriate areas for the location of a NCD (Neighborhood Conservation) District include existing neighborhoods where the characteristics of traditional neighborhood development communities can be preserved. The NCD (Neighborhood Conservation) District is established so as to permit reasonable residential development of vacant properties in the defined neighborhood while at the same time protecting and preserving important features of the natural and built environment and to permit innovative design of new housing. The NCD (Neighborhood Conservation) District is further intended to accomplish public objectives as follows:

- (a) To establish a zoning district classification wherein certain established neighborhoods can be preserved within The City of Lithonia;
- (b) To prevent these neighborhoods and subdivisions from becoming nonconforming under the terms of this division. Any such established neighborhoods will be allowed to continue to exist and develop further under the general regulations governing their design and development in accordance with any plats or plans previously approved;
- (c) To assure that infill development authorized pursuant to these district regulations is compatible with the density and the character of surrounding uses; and
- (d) To assure that basic services are available to serve the recreational, educational and social needs of the neighborhood.

Sec. 27-481.3. Procedures.

The following requirements shall apply to each application for change of the official zoning maps to the NCD (Neighborhood Conservation) District classification:

- (a) Procedures (same as Article V, Division 1). Each application for NCD district classification shall be filed with the department of planning and shall be reviewed and public hearings conducted with public notice provided and decisions made as is required for all applications to amend the official zoning map pursuant to Article V, Division 1 of this chapter and with the additional standards and factors contained in section 27-444 below. The proposal may consist of any use(s) authorized in section 27-445 and section 27-446 below.

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(b) Plans required. In addition to all of the information and materials required as part of any application to amend the official zoning maps in Article V, Division 1, each applicant for NCD shall submit a site plan which shall contain the following information:

- (1) Size of each lot proposed.
- (2) Housing types.
- (3) Open space areas to be held in joint ownership, common ownership, or control in perpetuity.
- (4) Location and amount of commercial space.
- (5) Location of existing places of worship.

(c) Density. The density of the proposed development shall be as approved by the mayor and city council at the time of approval of any such application and shall be consistent with the comprehensive plan provided the density does not exceed eight (8) dwelling units per acre.

Sec. 27-481.4. Additional standards and factors to be considered.

The city may approve or may approve with modifications or conditions an application for NCD (Neighborhood Conservation) District designation if, in addition to meeting all of the criteria contained in Article V, Division 1, the applicant meets each of the following standards:

(a) That the NCD (Neighborhood Conservation) District accomplishes, through preservation of existing housing and compatible infill development and redevelopment, a neighborhood that has a greater net benefit to the city than would result from redevelopment under the land subdivision regulations. Net benefit to the city may be demonstrated by one (1) or more of the following factors:

- (1) Preservation of existing housing and permitting construction of infill housing compatible with existing housing in size, appearance and value that results in a community of compact scale and design which encourages pedestrian circulation;
- (2) Preservation of a design in which authorized commercial use (if any) is so located as to be accessible to residents of the community.
- (3) Preservation of existing places of worship within the neighborhood.

(b) That the NCD (Neighborhood Conservation) District results in no greater burden on present and projected public services and utilities than would result from subdivision development and that the NCD (Neighborhood Conservation) District will be served by adequate facilities including public streets, public fire protection, and public and private utilities.

(c) That all public streets serving the development, both existing and proposed, are suitable in design and adequate to carry the anticipated traffic within the proposed project and in the vicinity of the proposed project.

(d) That the NCD (Neighborhood Conservation) District shall be limited to existing neighborhoods with at least fifty (50) percent of the houses constructed prior to and including 1950 according to The City of Lithonia tax records.

(e) That a minimum of fifty (50) percent of the lots of record in the proposed NCD (Neighborhood Conservation) District have fifty (50) feet or less of frontage as measured along the public street frontage according to The City of Lithonia tax records.

(f) That the neighborhood which is proposed to become a NCD (Neighborhood Conservation) District is a neighborhood with historical significance.



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(g) That the neighborhood which is proposed to become a NCD (Neighborhood Conservation) District shall have a minimum lot area of not less than ten (10) acres.

Sec. 27-481.5. Principal uses and principal structures.

The following are the principal uses of land and structures which are authorized in the NCD (Neighborhood Conservation) District:

- (a) Dwelling, single-family attached.
- (b) Dwelling, single-family detached.
- (c) Dwelling, three-family.
- (d) Dwelling, two-family.
- (e) Dwellings, multifamily.
- (f) Open space(s) and public space(s).

Sec. 27-481.6. Accessory uses, accessory structures, and other authorized uses.

The following are the accessory uses of land and structures which are authorized in the NCD (Neighborhood Conservation) District:

- (a) Accessory uses and structures incidental to any authorized use;
- (b) Recreation facilities including swimming pools, tennis courts, outdoor play areas, bikeways, walking trails, picnic pavilions, clubhouses, and similar recreation facilities designed for and used principally by the residents of the NCD (Neighborhood Conservation) District;
- (c) Commercial uses, subject to the following requirements:
  - (1) Such use shall be limited to uses which are permissible within the NS district (see Division 25) and shall be located only on a major or minor thoroughfare;
  - (2) Commercial use shall not exceed two hundred forty (240) square feet of floor area for each ten (10) dwelling units in the NCD (Neighborhood Conservation) District, and no individual building shall exceed ten thousand (10,000) square feet in total floor area;
  - (3) Within multifamily development, commercial use may be located in freestanding buildings or in the ground floor level of multifamily dwellings;
- (d) Signs for commercial use in accordance with the provisions of the NS (Neighborhood Shopping) District in Chapter 21.

Sec. 27-481.7. Special permits.

The following uses are allowed by special permits of the type indicated below:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
- (b) *Special exception from Planning and Zoning Commission:*
- (c) *Special land use permit from mayor and city council:*
  - (1) Home occupation involving any customer contact.
  - (2) Home stay bed and breakfast residence.
  - (3) Kindergarten.
  - (4) Places of worship.

Sec. 27-481.8. Lot width, minimum size, and yard requirements.

- (a) *Lot width:*

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(1) *Single-family dwelling*: Fifty (50) feet of frontage as measured along the public street frontage;

(2) *Two-family dwelling*: Eighty-five (85) feet of frontage as measured along the public street frontage;

(3) *Three-family dwelling*: One hundred (100) feet of frontage as measured along the public street frontage;

(4) *Multifamily dwellings*: One hundred (100) feet of frontage as measured along the public street frontage.

(b) *Minimum lot area*:

(1) *Single-family dwelling*: Five thousand (5,000) square feet;

(2) *Two-family dwelling*: Eight thousand (8,000) square feet;

(3) *Three-family dwelling*: Ten thousand (10,000) square feet;

(4) *Multifamily dwellings*: Two (2) acres.

(c) *Minimum yard requirements for single-family, two-family and three-family dwelling units within a NCD District*:

(1) *Front yard*: Front yards shall be consistent with the front yards of buildings on adjoining properties, but not less than twenty (20) feet.

(2) *Interior side yard setbacks*: Interior side yards of buildings shall be consistent with the interior side yard setbacks of buildings on adjoining properties, but not less than five (5) feet.

(3) *Side yard alongside street on corner lot*: Fifteen (15) feet.

(4) *Rear yard setbacks*: Rear yards of buildings shall be consistent with the rear yards of buildings on adjoining properties, but not less than twenty (20) feet.

(d) *Minimum yard requirements for multifamily dwellings*:

(1) *Front yard*: Fifty (50) feet.

(2) *Side yard*: Twenty (20) feet, except that where a NCD lot adjoins any lot zoned or used for a single-family residence along a side lot line, the required yard shall be fifty (50) feet.

(3) *Rear yard*: Forty (40) feet, except that where a NCD lot adjoins any lot zoned or used for a single-family residence along a rear lot line, the required yard shall be fifty (50) feet.

(e) *Minimum yard requirements for any lots or structures used for commercial use in any NCD (Neighborhood Conservation) District*:

(1) *Lot width*: All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage;

(2) *Minimum lot area*: Twenty thousand (20,000) square feet;

(3) *Minimum setback requirements*:

a. *Front yard*: Fifty (50) feet;

b. *Side yard alongside street on corner lot*: Fifty (50) feet;

c. *Interior side yard setback*: Twenty (20) feet;

d. *Rear yard*: Thirty (30) feet.

(f) *Development standards for nonconforming lots*: A nonconforming lot may be used for a single-family detached dwelling notwithstanding the failure of the lot to meet minimum lot area or minimum lot width requirements specified in the NCD District provided that all other requirements of this division, including minimum yards, shall be met. Such lots shall be exempt from the minimum lot area and minimum lot width requirements and a building

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permit may be issued without the need for a variance from the Planning and Zoning Commission subject to the following provisions:

- (1) The lot was a legally created lot of record on the effective date of this division and the lot was not created in violation of this division;
- (2) The lot was not part of a series of two (2) or more vacant lots in a single ownership, sharing continuous street frontage, and which are sufficient when taken together to meet the minimum lot area and minimum lot width requirements of this division.

Sec. 27-481.9. Maximum height of buildings.

Thirty-five (35) feet, except where commercial use is provided in the ground floor level of buildings containing multifamily housing units above, then the height of such building shall not exceed forty-five (45) feet.

Sec. 27-481.10. Maximum lot coverage.

The lot coverage of each lot shall not exceed thirty-five (35) percent.

Sec. 27-481.11. Off-street parking requirements.

Off-street parking requirements for uses and structures authorized and permitted in the NCD (Neighborhood Conservation) District are as follows:

(a) Commercial uses shall provide parking as follows:

- (1) Retail uses: Not more than one (1) space for each two hundred fifty (250) square feet of floor space devoted to such use;
- (2) All other permissible commercial uses: Same as required in the NS district;
- (3) No parking space for any commercial use shall be permitted to be located in front of such commercial use.

(b) *Dwellings*:

- (1) *Single-family, two-family, and three-family dwellings*: Two (2) spaces for each unit.
- (2) *Multifamily dwellings*: One and seventy-five hundredths (1.75) spaces for each unit.

(c) *Kindergarten*: One (1) space per two hundred (200) square feet of floor area.

(d) *Place of worship*: One (1) space for each three (3) seats in the largest assembly room used for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room used for public worship.

(e) *Other uses*: One (1) space for each two hundred (200) square feet of floor area within the principal structure.

Sec. 27-481.12. Minimum dwelling unit size requirements.

The minimum size of each dwelling unit shall be as follows:

(a) *Single-family dwelling*: One thousand (1,000) square feet.

(b) *Multifamily dwellings*, as follows:

- (1) *One bedroom*: Six hundred fifty (650) square feet, provided however, that twenty (20) percent of the total units in a multifamily dwelling development of more than one (1) building may have a floor area of not less than five hundred twenty (520) square feet.
- (2) *Two bedroom*: Eight hundred (800) square feet.
- (3) *Three or more bedrooms*: One thousand (1,000) square feet.

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(c) *Two- and three-family dwellings:* One thousand (1,000) square feet.

Sec. 27-481.13. Final approval of plans.

Prior to issuance of any development or building permit within a NCD District, the application shall be submitted to and approved by the Zoning Administrator. A final site plan shall be submitted and shall be consistent with that plan approved by the mayor and city council. The director is authorized to approve minor changes in any such plan subject to the limitations in section 27-845 of this chapter. The applicant shall submit the final plan to the Zoning Administrator in a form which complies with the requirements of Chapter 14 as to required form for recording of final plats.

Sec. 27-481.14. Relation of NCD regulations to subdivision or other regulations.

The NCD regulations which are contained within this division shall apply to the application for and regulation of all NCD districts. Where there are conflicts between these NCD regulations and land subdivision requirements contained in Chapter 14 or other regulations within the Code, these NCD regulations shall apply.

Sec. 27-481.15. Concurrent variances and special exceptions authorized.

In enacting an ordinance designating a parcel of land as NCD the mayor and city council may enact a plan which provides for variances and special exceptions from rules applying generally in this chapter, or for variances and special exceptions from the requirements generally applicable in this district. Any such variance or special exception shall be subject to the criteria contained in section 27-916, section 27-873, or section 27-913 as is applicable. After approval of any such NCD development plan by the mayor and city council, no action is required by the Planning and Zoning Commission. After approval of the final plan and recording of the approved plan of the development by the Zoning Administrator, the Zoning Administrator shall issue development and building permits in accordance with the approved plan.

Sec. 27-481.16. Recording of final plat by Zoning Administrator.

The Zoning Administrator shall, after final approval of any development plan for NCD, record said final plat with the Clerk of Superior Court of The City of Lithonia.

Secs. 27-482--27-485. Reserved.

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**(Re-adopted with amendments July 6, 2015)**

**DIVISION 21. O-I (OFFICE-INSTITUTION) DISTRICT**

Sec. 27-486. Scope of provisions.

The provisions contained within this section are the regulations of the O-I (Office-Institution) District.

Sec. 27-487. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the O-I (Office-Institution) District is as follows:

- (a) To provide convenient areas within the city for the location of office and institutional uses which are necessary for the residents and business and professional practitioners within the city;
- (b) To provide locations for the development of cultural, recreational, educational and health service facilities for the city.

Sec. 27-488. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the O-I (Office-Institution) District:

- (a) Child day care center and kindergarten.
- (b) Community facilities as follows:
  - (1) Cemetery or mausoleum.
  - (2) Cultural facilities.
  - (3) Golf course and clubhouse, private.
  - (4) Neighborhood recreation center or swimming pool.
  - (5) Noncommercial club or lodge.
  - (6) Private park.
- (c) Dwellings as follows:
  - (1) Apartments.
- (d) Educational uses as follows:
  - (1) Colleges and universities.
  - (2) Vocational school.
  - (3) Private elementary, middle and high school.
  - (4) Research and training facility associated with a college or university.
  - (5) Specialized non-degree school.
- (e) Lodging uses as follows:
  - (1) Hotel.
  - (2) Motel.
- (f) Offices, including construction contractors, health service practitioners, legal services, accounting, auditing and bookkeeping services, engineering and architecture, finance, insurance, real estate and financial institutions, radio and television broadcasting stations, telephone business offices, and similar business and professional offices.
- (g) Place of worship.
- (h) Services, personal, as follows:
  - (1) Funeral home and mortuary.
  - (2) Personal care home, congregate.
  - (3) Personal care home, group.

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- (4) Photographic studio.
- (i) Services, health and medical, as follows:
  - (1) Health service clinic.
  - (2) Home health care service.
  - (3) Hospice.
  - (4) Hospital including general medical, surgical, psychiatric and specialty.
  - (5) Kidney dialysis center.
  - (6) Medical and dental laboratory and clinic.
  - (7) Nursing care facility.
- (j) Tennis center, club and facilities.

Sec. 27-489. Accessory uses and structures.

The following accessory uses of land and structures shall be authorized in the O-I (Office-Institution) District:

- (a) Ambulance service, where accessory to a hospital.
- (b) Parking lot and parking garage.
- (c) Restaurant, where accessory to a hotel or motel.
- (d) Retail liquor store where accessory to a hotel, motel or office building.
- (e) Retail use where accessory to a apartment building or office building, provided that all such uses shall be located on the ground floor of such building and shall be entered from the interior lobby of said building, and said accessory retail uses shall be designed and scaled to meet the needs of the tenants of the building and their guests.
- (f) Signs are allowed in accordance with the provisions of Chapter 21 and this chapter.

Sec. 27-490. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
  - (2) Telecommunications tower or antenna, subject to requirements of section 27-779.
  - (3) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.
- (b) *Special exception permit from the Planning and Zoning Commission:*
  - (1) Utility structure necessary for the transmission or distribution of service (section 27-770).
- (c) *Special land use permit from mayor and city council:*
  - (1) Building exceeding five (5) stories in height.
  - (2) Shelter for homeless persons.
  - (3) Stations and terminals for bus and rail passenger service.
  - (4) Transitional housing facility.

Sec. 27-491. Lot width; lot area; setbacks.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

The following requirements shall apply to all lots and structures in the O-I (Office-Institution) District:

- (a) *Lot width*: All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.
- (b) *Minimum lot area*: Twenty thousand (20,000) square feet.
- (c) *Minimum setback requirements*:
  - (1) *From public street*: Fifty (50) feet.
    - a. *Front yard*: Fifty (50) feet.
    - b. *Side yard*: Twenty (20) feet.
    - c. *Side yard alongside street on corner lot*: Fifty (50) feet.
  - (2) *Interior side yard setback*: Twenty (20) feet.
  - (3) *Rear yard*: Thirty (30) feet.

**Sec. 27-492. Transitional buffer zone requirement.**

Where a lot in the O-I (Office-Institution) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

**Sec. 27-493. Height of buildings and structures.**

The maximum height of any building or structure shall not exceed five (5) stories and seventy (70) feet. Buildings exceeding five (5) stories and seventy (70) feet in height shall be permitted only upon approval of a special land use permit by the mayor and city council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

**Sec. 27-494. Floor area of dwelling.**

The floor area of each dwelling for apartments shall be as follows:

- (a) *One-bedroom unit*: Six hundred fifty (650) square feet
- (b) *Two-bedroom unit*: Eight hundred (800) square feet
- (c) *Three- or more bedroom unit*: One thousand (1,000) square feet.

Notwithstanding the above minimum floor area requirements, a maximum of twenty (20) percent of the total units constructed in any single development of more than one (1) building may be one-bedroom units having floor areas of less than six hundred fifty (650) square feet, but not less than a minimum floor area of five hundred twenty (520) square feet.

**Sec. 27-495. Lot coverage.**

The lot coverage of each lot shall not exceed eighty (80) percent.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Sec. 27-496. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the O-I (Office-Institution) District are as follows:

- (a) *Ambulance service, where accessory to a hospital:* One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.
- (b) *Cultural facilities, funeral home, and other places of assembly:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.
- (c) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.
- (d) *Dwelling, multifamily:* Two (2) spaces for each dwelling unit, except that multifamily dwellings in the RM-HD district shall provide one and five-tenths (1.5) spaces for each dwelling unit.
- (e) *Hospital, nursing care facility, and similar institutional use:* One (1) space for each two (2) beds.
- (f) *Hotel and motel:* One and twenty-five hundredths (1.25) spaces for each unit.
- (g) *Noncommercial club or lodge:* One (1) space for each one hundred (100) square feet of floor area.
- (h) *Office and clinic:* One (1) space for each two hundred fifty (250) square feet of floor area.
- (i) *Place of worship:* One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.
- (j) *Public swimming pool, golf course, neighborhood recreation center, or similar use:* Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.
- (k) *Private swimming pool, golf course, neighborhood recreation center, or similar use:* One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.
- (l) *Restaurant where accessory to hotel or motel:* One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.
- (m) *Retail use accessory to apartment building or office building, and personal service uses:* Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.
- (n) *School, private elementary and middle:* Two (2) spaces for each classroom.
- (o) *School, private high:* Five (5) spaces for each classroom.
- (p) *Schools and colleges, including vocational schools:* Ten (10) spaces for each classroom.

Sec. 27-497. Landscaping requirement for parking lots.

See section 27-753, Landscaping requirements for parking lots.

Sec. 27-498. Noise limitations.

All uses authorized and permitted within this district shall operate in compliance with the noise limitation requirements contained in section 27-762 of this chapter.



**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

Secs. 27-499, 27-500. Reserved.

**DIVISION 23. OCR (OFFICE-COMMERCIAL-RESIDENTIAL) DISTRICT**

Sec. 27-536. Scope of provisions.

The provisions contained within this section are the regulations of the OCR (Office-Commercial-Residential) District.

Sec. 27-537. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the OCR (Office-Commercial-Residential) District is as follows:

- (a) To provide for economic development within the city through redevelopment of parcels of land which have been used in the past for commercial and light industrial uses but which have become obsolete and now offer an opportunity for establishing new mixed use developments of medium intensity which consist of a combination of office, commercial, and residential uses;
- (b) To promote redevelopment and new development in an environment which is pedestrian-oriented and which provides job opportunities and shopping facilities within the same complex in which multifamily housing is located and thereby reduces dependence on the automobile; and
- (c) To encourage the conversion of vacant commercial and industrial buildings into residential dwelling units.

Sec. 27-538. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the OCR (Office-Commercial-Residential) District:

- (a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.
- (b) Art gallery and art supply store.
- (c) Bank, credit union and other similar financial institution.
- (d) Child day care center and kindergarten.
- (e) Educational uses as follows:
  - (1) Private elementary, middle and high school.
  - (2) Specialized non-degree school.
- (f) Lodging uses, as follows:
  - (1) Hotels, when located within a mixed-use development encompassing a minimum of ten (10) acres of land area.
- (g) Movie theater, bowling alley, and other recreational facilities where such activities are wholly enclosed within a building.
- (h) Office uses as follows:
  - (1) Accounting office.
  - (2) Engineering and architectural office.
  - (3) Building and construction contractor.
  - (4) Financial services office.
  - (5) Insurance office.
  - (6) Legal office.

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- (7) Medical office.
- (8) Real estate office.
- (9) Wholesale sales office.
- (i) Place of worship.
- (j) Restaurant.
- (k) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:
  - (1) Apparel and accessories store.
  - (2) Book, greeting card, and stationery store.
  - (3) Camera and photographic supply store.
  - (4) Computer and computer software store.
  - (5) Convenience store.
  - (6) Farm and garden supply store.
  - (7) Florist.
  - (8) Food stores including bakeries.
  - (9) Furniture, home furnishings and equipment store.
  - (10) General merchandise store.
  - (11) Gift, novelty, and souvenir store.
  - (12) Hardware store.
  - (13) Hobby, toy and game store.
  - (14) Jewelry store.
  - (15) Liquor store, including retail liquor store as accessory use to hotels, motels, and office buildings.
  - (16) Music and musical equipment store.
  - (17) News dealers and newsstand.
  - (18) Office supplies and equipment store.
  - (19) Pharmacies and drugstore.
  - (20) Quick copy printing store.
  - (21) Radio, television and consumer electronics store.
  - (22) Specialty store.
  - (23) Sporting goods and bicycle sale.
  - (24) Variety store.
  - (25) Video tape sales and rental store.
- (l) Services, medical and health, as follows:
  - (1) Health service clinic.
  - (2) Medical and dental laboratory.
  - (3) Offices of health service practitioners.
  - (4) Pharmacy.
- (m) Services, personal, as follows:
  - (1) Barbershop, beauty shop, and similar personal service establishment.
  - (2) Coin-operated laundry and dry-cleaning store.
  - (3) Laundry and dry-cleaning establishment and pickup station.
  - (4) Linen and diaper service, garment pressing, alteration and repair.
  - (5) Photographic studio.
- (n) Services, repair, as follows:
  - (1) Home appliance repair and service.

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- (2) Jewelry repair service.
- (3) Radio, television and similar home appliance repair service.
- (4) Shoe repair store.
- (o) Shopping center.
- (p) Tennis center, club and facilities.

**Sec. 27-539. Accessory uses and structures.**

The following accessory uses of land and structures shall be authorized in the OCR (Office-Commercial-Residential) District:

- (a) Parking lots and parking garages.
- (b) Signs are allowed in accordance with the provisions of Chapter 21 and this chapter.
- (c) Neighborhood recreation centers or swimming pools.
- (d) Dwellings as follows:
  - (1) Single-family, two-family, or three-family dwellings.
  - (2) Multifamily dwellings.

**Sec. 27-540. Special permits.**

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Home occupation involving no customer contact and no employee other than a person residing on the premises.
  - (2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.
- (b) *Special exception permit from the Planning and Zoning Commission:*
  - (1) Utility structure necessary for the transmission or distribution of service (section 27-770).
  - (2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.
- (c) *Special land use permit from mayor and city council:*
  - (1) Building exceeding two (2) stories in height.

**Sec. 27-541. Lot width; lot area; setbacks.**

The following requirements shall apply to all lots and structures in the OCR (Office-Commercial-Residential) District:

- (a) *Lot width and area:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.
- (b) *Minimum lot area:* Two (2) acres.
- (c) *Minimum setback requirements:*
  - (1) *From public street:*
    - a. *Front yard:* Fifty (50) feet.
    - b. *Side yard:* Twenty (20) feet.
  - (2) *Rear yard:* Forty (40) feet.

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(d) *Development controls:* Multifamily dwellings may be developed at a density not exceeding thirty (30) dwelling units per acre and the combined floor area ratio for any development shall not exceed one and five-tenths (1.50).

**Sec. 27-542. Transitional buffer zone requirement.**

Where a lot in the OCR (Office-Commercial-Residential) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

**Sec. 27-543. Height of buildings and structures.**

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the mayor and city council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services. A minimum of two (2) stories is required for any residential component of the development. Individual buildings within the OCR District may be mixed use with commercial use on the ground floor and multifamily dwellings on upper floors.

**Sec. 27-544. Floor area of dwelling.**

The minimum floor area of each dwelling unit shall be as follows:

- (a) *One-bedroom:* Six hundred fifty (650) square feet.
- (b) *Two-bedroom:* Eight hundred (800) square feet.
- (c) *Three- or more bedroom:* One thousand (1,000) square feet.

**Sec. 27-545. Lot coverage.**

The lot coverage of each lot shall not exceed eighty (80) percent.

**Sec. 27-546. Off-street parking requirement.**

Off-street parking requirements for uses and structures authorized and permitted in the OCR (Office-Commercial-Residential) District are as follows:

- (a) *Child day care center and kindergarten:* One (1) space for each two hundred (200) square feet of floor area.
- (b) *Dwellings, multifamily:* One and seventy-five one hundredths (1.75) spaces for each dwelling unit.
- (c) *Food stores:* One (1) space for each one hundred (100) square feet of floor space.

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- (d) *Offices and clinics*: One (1) space for each two hundred fifty (250) square feet of floor area.
- (e) *Place of worship*: One (1) space for each three (3) seats in the largest assembly room utilized for public worship, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor area in the largest assembly room used for public worship.
- (f) *Private swimming pool, neighborhood recreation center, or similar use*: One (1) space for each five (5) members but no less than twenty (20) spaces except that golf courses shall provide a minimum of twenty (20) spaces for each nine (9) holes.
- (g) *Recreational facilities*:
  - (1) *Without fixed seating*: One (1) space for each two hundred (200) square feet of floor area.
  - (2) *With fixed seating*: One (1) seat for each three (3) seats.
- (h) *Restaurant*: One (1) space for each seventy-five (75) square feet of floor area, but not less than ten (10) spaces.
- (i) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores*: Four (4) spaces for each one thousand (1,000) square feet of floor area.
- (j) *Schools, commercial vocational*: Ten (10) spaces for each classroom.
- (k) *Shopping center*: Four (4) spaces for each one thousand (1,000) square feet of floor area.
- (l) *Theaters and other places of assembly*: One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.

Sec. 27-547. Landscaping requirement for parking lots.

See Landscaping requirements for parking lots, section 27-753.

Secs. 27-548--27-555. Reserved.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 24. NS (NEIGHBORHOOD SHOPPING) DISTRICT**

Sec. 27-556. Scope of provisions.

The provisions contained within this section are the regulations of the NS (Neighborhood Shopping) District.

Sec. 27-557. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the NS (Neighborhood Shopping) District is as follows:

- (a) To provide convenient neighborhood retail shopping and service areas within the city for all residents;
- (b) To provide for the development of new neighborhood shopping districts where so designated on the comprehensive plan;
- (c) To assure that the size and scale of neighborhood shopping centers and individual uses within said centers are compatible with the scale of adjoining neighborhoods.
- (d) To assure that the uses authorized within the Neighborhood Shopping District are those uses which are designed to serve the convenience shopping and service needs of the immediate neighborhood area.

Sec. 27-558. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the NS (Neighborhood Shopping) District:

- (a) Animal hospital, veterinary clinic, pet supply store, and animal grooming shop.
- (b) Art galleries and art supply store.
- (c) Bank, credit union and other similar financial institution.
- (d) Child day care center.
- (e) Office uses as follows:
  - (1) Accounting office.
  - (2) Engineering and architectural office.
  - (3) Financial services office.
  - (4) Insurance office.
  - (5) Legal office.
  - (6) Medical office.
  - (7) Real estate office.
- (f) Recreational facilities where such activities are wholly enclosed within a building.
- (g) Restaurant, but not including drive-through restaurants.
- (h) Place of worship.
- (i) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:
  - (1) Apparel and accessories store.
  - (2) Book, greeting card, and stationery store.
  - (3) Camera and photographic supply store.
  - (4) Convenience store.
  - (5) Florist.
  - (6) Food stores including bakeries.
  - (7) Gift, novelty, and souvenir store.

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- (8) Hardware store.
- (9) Hobby, toy and game store.
- (10) Jewelry store.
- (11) Music and musical equipment store.
- (12) News dealers and newsstand.
- (13) Office supplies and equipment store.
- (14) Pharmacy.
- (15) Quick copy printing store.
- (16) Shopping center.
- (17) Sporting goods and bicycle sale.
- (18) Variety store.
- (19) Video tape sales and rental store.
- (j) Services, personal, as follows:
  - (1) Barbershop, beauty shop, and similar personal service establishments.
  - (2) Coin-operated laundry and dry-cleaning store.
  - (3) Laundry and dry-cleaning establishment and pickup station.
  - (4) Photographic studios.
- (k) Services, repair, as follows:
  - (1) Jewelry repair store.
  - (2) Shoe repair store.

Sec. 27-559. Accessory uses and structures.

The following accessory uses of land and structures shall be authorized in the NS (Neighborhood Shopping) District:

- (a) Accessory uses and structures incidental to any authorized use.
- (b) Signs and outdoor advertising in accordance with the provisions of Chapter 21 and this chapter.

Sec. 27-560. Special permits.

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Art shows, carnival rides and special events of community interest (section 27-747(a)).
  - (2) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.
- (b) *Special exception permit from the Planning and Zoning Commission:*
  - (1) Utility structure necessary for the transmission or distribution of service (section 27-770).
- (c) *Special land use permit from mayor and city council:*
  - (1) Telecommunications tower or antenna, subject to requirements of section 27-779.
  - (2) Temporary outdoor sales, seasonal.
  - (3) Personal care home, congregate.
  - (4) Personal care home, family.

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- (5) Personal care home, group.
- (6) Personal care home, registered.

Sec. 27-561. Lot width; lot area; setbacks.

The following requirements shall apply to all lots and structures in the NS (Neighborhood Shopping) District:

- (a) *Lot width*: All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.
- (b) *Minimum lot area*: Twenty thousand (20,000) square feet.
- (c) *Minimum setback requirements*:
  - (1) *From public street*:
    - a. *Front yard*: Fifty (50) feet.
    - b. *Side yard along side street on corner lot*: Fifty (50) feet.
  - (2) *Interior side yard setback*: Twenty (20) feet.
  - (3) *Rear yard*: Thirty (30) feet.

Sec. 27-562. Transitional buffer zone requirement.

Where a lot in the NS (Neighborhood Shopping) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 27-563. Height of buildings and structures; limitation on size of shopping centers and individual buildings within NS District.

No building or structure shall exceed two (2) stories and twenty-five (25) feet in height. No shopping center within the NS district shall exceed one hundred thousand (100,000) square feet in total floor area, and no individual building within the NS district shall exceed fifty thousand (50,000) square feet in total floor area.

Sec. 27-564. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the NS (Neighborhood Shopping) District are as follows:

- (a) *Child day care center*: One (1) space for each two hundred (200) square feet of floor area.
- (b) *Food store*: One (1) space for each one hundred (100) square feet of floor space.
- (c) *Office*: One (1) space for each two hundred fifty (250) square feet of floor area.



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- (d) *Place of worship*: One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.
- (e) *Public swimming pool, golf course, neighborhood recreation center, or similar use*: Twenty (20) spaces except that an eighteen-hole golf course shall have forty (40) spaces.
- (f) *Recreational facilities*:
  - (1) *Without fixed seating*: One (1) space for each two hundred (200) square feet of floor area.
  - (2) *With fixed seating*: One (1) space for each three (3) seats.
- (g) *Restaurant*: One (1) space for each seventy-five (75) square feet of floor area but not less than ten (10) spaces.
- (h) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores*: Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.
- (i) *Shopping center*: Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.
- (j) *Temporary outdoor social, religious, entertainment or recreation activity*: One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 27-565. Lot coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 27-566. Landscaping requirement for parking lots.

Trees, plant material, and ground cover shall be provided and maintained as is required in section 27-753 of this chapter.

Secs. 27-567--27-575. Reserved.

**ORDINANCE NO. 14-05-01**  
**(Re-adopted with amendments July 6, 2015)**

**DIVISION 25. C-1 (LOCAL COMMERCIAL) DISTRICT**

Sec. 27-576. Scope of provisions.

The provisions contained within this section are the regulations of the C-1 (Local Commercial) District.

Sec. 27-577. Statement of purpose and intent.

The purpose and intent of the mayor and city council in establishing the C-1 (Local Commercial) District is as follows:

- (a) To provide convenient local retail shopping and service areas within the city for all residents;
- (b) To provide for the development of new local commercial districts where so designated on the comprehensive plan;
- (c) To assure that the uses authorized within the C-1 (Local Commercial) District are those uses which are designed to serve the convenience shopping and service needs of groups of neighborhoods.

Sec. 27-578. Principal uses and structures.

The following principal uses of land and structures shall be authorized in the C-1 (Local Commercial) District:

- (a) Animal hospital, veterinary clinic, pet supply store, animal grooming shop, and boarding and breeding kennel.
- (b) Art gallery and art supply store.
- (c) Automobile, boat, and trailer sales and service as follows:
  - (1) Automobile and truck sales.
  - (2) Automobile service station.
  - (3) Automobile, truck, and trailer lease and rentals.
  - (4) Automobile, truck, and trailer lease and rentals as accessory to an automobile service station.
  - (5) Automobile wash service.
  - (6) Boat sales.
  - (7) Minor automobile repair and maintenance.
  - (8) Retail automobile parts and tire stores.
  - (9) Trailer salesroom and sales lot.
- (d) Bank, credit union and other similar financial institution.
- (e) Business service establishment.
- (f) Child day care center and kindergarten.
- (g) Communications uses as follows:
  - (1) Radio and television broadcasting station.
  - (2) Telephone business office.
- (h) Community facilities as follows:
  - (1) Cultural facilities.
  - (2) Noncommercial club or lodge.
  - (3) Utility structure necessary for the transmission or distribution of service (section 27-770).
- (i) Dwellings:

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- (1) Shelter for homeless persons.
- (2) Transitional housing facility.
- (j) Education uses as follows:
  - (1) Vocational schools.
  - (2) Private elementary, middle or high school.
  - (3) Specialized non-degree schools.
- (k) Lodging uses, as follows:
  - (1) Bed and breakfast inn.
  - (2) Hotel.
  - (3) Motel.
- (l) Movie theater, bowling alley, and other recreational facilities where such activities are wholly enclosed within a building.
- (m) Office uses as follows:
  - (1) Accounting office.
  - (2) Engineering and architectural office.
  - (3) Building and construction contractor.
  - (4) Financial services office.
  - (5) Insurance office.
  - (6) Legal office.
  - (7) Medical office.
  - (8) Real estate office.
  - (9) Wholesale sales office.
- (n) Parking, as follows:
  - (1) Commercial parking lot.
  - (2) Commercial parking garage.
- (o) Place of worship.
- (p) Restaurants, as follows:
  - (1) Drive-through restaurant.
  - (2) Restaurant.
  - (3) Restaurant accessory to a hotel or motel.
- (q) Retail sales as follows, but not including adult entertainment establishment and not including adult service facility:
  - (1) Apparel and accessories store.
  - (2) Book, greeting card, and stationery store.
  - (3) Camera and photographic supply store.
  - (4) Computer and computer software store.
  - (5) Convenience store.
  - (6) Farm and garden supply store.
  - (7) Florist.
  - (8) Food stores including bakeries.
  - (9) Furniture, home furnishings and equipment store.
  - (10) General merchandise store.
  - (11) Gift, novelty, and souvenir store.
  - (12) Hardware store.
  - (13) Hobby, toy and game store.
  - (14) Jewelry store.

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- (15) Liquor store, including retail liquor store as accessory use to hotels, motels, and office buildings.
- (16) Music and musical equipment store.
- (17) News dealers and newsstand.
- (18) Office supplies and equipment store.
- (19) Pharmacies and drugstore.
- (20) Quick copy printing store.
- (21) Radio, television and consumer electronics store.
- (22) Specialty store.
- (23) Sporting goods and bicycle sale.
- (24) Variety store.
- (25) Video tape sales and rental store.
- (r) Retail sales, building supplies and farm equipment, as follows:
  - (1) Electrical supply store.
  - (2) Farm equipment.
  - (3) Lumber, hardware and other building materials establishments.
  - (4) Paint, glass and wallpaper store.
  - (5) Plumbing, heating and air-conditioning equipment establishments.
- (s) Services, medical and health, as follows:
  - (1) Health service clinic.
  - (2) Medical and dental laboratories.
  - (3) Offices of health service practitioners.
  - (4) Pharmacy.
  - (5) Private ambulance and emergency medical services.
- (t) Services, personal, as follows:
  - (1) Barbershop, beauty shop, and similar personal service establishments.
  - (2) Coin-operated laundry and dry-cleaning store.
  - (3) Funeral home.
  - (4) Laundry and dry-cleaning establishment and pickup station.
  - (5) Linen and diaper service, garment pressing, alteration and repair.
  - (6) Photographic studios.
- (u) Services, repair, as follows:
  - (1) Home appliance repair and service.
  - (2) Jewelry repair service.
  - (3) Radio, television and similar home appliance repair service.
  - (4) Furniture upholstery and repair shop within shopping center.
  - (5) Shoe repair store.
- (v) Shopping center.
- (w) Taxi stand and taxi dispatching office.
- (x) Tennis center, club and facilities.

**Sec. 27-579. Accessory uses and structures.**

The following accessory uses of land and structures shall be authorized in the C-1 (Local Commercial) District.

- (a) Accessory uses and structures incidental to any authorized use.

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- (b) Commercial uses authorized within this district on first floor of multifamily dwelling buildings.
- (c) Signs and outdoor advertising in accordance with the provisions of Chapter 21 and this chapter.

**Sec. 27-580. Special permits.**

The following uses and structures shall be authorized only by permits of the type indicated:

- (a) *Special administrative permit from Zoning Administrator:*
  - (1) Telecommunications tower or antenna, subject to requirements of section 27-779.
  - (2) Temporary outdoor sales of merchandise.
  - (3) Art shows, carnival rides and special events of community interest (section 27-747(a)).
  - (4) Temporary outdoor social, religious, entertainment or recreation activity where the time period does not exceed fourteen (14) days duration, adequate parking is provided on the site, and where the same lot or any portion thereof is so used for no more than one (1) such fourteen-day time period within any calendar year.
- (b) *Special exception permit from the Planning and Zoning Commission:* None.
- (c) *Special land use permit from mayor and city council:*
  - (1) Buildings in excess of two (2) stories in height.
  - (2) Bus and rail stations and terminals for passenger service or freight service.
  - (3) Temporary outdoor sales, seasonal.

**Sec. 27-581. Lot width; lot area; setbacks.**

The following requirements shall apply to all lots and structures in the C-1 (Local Commercial) District:

- (a) *Lot width:* All lots shall have at least one hundred (100) feet of frontage as measured along the public street frontage.
- (b) *Minimum lot area:* Twenty thousand (20,000) square feet.
- (c) *Minimum setback requirements:*
  - (1) *From public street:*
    - a. *Front yard:* Seventy-five (75) feet.
    - b. *Side yard:* Fifty (50) feet.
  - (2) *Interior side yard:* Twenty (20) feet, five (5) feet which shall be planned and landscaped.
  - (3) *Rear yard:* Thirty (30) feet.

**Sec. 27-582. Transitional buffer zone requirement.**

Where a lot in the C-1 (Local Commercial) District adjoins the boundary of any property which is zoned for any R classification, RM classification, MHP classification, or TND classification, a transitional buffer zone not less than fifty (50) feet in width shall be provided and maintained in a natural state. Said transitional buffer zone shall not be paved and shall not be used for parking, loading, storage or any other use, except where necessary to grade or modify a portion of the transitional buffer zone for the installation of utilities necessitated by the development. Water detention ponds shall not be located within transitional buffer zones. No trees, other than dead or diseased trees, shall be removed from said transitional buffer

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zone, but additional trees and plant material may be added to the transitional buffer zone. In addition, a screening fence not less than six (6) feet in height shall be erected and maintained either along the property line or within the transitional buffer zone separating the use from the adjoining residential use.

Sec. 27-583. Reserved.

Sec. 27-584. Height of buildings and structures.

The maximum height of any building or structure shall not exceed two (2) stories and thirty-five (35) feet. Buildings exceeding two (2) stories in height shall be permitted only upon approval of a special land use permit by the mayor and city council. Buildings in excess of three (3) stories must be approved by the department of fire and rescue services to assure adequacy of fire protection facilities and services.

Sec. 27-585. Off-street parking requirement.

Off-street parking requirements for uses and structures authorized and permitted in the C-1 (Local Commercial) District are as follows:

- (a) *Ambulance service*: One (1) parking space for each vehicle plus one (1) additional space for each two (2) administrative or service employees.
- (b) *Automobile, minor repair and maintenance establishments*: One (1) space for each one hundred fifty (150) square feet of floor space.
- (c) *Automobile service station*: Three (3) spaces for each service bay, with minimum of ten (10) spaces required.
- (d) *Child day care center and kindergarten*: One (1) space for each two hundred (200) square feet of floor area.
- (e) *Food store*: One (1) space for each one hundred (100) square feet of floor space.
- (f) *Hotel, motel, and bed and breakfast inn*: One and twenty-five one hundredths (1.25) spaces for each unit.
- (g) *Lodge, fraternal or social organization*: One (1) space for each one hundred (100) square feet of floor area.
- (h) *Office and clinic*: One (1) space for each two hundred fifty (250) square feet of floor area.
- (i) *Place of worship*: One (1) space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for public worship.
- (j) *Recreational facilities*:
  - (1) *Without fixed seating*: One (1) space for each two hundred (200) square feet of floor area;
  - (2) *With fixed seating*: One (1) space for each three (3) seats.
- (k) *Restaurant*: One (1) space for each seventy-five (75) square feet of floor area.
- (l) *Restaurant, drive-through, without seating area for patrons*: One (1) space for each one hundred (100) square feet of floor area, but not less than ten (10) spaces.
- (m) *Retail uses, personal service uses, and other commercial and general business uses, but not including food stores*: Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.
- (n) *School, private elementary and middle*: Two (2) spaces for each classroom.

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- (o) *School, private high*: Five (5) spaces for each classroom.
- (p) *School, commercial vocational*: Ten (10) spaces for each classroom.
- (q) *Shopping center*: Five and five-tenths (5.5) spaces for each one thousand (1,000) square feet of floor area.
- (r) *Theater, funeral home, and other places of assembly*: One space for each three (3) seats in the main auditorium, or, where fixed seats are not utilized, one (1) space for each twenty-five (25) square feet of floor space in the largest assembly room utilized for seating.
- (s) *Temporary outdoor social, religious, entertainment or recreation activity or flea market*: One (1) space for each one hundred (100) square feet of space used for such activity.

Sec. 27-586. Lot coverage.

The lot coverage of each lot shall not exceed eighty (80) percent.

Sec. 27-587. Landscaping requirement for parking lots.

See section 27-753, Landscaping requirements for parking lots.

Sec. 27-588 Downtown Lithonia Form-Based Code.

The Core, Downtown, and Edge districts are included within the Form-Based Code. This document is incorporated herein by reference.

Secs. 27-589--27-595. Reserved.

**ARTICLE III. RESERVED**

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**ARTICLE IV. SUPPLEMENTAL REGULATIONS**

The regulations contained within this Article IV shall apply to all zoning districts within The City of Lithonia except as otherwise specified herein.

Sec. 27-731. Accessory buildings, structures, and uses.

The following provisions apply to accessory buildings, structures, and uses of land that are incidental to authorized and permitted uses:

- (a) All accessory buildings, accessory structures, and accessory uses of land, including off-street parking, shall be located on the same lot as the principal building(s) to which they are accessory.
- (b) No accessory building or structure shall be constructed upon a lot until construction of the principal building has commenced.
- (c) All accessory buildings or structures shall be located in the rear yard of the lot. No accessory building or structure shall be located closer than ten (10) feet to a side or rear lot line in any district. Basketball goals attached to the principal residential structure or erected adjacent to and abutting the driveway of the principal residential structure shall be allowed in the front yard but not within the right-of-way of a public street. No such basketball goal shall be erected in such a manner that the play area for the basketball goal is located within any portion of a public right-of-way.
- (d) No accessory building or structure in a nonresidential district shall be used by other than employees of the owner, lessee or tenant of the premises, unless otherwise allowed by provisions of this chapter.
- (e) Accessory buildings in single-family residential districts shall not be used as separate dwelling units and shall not contain a bedroom or kitchen or other food preparation facility of any kind. Further no such accessory building shall be rented or occupied for gain, and no accessory structure or building shall be used for a home occupation.
- (f) Where the rear yard of a corner lot adjoins the side yard of a lot in a residential district, no accessory building or structure shall be located closer than twenty-five (25) feet to the rear property line and no closer to the side street right-of-way line than the principal building.
- (g) Where an accessory building or structure is attached to the principal building by a breezeway, passageway or similar means, the accessory building or structure shall comply with the yard requirements of the principal building to which it is accessory.
- (h) Swimming pools, as accessory structures in a residential district, shall be measured from the decking or closest part of the pool structure to the applicable property line. Accessory swimming pools shall be authorized only after written approval from the DeKalb County Board of Health.
- (i) Accessory buildings, structures and uses authorized in an apartment complex include a leasing office, post office, club room, health club or exercise facilities, laundry facilities, child care center and similar facilities for the use of residents of the complex.
- (j) The floor area of an accessory building(s) in single-family and two- and three-family residential districts shall not exceed the following maximum floor areas:



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TABLE INSET:

Property Size	Maximum Floor Area
0 to 0.999 acres	900 square feet
1 to 4.999 acres	1,200 square feet
5 to 9.999 acres	2,000 square feet
10 or more acres	No size limit

**Sec. 27-732. Adult entertainment establishments.**

The following regulations shall apply to all adult entertainment establishments within The City of Lithonia:

(a) The regulations that follow and that otherwise are contained in this Code of Ordinances regarding adult entertainment establishments constitute content-neutral requirements that have been carefully designed to minimize adverse impacts caused by secondary effects of these establishments. The city finds that studies in other jurisdictions demonstrating a correlation between these establishments and such negative secondary effects as diminishing market values in neighboring residential and related areas, increasing crime rates, difficulty in securing residential and related financing, an influx of patrons to these establishments from outside the immediate neighboring areas, and similar effects, are pertinent and relevant to the situation that exists in The City of Lithonia. The city further finds that there is evidence in The City of Lithonia demonstrating a correlative link between adult entertainment establishments and pernicious secondary effects upon surrounding communities. The city finds that adoption of regulations restricting these establishments to certain districts and imposing distance and development standards is consistent with the general comprehensive planning standards and policies of the city, will reduce the negative secondary effects caused by these establishments, and will afford protection to residential uses and other uses consistent with residential uses so as to protect the public health, safety and welfare while respecting and protecting the free speech rights of these establishments.

(b) Adult entertainment establishments shall be subject to the following standards:

(1) An adult entertainment establishment shall be located no closer than one thousand (1,000) feet to another adult entertainment establishment. The measurement of distances for purposes of this paragraph shall be from structure to structure along the shortest possible course, regardless of any customary or common route or path of travel, i.e. "as the crow flies."

(2) An adult entertainment establishment shall not be located on property which is within five hundred (500) feet of a residential district or residential use. The measurement of distances for purpose of this paragraph shall be from property line to property line along the

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shortest possible course, regardless of any customary or common route or path of travel, i.e. "as the crow flies."

(3) An adult entertainment establishment shall be located no closer than five hundred (500) feet of any governmental facility, church, residence, park, library, or school ground. The measurement of distances for purposes of this paragraph shall be from property line to property line along the shortest possible course, regardless of any customary or common route or path of travel, i.e. "as the crow flies."

(4) The minimum lot area for an adult entertainment establishment shall be two (2) acres.

(5) Adult entertainment establishments shall be required to be on lots that have a minimum of one hundred fifty (150) feet of road frontage on a public road, street, or highway. Such establishments shall have a minimum of two (2) driveways which shall provide access to a public road, street or highway.

(6) In addition to development standards governing C-1 zoning districts, buildings established in connection with an adult entertainment establishment shall be set back at least forty (40) feet from any other business establishment.

(7) Adult entertainment establishments shall be required to provide one (1) automobile parking space for each seventy-five (75) square feet of gross building area.

Sec. 27-733. Agriculture.

(a) *Agricultural produce stands.* Agricultural produce stands shall comply with the front yard setback requirement for the district in which they are located, shall provide a minimum of four (4) off-street parking spaces, and shall sell only products grown or produced on the premises on which such use is located.

(b) *Commercial greenhouses and plant nurseries.* Any structure used as a commercial greenhouse or plant nursery shall be set back no less than one hundred (100) feet from any adjoining property which is zoned for residential use.

(c) *Structures used in production and processing of fruits, tree nuts and vegetables.* Any structure used in the production or processing of fruits, tree nuts and vegetables shall be set back no less than two hundred (200) feet from any property line.

(d) *Riding stables.* Riding stables shall be established on a lot having an area of not less than ten (10) acres. Any structure shall be located at least two hundred (200) feet from any property line. All animals shall be maintained at least one hundred (100) feet from any property line.

(e) *Temporary or portable sawmill.* The time limit for any permit for a temporary or portable sawmill shall not exceed six (6) months. The sawmill may only process timber removed from the property on which it is located. The use shall be set back not less than five hundred (500) feet from a residential structure on adjoining property.

Sec. 27-734. Air pollution.

Every use shall be so operated as to minimize the emission into the air of dirt, dust, fly ash or any other solid matter which causes damage to property or harm or discomfort to persons or animals at or beyond the lot line of the property on which the use is located.

Sec. 27-735. Animal care facilities.

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- (a) *Animal hospitals and veterinary clinics.* Any structure used as an animal hospital or veterinary clinic shall be located and the activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes. When located within a shopping center, the use shall be adequately soundproofed and odor proofed so as not to create a nuisance; no boarding shall be allowed unless required in connection with medical treatment; and no outside runs or kennels shall be authorized.
- (b) *Boarding and breeding kennels.* All structures used as boarding or breeding kennels shall be located and activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes.
- (c) *Dog grooming shops.* All structures used as dog grooming shops shall be located and activities conducted at least one hundred (100) feet from any property zoned or used for residential purposes.
- (d) *Noncommercial kennels.* All noncommercial kennels shall be located on a site of not less than two (2) acres. All structures shall be located at least two hundred (200) feet from any property line. All facilities shall be constructed and activities conducted in accordance with rules and regulations promulgated by the mayor and city council for noncommercial kennels.
- (e) *Household pets.* In any residential district within the city a person may keep not more than three (3) household pets on each lot which is two (2) acres or less in size. On any lot exceeding two (2) acres in size, a person may keep one (1) additional household pet for each additional acre above two (2) acres up to a maximum of ten (10) household pets. Litters of animals of not more than six (6) months of age shall not be counted for the purpose of calculating the total number of household pets on a lot.

**Sec. 27-736. Amateur radio service antenna structure.**

Amateur radio service antenna structures are a permitted accessory use in single-family residential districts provided that no such antenna structure, including any support upon which it may be constructed, shall exceed a combined height of seventy (70) feet. Amateur radio service antenna structures exceeding seventy (70) feet in height shall be permitted only by special land use permit subject to all of the requirements of Article V, Division 2 of this Chapter. Amateur radio service antenna structures shall be located a distance of at least one-half (1/2) the height of the tower from all property lines.

**Sec. 27-737. Automobile, wash service.**

Automobile wash services shall provide a paved area on the lot for the storage of vehicles awaiting service. This paved area shall be equal to one-third (1/3) of the practical hourly capacity of the wash machines. Wastewater from all automobile wash services shall drain directly into the public sanitary sewer unless otherwise approved by the DeKalb County Health Department.

**Sec. 27-738. Automotive sales and service; boat and trailer sales and service.**

- (a) *Automobile and truck sales.* No vehicle parked for sale or service shall be located within a street right-of-way. No other retail use shall be combined with automobile and truck sales. The lot shall be no less than one (1) acre in area.
- (b) *Automobile repair and paint shops.* Automobile repair and paint shops shall not be permitted within three hundred (300) feet of any property used for a school, park, playground

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or hospital. All activities shall be carried on entirely within an enclosed building and the use shall not be established on a lot which is either adjacent to or directly across the street from any R or RM district.

(c) *Automobile service stations.* Unless otherwise permitted within the applicable zoning district, major automobile repair in association with an automobile service station shall not be permitted. Gasoline pumps and other service facilities shall be set back not less than thirty (30) feet from the street right-of-way line, provided however, that canopies covering such gasoline pumps shall be set back not less than fifteen (15) feet from the street right-of-way line.

(d) *Automobile, truck and trailer lease and rental.* Where a lot is used for automobile, truck and trailer lease and rental, all vehicles shall be set back at least thirty (30) feet from the street right-of-way. All parking areas shall be clearly marked and no automobile, truck or trailer shall be parked outdoors other than within these marked parking areas, except when being serviced. The lot shall no less than one (1) acre in area.

(e) *Automobile, truck and trailer lease and rental where accessory to an automobile service station.* Where the lease and rental of automobiles, trucks and trailers is a use which is accessory to an automobile service station, the following requirements shall apply:

(1) The lot shall be no less than one (1) acre in area.

(2) Parking areas for automobiles, trucks or trailers which are available for lease or rental shall be located only in the side or rear yard.

(f) *Boat and boat trailer sales.* All boats and boat trailers shall be set back at least thirty (30) feet from the street right-of-way line.

(g) *Minor automobile repair and maintenance establishments.* All minor automobile repair and maintenance establishment operations, including the servicing of vehicles, storage of materials and similar activities connected with the use, shall be conducted entirely within an enclosed building. In a shopping center minor automobile repair and maintenance is permitted only as a part of an automobile service station.

(h) *Automobile parts and tire stores, retail sales.* Unless otherwise authorized or permitted within the applicable zoning district, the following limitations apply to the conduct of retail sale of automobile parts and tire stores:

(1) There shall be no dismantling of vehicles on the premises to obtain automobile parts;

(2) There shall be no automobile parts installation other than the installation of tires and the installation of minor accessory parts.

(3) Major automobile repair shall not be permitted in connection with these uses.

(i) *Trailer salesrooms and sales lots.* All vehicles shall be set back at least thirty (30) feet from the street right-of-way line.

Sec. 27-739. Buildings on single-family and duplex lots.

In all single-family detached residential districts only one (1) principal building, together with its customary accessory uses, shall occupy each lot.

Sec. 27-740. Reserved.

Sec. 27-741. Child day care facility.

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Each child day care facility, shall be subject to the following requirements:

- (a) Each child day care facility shall provide not less than thirty (30) square feet of indoor play area for each child, based on maximum permissible enrollment.
- (b) Each child day care facility shall provide not less than one hundred (100) square feet of outdoor play area for each child, based on maximum permissible enrollment.
- (c) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.
- (d) Each child day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.
- (e) Not more than fifty (50) percent of the floor area of a residence may be used for a child day care facility.
- (f) The exterior appearance of any residential structure for which a special land use permit for a child day care facility is approved by the mayor and city council shall be maintained as a residential structure and no signs other than those otherwise authorized within the applicable zoning district shall be erected, and no cut-outs, animals characters, or other graphics shall be affixed to the exterior of the structure or displayed upon the premises.
- (g) No child day care facility shall be located within one thousand (1,000) feet of another child day care facility.
- (h) No child day care facility may be established and operated in the city until a permit to do so has been obtained in accordance with the procedures set forth below.

(1) Permit application. Persons seeking to operate a child day care facility in the city must file a permit application with the Zoning Administrator. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of children that will be served simultaneously and that the proposed child care facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the city. The Zoning Administrator may require clarification or additional information from the applicant that is deemed necessary by the city to determine whether the proposed service will meet applicable laws, ordinances and regulations.

(2) Notwithstanding the above provisions, if a proposed child care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

**Sec. 27-742. Child day care center.**

Each child day care center shall be subject to the following requirements:

- (a) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.
- (b) Each child day care center shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

**Sec. 27-743. Kindergarten.**

Each kindergarten shall be subject to the following requirements:

- (a) All required outdoor play areas shall be enclosed by a fence or wall not less than four (4) feet in height.

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(b) Each kindergarten shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

**Sec. 27-744. Adult day care facility.**

Each adult day care facility shall be subject to the following requirements:

(a) All outdoor recreation areas shall be enclosed by a fence or wall not less than four (4) feet in height.

(b) Each adult day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.

(c) No adult day care facility shall be located within one thousand (1,000) feet of another adult day care facility.

(d) No adult day care facility may be established and operated in the city until a permit to do so has been obtained in accordance with the procedures set forth below.

(1) Permit application. Persons seeking to operate an adult day care facility in the city must file a permit application with the Zoning Administrator. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of adults that will be served simultaneously and that the proposed adult day care facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the city. The Zoning Administrator may require clarification or additional information from the applicant that is deemed necessary by the city to determine whether the proposed service will meet applicable laws, ordinances and regulations.

(2) Notwithstanding the above provisions, if a proposed adult day care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

Sec. 27-745 through Sec. 27-746. Reserved.

**Sec. 27-747. Commercial recreation and entertainment.**

The following shall apply to commercial recreation and entertainment uses:

(a) Art shows, carnival rides and special events of community interest. Art shows, carnival rides and similar events of community interest may be approved by the Zoning Administrator by special administrative permit, subject to the following requirements in NS and C-1 districts:

- (1) For a time period not exceeding fourteen (14) days;
- (2) The activity shall be conducted at least one hundred (100) feet from any residential district;
- (3) No living accommodations on-site;
- (4) Employees shall be uniformed and identified;
- (5) Security or off-duty police officers on-site during operating hours;
- (6) Portable toilets provided;
- (7) Site plan to determine compliance with all zoning ordinance requirements.

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(b) Rodeos, horse shows, carnivals, athletic events, and community fairs may be approved by the Zoning Administrator by special administrative permit, subject to the following requirements in the C-2 district:

- (1) For a time period not exceeding fourteen (14) days;
- (2) All buildings, structures and activities associated with such use shall be set back at least five hundred (500) feet from the boundary of any residential district;
- (3) All buildings, structures and activities associated with such use shall be set back at least two hundred (200) feet from any property line;
- (4) Employees shall be uniformed and identified;
- (5) Security or off-duty police officers on-site during operating hours;
- (6) Sanitary facilities to be provided;
- (7) Site plan to determine compliance with all zoning ordinance requirements.

Sec. 27-748. Construction contractors, outdoor storage.

There shall be no indoor or outdoor storage of construction equipment, construction materials, or construction vehicles in any zoning district other than C-2, M, and M-2, except on a lot for which a valid development or building permit has been issued by the Zoning Administrator and where construction work is actively being undertaken.

Sec. 27-749. Reserved.

Sec. 27-750. Height requirements.

The height limitations established in this chapter shall not apply to the following:

- (a) Barns, silos or other farm structures when located on farms; belfries, cupolas and domes, chimneys; and flagpoles.
- (b) Bulkheads, elevator penthouses, water tanks and scenery lofts and similar structures, provided that these structures shall not cover more than twenty-five (25) percent of the total roof area of the building which the structures are located.
- (c) Telecommunications towers and antennas otherwise permitted by this chapter by special administrative permit or permitted by special land use permit by the mayor and city council pursuant to section 27-779.

Sec. 27-751. Home occupations and private educational uses.

The following provisions shall apply to home occupations. Private educational uses shall only be required to comply with subsections (a), (b), (c), (d) and (h):

- (a) There shall be no exterior evidence of the home occupation.
- (b) No use shall create noise, dust, vibration, odor, smoke, glare or electrical interference that would be detectable beyond the dwelling unit.
- (c) The use shall be conducted entirely within the dwelling unit and only persons living in the dwelling unit shall be employed at the location of the home occupation.
- (d) No more than twenty-five (25) percent of the dwelling unit and in no case more than five hundred (500) square feet, whichever is less, may be used for the conduct of the home occupation.
- (e) No use shall involve public contact on the property and no article, product or service shall be sold on the premises other than by telephone.

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- (f) No materials or equipment shall be stored on the premises upon which the home occupation is located, except where such materials and equipment are stored entirely within the residence.
- (g) No vehicle other than a passenger automobile, passenger van, or passenger truck shall be used in the conduct of a home occupation, and no other vehicle shall be parked or stored on such premises.
- (h) No home occupation shall be operated so as to create or cause a nuisance.
- (i) Home occupation shall not include the use of a dwelling unit for the purpose of operating any automobile repair establishment, taxi service, van service, limousine service, wrecker service, car wash, or ammunition or firearms sales establishment.

Sec. 27-752. Home stay bed and breakfast residence.

Home stay bed and breakfast residences may be undertaken only upon approval of a special land use permit by the mayor and city council, subject to all of the requirements of *Article V, section 27-873* of this chapter, and with all of the following additional requirements:

- (a) The home stay bed and breakfast residence shall be occupied by the owner or renter of the dwelling used for such purpose;
- (b) Such use shall have a lot area of not less than twenty thousand (20,000) square feet and a floor area within the dwelling unit of not less than two thousand five hundred (2,500) square feet;
- (c) No separate kitchen facilities shall be used or authorized;
- (d) In addition to providing the off-street parking required for the dwelling unit, there shall also be provided at least one (1) off-street parking space for each bedroom used as a part of the home stay bed and breakfast residence;
- (e) No signs or advertising are permitted to identify or advertise the existence of the home stay bed and breakfast residence;
- (f) The residential character of the dwelling shall be maintained;
- (g) Such use shall comply with all other applicable provisions of the City of Lithonia Code of Ordinances; and
- (h) Meals shall be served only to members of the family and to persons who are renting rooms pursuant to an approved special land use permit for home stay bed and breakfast residence.
- (i) Business and accounting records of the facility shall be made available to the city upon request to verify compliance with regulations.
- (j) No individual shall stay for longer than seven (7) days and shall not re-register within thirty (30) days.

Sec. 27-753. Landscaping requirements for parking lots.

All accessory surface parking lots and authorized parking lots within the RM-85, RM-75, OI, NS and C-1 Districts which contain a total of twenty (20) or more parking spaces which are constructed subsequent to the adoption of this chapter shall comply with the following requirements:

- (a) Each such parking lot shall have a minimum of ten (10) percent of the total lot area of the parking lot in landscaped space.



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(b) Non-continuous barrier curbs shall be installed around the perimeter of the parking lot and around landscaped areas that are required herein, except where the perimeter abuts an adjacent building or structure and except at points of ingress and egress into the facility, so as to prevent encroachment of vehicles onto adjacent property, rights-of-way, sidewalks and landscaped areas.

(c) Where required, barrier curbs shall be a minimum of six (6) inches in height and a minimum of six (6) inches in width and shall be permanent in nature. Barrier curbs shall be concrete or stone. Such curbs shall be securely installed and maintained in good condition.

(d) Where the end of a parking space abuts a landscaped area, barrier curbs may be placed in the parking space at a maximum of two (2) feet from the end of the parking space. This two-foot wide area may have the pavement removed, and be developed as part of the required landscaped area.

(e) A minimum of one (1) tree per eight (8) parking spaces shall be included in the required landscaped areas. For the purpose of satisfying this requirement, existing trees that are three (3) inches or more in caliper as measured at a height of thirty-six (36) inches above ground level shall be considered to be equivalent to one (1) or more newly planted trees on the basis of one (1) tree for each three (3) inches of caliper.

(f) In addition to trees, ground cover shall also be provided in order to protect tree roots and to prevent erosion. Ground cover shall consist of shrubs, ivy, liriopse, pine bark mulch, or other similar landscaping material.

(g) Shrubs shall be maintained at a maximum height of two and one-half (2 1/2) feet, except where such shrubs are screening the parking surface from an adjacent residential area.

(h) In the event that landscaped areas are in the interior of a parking lot, they shall be a minimum of six (6) feet in width and six (6) feet in length, with a minimum area of thirty-six (36) square feet.

(i) Continuous landscaped buffer strips shall be constructed along sidewalks and public rights-of-way where surface parking lots are adjacent to such sidewalks or public right-of-way except at points of ingress or egress into the facility. Such landscaped buffer strips shall be in a minimum of ten (10) feet in width and shall contain, in addition to ground cover, trees planted a maximum of forty (40) feet on center along the entire length.

(j) Newly planted trees shall be a minimum of three (3) inches in caliper as measured at a height of six (6) inches above ground level, shall be a minimum of ten (10) feet in height, shall have a forty-foot minimum mature height, and shall be drought tolerant. Trees shall be planted at a minimum of thirty inches from any barrier curb, so as to prevent injury to trees from vehicle bumpers. A minimum of seventy-five (75) percent of the trees planted pursuant to these requirements shall be deciduous hardwood shade trees.

(k) Where landscaped areas are located adjacent to vehicle overhangs, the trees shall be planted in line with the side stripes between parking spaces in order to avoid injury to trees by vehicle bumpers.

(l) All landscaped areas shall be properly maintained in accordance with approved landscape plans. In the event that a tree or any plant material dies, it shall be replaced within twelve (12) months so as to meet all requirements of this section and to allow for planting in the appropriate planting season.

Sec. 27-754. Lighting.

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Lighting in all districts shall be established in such a way that no direct light is cast upon or adversely affects adjacent properties and roadways. This section shall not apply to lighting established by governmental authority within public rights-of-way.

Sec. 27-755. Loading space and loading berth requirements, off-street.

Off-street loading spaces and off-street loading berths shall be provided as follows:

(a) Each loading space shall be no less than twelve (12) feet by thirty-five (35) feet by fourteen (14) feet overhead clearance. Each loading berth shall be no less than twelve (12) feet by fifty-five (55) feet by fourteen (14) feet overhead clearance. Each loading space and each loading berth shall have sufficient maneuvering space on-site so as to prevent interference with pedestrian or vehicular circulation on public street and sidewalks.

(b) Loading spaces and loading berths shall be provided as follows:

(1) Retail operations, including restaurants and other retail uses within hotels and office buildings, with a total gross floor area of twenty thousand (20,000) square or more shall provide one (1) loading berth for each forty thousand (40,000) square feet of floor area or fraction thereof and one (1) loading space for each twenty thousand (20,000) square feet of floor area or fraction thereof.

(2) Retail uses including all first floor nonresidential uses with a gross floor area of 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 shall provide one (1) loading space.

(3) Office buildings and hotels with a gross floor area of one hundred thousand (100,000) square feet or more devoted to such use shall provide one (1) loading berth for each one hundred thousand (100,000) square feet of floor area or fraction thereof.

(4) Industrial and wholesale uses with a gross floor area of ten thousand (10,000) square feet or greater shall provide loading berths as follows:

- a. 10,000--40,000 square feet: 1 berth.
- b. 40,001--100,000 square feet: 2 berths.
- c. 100,001--160,000 square feet: 3 berths.
- d. 160,001--240,000 square feet: 4 berths.
- e. 240,001--320,000 square feet: 5 berths.
- f. 320,001--400,000 square feet: 6 berths.
- g. 400,001 or more square feet: 6 berths plus one additional berth for each additional 90,000 square feet or fractional thereof in excess of 400,001 square feet.

Sec. 27-756. Lots.

All lots created after enactment of this chapter shall conform in all respects to the minimum requirements set forth in the district in which such lot is located, to all other applicable requirements of this chapter, and the requirements of Chapter 14.

Sec. 27-757. Lots, corner.

On corner lots the side having the least street frontage shall be deemed to be the front of the lot for the purpose of applying required yards and setbacks. See *section 27-788(c), Yard requirements*.

Sec. 27-758. Lots served by septic tanks, minimum area.

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Any lot which is to be served by an individual septic tank shall have an area of not less than that required by state and county health regulations. The site location on the lot of the facility shall be approved by the county DeKalb County Board of Health in accordance with applicable DeKalb County Board of Health regulations.

Sec. 27-759. Lots with well and septic tank.

Any lot upon which both an individual well and septic tank are to be provided shall have a minimum area of not less than that required by state and city health regulations. The site location on the lot of these facilities shall be approved by the city DeKalb County Board of Health in accordance with applicable DeKalb County Board of Health regulations.

Sec. 27-761. Moving buildings, requirements for.

No dwelling unit or other permanent structure shall be moved within or into the city unless, when relocated, it meets all requirements of the Code of Ordinances of The City of Lithonia and is first approved by the Zoning Administrator.

Sec. 27-762. Noise limitations.

(a) *Short title.* This section shall be known and may be cited as the noise ordinance of The City of Lithonia, Georgia.

(b) *General purposes.*

(1) The City of Lithonia seeks to prevent excessive sound that may jeopardize the health, welfare, or safety of the citizens or degrade the quality of life, by adopting this section. Nothing in this section is intended to deter individuals from lawfully exercising the individual right to freedom of speech or any other freedom guaranteed under the Constitutions of the United States of America or of the State of Georgia.

(2) This section applies to all noises, sounds, and tones emitting from all property categories originating within the incorporated limits of the city. Such property categories include, specifically:

- a. Residential districts;
- b. Commercial districts;
- c. Multi-use properties;
- d. Public and private right-of-ways;
- e. Public uses;
- f. Multi-family dwelling units; and
- g. Public and private parks and open spaces.

(3) This section applies to all noises, sounds, and tones received at all property categories that originate within the incorporated limits of the city.

(4) This section applies only to noises, sounds, and tones about which a complainant has lodged a complaint. Sound level measurements for determining compliance shall be conducted only on the property of the complainant regardless of the existence of other receptors in closer proximity to the noise source under investigation.

(c) *Maximum permissible sound levels.*

- (1) *Maximum permissible sound level limits by receptor property dB(A)*

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TABLE INSET:

Residential district 7:00 a.m.--10:00 p.m. Noise Sensitive facility 24 hours	Residential district 10:00 p.m.--7:00 a.m.	Commercial district 24 hours
60	50	65

a. *Continuous sound:*

1. No person shall cause, suffer, allow, or permit the operation of any source of sound on any source property within residential districts, commercial districts, multi-use properties, public and private right-of-ways, public uses and multi-family dwelling units in such a manner as to create a sound level that exceeds the sound level limits listed in subsection (c)(1) of this section as measured at any location at or within the property line of the receptor property. Sound pressure levels in excess of those established in subsection (c)(1) of this section shall constitute prima facie evidence that such sound is in violation of this section.

2. If the residential receptor property or noise sensitive facility is within two hundred (200) feet of a commercial or industrial zone, or within an OCR district, the permissible sound level limit of the residential receptor property or noise sensitive facility is increased by five (5) dB(A) between the hours of 7:00 a.m.--10:00 p.m.

b. *Impulsive sound:*

1. Between 7:00 a.m. and 10:00 p.m., impulsive sounds which occur less than ten (10) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in subsection (c)(1) of this section. Impulsive sound which repeats ten (10) or more times in any hour shall not exceed the permissible sound level limits in subsection (c)(1) of this section.

2. Between the hours of 10:00 p.m. and 7:00 a.m., impulsive sounds which occur less than four (4) times in an hour shall not equal or exceed twenty (20) decibels above the permissible sound level limits in subsection (c)(1) of this section. Impulsive sound which repeats four (4) or more times in any hour shall not exceed the permissible sound level limits in subsection (c)(1) of this section.

c. *Steady pure tones:* If the sound source under investigation is a mechanical device, and is emitting a sound with a steady tonal quality, the permissible sound level limits in subsection (c)(1) of this section shall be reduced by five (5) dB(A). Such sound sources include, but are not limited to heating, ventilating or air-conditioning units, refrigeration units, and transformers; however, this provision shall not apply to residential air-conditioning units.

(2) *Amplified sound reproduction device maximum permissible sound level limits indoors across a real property line dB(C) above ambient.*

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TABLE INSET:

Week Nights 10:00 p.m.--7:00 a.m. Weekend Nights 11:00 p.m.--8:00 a.m.	Week Nights 8:00 p.m.--10:00 p.m. Weekend Nights 9:00 p.m. to 11:00 p.m.	All Other Times
3	5	10

a. *Amplified sound:*

1. If the source of sound is an amplified sound reproduction device, and the complainant states that the use of the device is disturbing within their residence then the noise enforcement officer may take sound level measurements within the residence of the complainant.

2. No person shall cause, suffer, allow, or permit the operation of any amplified source of sound in such a manner that it raises the total sound levels by the permissible sound level limits set forth in subsection (c)(2) of this section when measured within the residence of a complainant. These sound level measurements shall be conducted with the sound level meter set for "C" weighting, "fast" response. Such measurements shall not be taken in areas that receive only casual use such as hallways, closets and bathrooms.

3. For the purposes of these measurements, the ambient sound level is that sound level which is measured in the residence when the sound source under investigation is not prominent, or in a room on the same floor that is relatively unaffected by the sound source under investigation.

(d) *Noise control administrator.* There shall be created a noise control administrator who shall be the police chief or designee who shall have the power to:

- (1) Coordinate the noise control activities of all departments in The City of Lithonia and cooperate with all other public bodies and agencies to the extent practicable;
- (2) Review the actions of The City of Lithonia and advise the city of the effect, if any, of such actions on noise control;
- (3) Review public and private projects, subject to mandatory review or approval by other departments or boards, for compliance with this section;
- (4) Promulgate and publish rules and procedures to establish techniques for measuring noise, and to provide for clarification, interpretation, and implementation of this section;
- (5) Review at least every three (3) years the provisions of this section and recommend revisions consistent with technology to reduce noise, or to address new sound sources within The City of Lithonia, provided, however, that failure to review and/or recommend revisions shall not affect the validity of the provisions then in effect;
- (6) Delegate the duties of the noise control officer to any duly qualified individual according to the provisions of subsection (e) of this section.

(e) *Noise control officers.*

(1) Where the provisions of this section require the measurement of sound with the use of a sound level meter, noise control officers shall make such measurement. A person

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shall be qualified to be a noise control officer if the person meets the criteria set forth by the noise control administrator and completes, at a frequency specified by the noise control administrator, a noise certification and re-certification course which has been approved by the administrator. When no measurement of the sound level is necessary to determine whether a sound is in violation of the provisions of this section, or when the level of sound measured by a noise control officer is in violation of the provisions of this section, any noise control officer or police officer having jurisdiction in the area where the violation takes place, may issue a citation/summons for the violation of this section returnable to the recorder's court of The City of Lithonia. Penalties for violations of this section will be governed by subsection (o) of this section.

(2) Noise control officers shall cooperate and assist any police officer in measuring sound to determine if same is in violation of this section.

(f) *Procedures for the determination of sound levels.*

(1) Insofar as practicable, sound will be measured while the source under investigation is operating at normal, routine conditions and, as necessary, at other conditions, including but not limited to, design, maximum and fluctuating rates. All noise measurements shall be made at or within the property line of the impacted site, unless otherwise directed in this section. When instrumentation cannot be placed at or within the property line, the measurement shall be made as close thereto as is reasonable. For the purposes of this section, noise measurements are measured on the A- or C- weighted sound scale, as applicable, of a sound level meter of standard design and quality having characteristics established by ANSI.

(2) The sound level meter and calibrator must be re-certified annually at a laboratory approved by the noise control administrator. A field check of meter calibration and batteries must be conducted before and after every set of measurements, and at least every hour as necessary.

(3) Total and neighborhood residual sound level measurements shall be taken in accordance with procedures established and approved by the noise control administrator. Calculation of source sound levels shall conform with accepted practice established by ANSI.

(g) *Exceptions.* The maximum decibel levels established in subsections (c)(1) and (c)(2) of this section shall not apply to any of the following noise sources:

- (1) Agricultural activities;
- (2) Sound by public safety vehicles, emergency signaling devices, or authorized public safety personnel for the purpose of alerting persons to the existence of an emergency;
- (3) Noise from an exterior burglar alarm of any building, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if intermittent;
- (4) Noise from any automobile alarm, provided such burglar alarm shall terminate its operation within five (5) minutes of its activation if the sound is uninterrupted or ten (10) minutes if the sound is intermittent;
- (5) The generation of sound in situations within the jurisdiction of the Federal Occupational Safety and Health Administration;
- (6) Noise resulting from any practice or performance sponsored by or associated with the educational process administered by a recognized institution of learning, including, but not limited to band, choir, and orchestral performances between the hours of 7:00 a.m. and 11:00 p.m.;

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(7) Noise that results from, arises out of or stems from the occurrence of a professional sporting event or organized sports league;

(8) Unamplified bells, chimes or carillons while being used in conjunction with signaling the time of the day between the hours of 7:00 a.m.--10:00 p.m.;

(9) Unamplified bells, chimes or carillons while being used in conjunction with on-going religious services between the hours of 7:00 a.m.--10:00 p.m.;

(10) Emergency work;

(11) National Warning System (NAWAS): systems used to warn the community of attack or imminent public danger such as flooding, explosion or hurricane;

(12) Noise of aircraft operations, where federal regulations preempt the local regulation of such specific operations;

(13) Public celebrations such as marches, parades or any other event sanctioned by federal, state or local government(s);

(14) Surface carriers engaged in commerce by railroad;

(15) Sound from the travel of properly muffled motor vehicles on a public right-of-way;

(16) Events with amplified sound that are operating within the time and volume parameters set forth in an approved special administrative permit.

(h) *Restricted uses and activities.* Notwithstanding the provisions of subsection (c)(1) of this section and the exceptions above, the following standards shall apply to the activities or sources of sound set forth below:

(1) Non-commercial or non-industrial power tools used for landscaping and yard maintenance shall not be operated between the hours of 10:00 p.m. and 7:00 a.m., unless such activities can meet the applicable limits set forth in subsection (c)(1) of this section. All motorized equipment used in these activities shall be operated with a muffler. At all other times, the limits set forth in subsection (c)(1) of this section do not apply to non-commercial or non-industrial power tools and landscaping and yard maintenance equipment.

(2) Commercial or industrial power tools used for landscaping and yard maintenance shall be operated with a muffler. All motorized equipment used in these activities shall not be operated on a residential property or within two hundred fifty (250) feet of a residential property line, between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends, unless:

a. Such activities are deemed emergency work; or

b. Such activities meet the limits set forth in subsection (c)(1) of this

section.

At all other times, the limits set forth in subsection (c)(1) of this section do not apply to commercial or industrial power tools and landscaping and yard maintenance equipment.

(3) Construction and demolition activity shall not be performed between the hours of 10:00 p.m. and 7:00 a.m. on weekdays, or between the hours of 10:00 p.m. and 8:00 a.m. on weekends, unless:

a. Such activities are deemed emergency work; or

b. Such activities meet the limits set forth in subsection (c)(1) of this

section.

c. This provision shall not apply if the noise control administrator determines that the loss or inconvenience that would result to any party in interest is of such a nature as to warrant special consideration. In such cases, the noise control

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administrator may grant a renewable permit for a period not to exceed ten (10) days for this work to be done within the hours of 10:00 p.m. to 7:00 a.m.

(4) The testing of burglar or fire alarms shall not exceed five (5) minutes in duration, and shall not occur between the hours of 10:00 p.m. and 8:00 a.m. Fire drills may be conducted outside of these hours no more than once a month, and with prior notification to all residential properties within two hundred fifty (250) feet of the property line where the testing will take place. At all times during these tests, the limits set forth in subsection (c)(1) of this section do not apply.

(5) Domesticated or caged non-farm animals may not make any vocalizations for more than fifteen (15) minutes without interruption or more than thirty (30) minutes if intermittent. These time limits do not apply if the vocalizations are given as a warning to the presence of an intruder. At all times, the limits set forth in subsection (c)(1) of this section do not apply.

(6) Personal or commercial vehicular music amplification or reproduction equipment, including, but not limited to boom cars, shall not be operated in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the equipment between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m. such equipment shall not be operated in such a manner that it is plainly audible at a distance of twenty-five (25) feet in any direction.

(7) Boom boxes, or any similar device, shall not be operated in a public place or public right-of-way in such a manner as to be plainly audible at a distance of fifty (50) feet in any direction from the operator between the hours of 8:00 a.m. and 10:00 p.m. Between the hours of 10:00 p.m. and 8:00 a.m., such equipment shall not be operated in such a manner that it is plainly audible at a distance of three (3) feet in any direction.

(8) The provisions of subsections (h)(1) and (2) of this section do not apply to power tools or motorized equipment operated in association with the upkeep and maintenance of any public or private golf course, provided that all such power tools and motorized equipment are equipped with mufflers or are operated in conjunction with a device or system for lessening the sounds produced.

(i) *Initiation of applications; requests for temporary relief or stays; requests for variances.*

(1) Any person requesting temporary relief or a stay from the enforcement of this section shall apply for a special administrative permit for a period of time not to exceed thirty (30) days. The noise control administrator has discretion to consider and grant or deny the special administrative permit, pursuant to the procedures and standards contained in this section if strict enforcement of this section will result in exceptional and undue hardship to the applicant. Under no circumstances shall the noise control administrator grant a stay of enforcement of this section for more than sixty (60) days within any six-month period.

(2) All requests for variances shall be filed with the mayor and city council and shall be governed by *section 27-915 et seq.* No variance shall be issued for amplified noise measured under subsection (c)(2) of this section.

(3) No special administrative permit or variance shall be granted for amplified noise described in subsection (h)(6) and (7) of this section.

(4) No special administrative permit or variance shall be authorized to delete, modify, or change in any manner any requirement enacted as a condition of zoning or as a condition of a special land use permit imposed by the mayor and city council.



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(j) *Successive applications.* An application for a variance affecting all or a portion of the same property shall not be submitted more than once every twenty-four (24) months measured from the date of the final decision by the mayor and city council. The mayor and city council may waive or reduce this twenty-four-month time interval if the time interval between the date of said denial and any subsequent application affecting the same property is no less than six (6) months. The limitations in this section shall not apply to special administrative permits.

(k) *Application forms; filing of applications; application fees.* Applications for special administrative permits and variances shall be filed on forms provided by the noise control administrator and shall not be considered authorized or accepted unless complete in all respects. The mayor and city council shall establish application fees.

(l) *Application forms; criteria.* Applications for special administrative permits shall include all of the following information:

- (1) The nature and location of the noise source for which such application is made;
- (2) The reason for which the permit or variance is requested, including the hardship that will result to the applicant, his/her client, or the public, if the permit or variance is not granted;
- (3) The nature and intensity of noise that will occur during the period of the permit or variance; and
- (4) A description of the noise control measures to be taken by the applicant to minimize noise and the impacts occurring therefrom.
- (5) The name, address and means of contacting a responsible party during the hours of operation for which the permit or variance is issued.

(m) *Issuance of special administrative permits; required enumerated conditions.* Upon issuance of a special administrative permit, the noise control administrator shall enumerate the conditions of the permit including, but not limited to:

- (1) Specific dates and times for which the permit is valid, not to exceed thirty (30) days;
- (2) Sound level limits that may not be exceeded at the nearest affected residential district or noise sensitive property.

(n) *Revocation.*

- (1) The noise control administrator may revoke special administrative permits if the terms of the permit are violated.
- (2) A special administrative permit may be revoked by the noise control administrator, and the issuance of future special administrative permits withheld, if there is a:
  - a. Violation of one (1) or more conditions of the permit;
  - b. Material misrepresentation of fact in the permit application; or,
  - c. Material change in any of the circumstances relied upon by the noise control administrator in granting the permit.

(o) *Fines.*

- (1) A conviction of a violation of the provisions of this section shall be punished by a minimum fine of one hundred dollars (\$100.00), which may be combined with any other penalty authorized within this Code of Ordinances.
- (2) If the activity or condition constituting the violation has been the subject of an enforcement action against the violator in the immediately preceding six (6) months, the

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minimum fine shall be five hundred dollars (\$500.00), which may be combined with any other authorized penalty within this Code of Ordinances.

(3) If the activity or condition constituting the violation has been the subject of three (3) or more enforcement actions against the violator in the immediately preceding twelve (12) months, the minimum fine shall be eight hundred dollars (\$800.00), which may be combined with any other authorized penalty within this Code of Ordinances.

(4) Violations of this section are continuous with respect to time; therefore, each day the violation continues is a separate offense.

(p) *Appeals.* Appeals of any special administrative permit decision made by the noise control administrator, his or her designee, or any officer authorized to enforce the provisions of this section shall be to the mayor and city council.

(q) *Inconsistent provisions.* Insofar as the provisions of this section are inconsistent with any other provision of any other title of the ordinance or any rule or regulation of any government agency of the city, then the provisions of this section shall control.

**Sec. 27-763. Open space.**

Open space areas required to be established by this chapter shall be permanently maintained as open space and appropriately landscaped with trees, shrubs, flowers, grass, stones, rocks or other landscaping materials. These areas may not be used for vehicular access, parking or similar uses except as otherwise permitted in this chapter.

**Sec. 27-764. Outdoor storage of materials, supplies, equipment or vehicles.**

The following regulations shall apply to outdoor storage of materials, supplies, equipment or vehicles:

(a) In the O-I, NS and C-1 districts there shall be no outdoor storage of materials, supplies, equipment or vehicles.

**Sec. 27-765. Parking garage, commercial.**

Commercial automobile parking garages may include gasoline pumps if located entirely within the parking garage structure.

**Sec. 27-766. Parking regulations, off-street parking spaces.**

Off-street parking spaces shall be provided in accordance with the following requirements:

(a) Each application for a development permit or building permit other than for a detached single-family residence shall be accompanied by a parking plan showing all required off-street parking spaces, driveways, and the internal circulation system for each such parking lot.

(b) All parking lots and spaces shall conform to the following requirements:

(1) Each parking space and parking lot shall have access to a public street.

(2) All vehicles shall be parked only on a paved surface.

(3) Each parking space shall be not less than one hundred fifty-three (153) square feet and not less than eight and one-half (8 1/2) feet wide and eighteen (18) feet deep. In any required parking lot consisting of twenty (20) or more parking spaces, forty (40) percent of such spaces may be small car spaces each of which shall be not less than one hundred twenty (120) square feet and not less than eight (8) feet wide and fifteen (15) feet deep. Each parking

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lot shall have adequate space for the parking and unparking of each car and for internal circulation within said parking lot.

(4) Each parking lot and parking space shall be separated from the public street or public sidewalk by wheel bumpers and a planted strip at least ten (10) feet in width, except that parking lots consisting of twenty (20) or more spaces shall comply with the requirements of section 27-753 of this chapter.

(5) All parking lots and parking spaces shall conform to the geometric design standards of the Institute of Traffic Engineers.

(6) Parking and loading shall not be permitted within required front yard setbacks in any RM and OI district.

(7) Parking shall not be permitted within the front yard in any R district except within a driveway or in a carport or garage. Within any R district not more than thirty-five (35) percent of the total area between the street right-of-way line and the front of the principal building shall be paved. On any lot where adequate width exists so as meet the geometric design standards of the Institute of Traffic Engineers, a circular driveway shall be permitted, subject to the total driveway coverage herein. However, no parking spaces or parking bays shall be established within any such front yard.

(8) No parking area or lot shall be used for the sale, repair, dismantling, servicing, or long-term storage of any vehicle or equipment unless located within a district which otherwise permits such use.

(9) The parking of business vehicles within R districts other than ordinary passenger vehicles shall be within a garage or carport or within a side or rear yard. The parking of any business vehicle other than a passenger automobile, passenger van, or passenger truck shall not be permitted in any residential district.

(10) All parking lots within the RM-85, RM-75, OI, NS and C-1 Districts which contain a total of twenty (20) or more parking spaces shall conform to all of the requirements of section 27-753 of this chapter.

(c) In any case where the district regulation does not specify an off-street parking requirement for a use that is authorized or permitted within any such district, then the most restrictive off-street parking requirement within that district regulation shall apply.

Sec. 27-767. Reserved.

Sec. 27-768. Places of worship; temporary religious meetings; general requirements.

The following subsections shall apply to places of worship and their related uses, as defined within this Code:

(a) When located in a residential district, any building or structure established in connection with places of worship shall be located at least seventy-five (75) feet from any property line, except where the adjoining property is zoned for nonresidential use, the setback for any building or structure shall be no less than twenty (20) feet for a side-yard and no less than thirty (30) feet for a rear-yard.

(b) The required setback from any property line that adjoins a street right-of-way shall be the front-yard setback for the applicable residential district.

(c) When located in a residential district, the parking areas and driveways for any such uses shall be located at least twenty (20) feet from the boundaries of any property line, with a visual screen, e.g., a six-foot fence or sufficient vegetation established within that area.

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- (d) Places of worship shall be located on a minimum lot area of two (2) acres and shall have frontage of at least one hundred (100) feet along a public street.
- (e) Places of worship shall be located only on a major or minor thoroughfare.
- (f) The establishment of sites and tents for temporary religious meetings requires the grant of a special administrative permit by the Zoning Administrator. Such tents or sites for any specific location may not be used for a cumulative period of more than fourteen (14) days during any calendar year.
- (g) Any uses, buildings or structures operated by a place of worship that are not specifically included within the definition of place of worship must fully comply with the applicable zoning district regulations, including, but not limited to, any requirement for a special land use permit.
- (h) Any use, building or structure operated by a place of worship that is included within the definition of a place of worship must comply with the applicable supplemental regulations found in sections 27-731 through 27-792.
- (i) Any place of worship located on a street other than a major or minor thoroughfare shall be a legal non-conforming use if constructed pursuant to a development permit issued before December 5, 2005.
- (j) Subsections (d) and (e), above, shall only apply to places of worship developed or established after December 5, 2005.

Sec. 27-769. Private elementary, middle and high school.

The minimum lot size for private elementary, middle and high school for which an application for special land use permit is filed, shall be as follows:

- (a) *Elementary school*: Five (5) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.
- (b) *Middle school*: Twelve (12) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.
- (c) *High school*: Twenty (20) acres plus one (1) additional acre for each one hundred (100) students based on the design capacity of the school.

Sec. 27-770. Utility structure necessary for the transmission or distribution of service.

Any utility structure necessary for the transmission or distribution of service, whether an authorized use or a permitted use, shall provide security fencing and landscaping to lessen the visual impact of such structures on adjoining property. Noise resulting from temporary construction activity pursuant to a valid development or building permit, that is not a part of the usual and ongoing operation of the use on the site, that occurs between 7:00 a.m. and 7:00 p.m. shall be exempt from the requirements of this section. Such structures shall be built only within the buildable area of any lot where permitted or authorized and shall meet all requirements of the district in which such structure facility is located.

Sec. 27-771. Relatives' residence in single-family residential districts.

A second kitchen facility may be constructed and used within a single-family residence for the exclusive use of relatives of the real property owner subject to the following restrictions:

- (a) The real property owner must live in the single-family residence.
- (b) Relatives must be related by blood, marriage or law.

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- (c) The area of the second kitchen facility shall not exceed the area of the main kitchen facility.
- (d) Access to the relatives' living area shall be required from the interior of the residence, although secondary access to the exterior of the dwelling is not prohibited.
- (e) Paved off-street parking shall be provided for additional vehicles as needed. Permits for the second kitchen facility shall not be issued until such time as the real property owner has applied to and received from the Zoning Administrator a relative residence permit. The relative residence permit shall be in recordable form and, upon execution, shall be recorded in the office of the clerk of the superior court. The Zoning Administrator shall provide a copy of each such permit to DeKalb County Board of Tax Assessors. The unit shall be removed when it is vacated by the relative(s) for whom the unit was installed.

**Sec. 27-772. Regional impact, developments of; area plan review.**

Where any application for a development or building permit is received by the Zoning Administrator which constitutes a development of regional impact or an area plan review, the Zoning Administrator shall forward said application to the Atlanta Regional Commission for such review and shall make no final decision on said application until the review by the Atlanta Regional Commission is complete within the time limit specified by state law. Where any application for an amendment to the official zoning map or an application for a special land use permit is received by the Zoning Administrator constitutes a development of regional impact or an area plan review, the Zoning Administrator shall forward said application to the Atlanta Regional Commission for such review and shall provide to the mayor and city council the findings of the Atlanta Regional Commission prior to their final decision on any such application.

**Sec. 27-773. Satellite television antennae.**

No satellite television antenna shall be erected, constructed or used except in conformance with the following regulations:

(a) *Satellite television antennae location.* Satellite television antennae shall be located as follows:

(1) In any office, commercial or multifamily residential district, such satellite television antenna may be located, anywhere in the buildable area of the lot or on a building thereon, subject to applicable zoning district setback regulations.

(2) In any other district satellite television antennae shall be located only to the rear of any principal structure. If usable communication signals cannot be obtained from the rear location, the satellite television antenna may be located in the side yard. Both locations shall be subject to applicable zoning district setbacks or regulations.

(3) In the event that usable satellite television communication signals cannot be received by locating the antenna in the rear or to the side of the principal structure, such antenna may be placed in the front yard or on the roof of the dwelling, provided that the diameter does not exceed eighteen (18) inches and that approval of the Zoning Administrator shall be obtained prior to such installation. The Zoning Administrator shall issue such a permit only upon a showing by the applicant that usable communication signals are not receivable from any location on the property other than the location selected by the applicant.

(b) *Height limitations, screening, and grounds.* Satellite television antennae shall comply with the following regulations:

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(1) In any district other than office, commercial, or multifamily residential, a satellite television antenna shall not exceed thirty-six (36) inches in diameter.

(2) A ground-mounted satellite television antenna shall not exceed twenty (20) feet in height including any platform or structure upon which said antenna is mounted or affixed. All non-ground-mounted satellite television antennae shall not exceed eighteen (18) feet in height.

(3) If usable satellite signals cannot be obtained from an antenna installed in compliance with the height limitation imposed by (2) above, such satellite television antennae may be installed at a greater height, provided that said greater height is approved by the Zoning Administrator. Such approval shall be granted only upon a showing by the applicant that installation at a height greater is necessary for the reception of usable communication signals. Under no circumstances shall said antennae exceed the height of the elevation of the ridge line of the principal structure.

(4) Except in office, commercial, or multifamily residential districts, satellite television antennae shall be screened to reduce visual impact from surrounding properties at street level and from public streets.

(5) All satellite television antennae shall meet all manufacturers' specifications, be located on non-combustible and corrosion-resistant material, and be erected in a secure, wind-resistant manner.

(6) All satellite television antennae shall be adequately grounded for protection against a direct strike of lightning pursuant to the requirements of the City Electrical Code.

Sec. 27-774. Service areas for nonresidential uses.

All service areas for nonresidential uses shall be established so as not to infringe upon any yard requirement and shall be visually screened from adjacent residential properties.

Sec. 27-775. Reserved

Sec. 27-776. Site plan preparation.

Site plans and other development plans required to be submitted under the provisions of this chapter shall be prepared only by those currently registered for such work in accordance with applicable state law; no plans for structures shall be prepared by other than a currently state-registered architect or engineer.

Sec. 27-777 through Sec. 27-278 Reserved.

Sec. 27-779. Telecommunications towers and antennas.

The following regulations shall apply to all telecommunications towers and antennas within The City of Lithonia:

(a) *Findings, purpose and intent.* The City of Lithonia finds that the number, height, design characteristics and location of telecommunications towers and antennas in the city directly affect the public health, safety and general welfare. The city finds that such structures are likely to substantially increase in number in the immediate future. The city further finds that such structures, when inappropriately located, have the potential to pose a danger to surrounding property owners and the general public and substantially detract from the beauty and aesthetic appearance of the city. The city finds that there is a substantial need

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directly related to the public health, safety and welfare to comprehensively address those concerns through the adoption of regulations. The purpose and intent of the governing authority of The City of Lithonia in enacting this section are as follows:

- (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the city;
- (2) Encourage the joint use of new and existing tower sites;
- (3) Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal;
- (4) Minimize adverse visual and aesthetic effects of towers through careful design, siting, and vegetative screening;
- (5) Avoid potential damage to adjacent properties and personal injury from tower failure and falling ice and debris through engineering, careful siting of tower structures, and other requirements;
- (6) Ensure compliance with applicable federal statutes and regulations;
- (7) Lessen traffic impacts on surrounding residential areas;
- (8) Allow new towers in residential areas only if a comparable site is not available in a nonresidential area; and
- (9) Comply with all necessary and relevant requirements of the Telecommunications Act of 1996, as amended.

(b) *Compliance required.* It shall be unlawful for any person to erect, install, construct, enlarge, move, alter or convert any telecommunications tower or antenna or cause the same to be done within The City of Lithonia except in accordance with the provisions of this section. In addition, except as otherwise specifically provided herein, all towers and antennas shall also comply with all regulations applicable to the zoning district in which said tower or antenna is located and any permits authorizing said towers or antennas.

(c) *Regulations.* The following regulations shall apply to all telecommunication towers and antennae, including those permitted by special administrative permit within a zoning district and those permitted by special land use permit:

- (1) In addition to meeting all of the development standards required by the zoning district within which the tower or antenna is proposed to be located, all telecommunications towers or antennae shall be set back as follows:
  - a. Any tower or antenna located within any zoning district where permitted by special administrative permit shall be set back from all property lines which adjoin any other zoning district boundary in which telecommunications towers or antennae are also permitted by special administrative permit a distance of one-third of the combined height of the tower and antenna or one hundred (100) feet, whichever is greater, except that where any such adjoining property is used for residential use then said telecommunications tower or antenna shall be set back from any such off-site structure in residential use, including any accessory structure designed for regular human use, a distance of one-half ( 1/2) the combined height of the tower and antenna or two hundred (200) feet, whichever is greater;
  - b. Any tower or antenna located within any zoning district where permitted by special administrative permit which adjoins any residential district shall be set back from any property line of any such adjoining residential district a distance of one-half ( 1/2) the combined height of the tower and antenna, or two hundred (200) feet, whichever is greater; and

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c. Any telecommunications tower or antenna which is approved by special land use permit by the mayor and city council to be located within any residential district shall provide setbacks as required by the mayor and city council in their grant of the special land use permit, but in no case shall the set back from any property line be less than two hundred (200) feet.

(2) Telecommunications towers and antennas shall either maintain a galvanized steel finish or, subject to any applicable standards of the Federal Aviation Administration or Federal Communications Commission, be painted a neutral color, so as to reduce visual obtrusiveness. Said requirement shall not apply to an alternative tower structure.

(3) At a tower site, the design of the buildings and related structures shall, to the maximum extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.

(4) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.

(5) Towers shall not be artificially lighted, unless required by the Federal Aviation Administration, Federal Communications Commission or other applicable authority. If lighting is required, such lighting shall be to the minimum applicable standards so as to minimize the disturbance to the surrounding views.

(6) Telecommunications towers and antennas shall be entirely enclosed by a security fence not less than six (6) feet in height. Towers shall be equipped with an appropriate anti-climbing device. This requirement shall not apply to alternative tower structures provided equivalent alternative security measures are installed.

(7) In addition to any other landscaping or buffer requirements that may apply, telecommunications towers and antennas shall be landscaped with plant material that effectively screens the tower site from adjacent uses. Existing tree growth and natural land forms on-site shall be preserved to the maximum extent possible. At a minimum, a landscaped strip ten (10) feet in width shall be provided around the perimeter of the site. Said requirement shall not apply to alternative tower structures.

(8) Telecommunications towers and antennas shall be constructed to the minimum height necessary to accomplish their required telecommunications purpose.

(9) The environmental effects of radio frequency emissions shall not serve as a basis to approve, deny or otherwise regulate a telecommunications tower or antenna to the extent said emissions comply with Federal Communications Commission regulations concerning said emissions.

(10) All decisions by the city or its officials denying a request to place, construct or modify a telecommunications tower or antenna shall be in writing and supported by a written record documenting the reasons for the denial and the evidence in support thereof. All such decisions shall be made within a reasonable time from the date a completed application is duly filed with the appropriate department. Applications in all cases where the telecommunications tower or antenna is a use which may be authorized by special administrative permit shall be made to and decided by the Zoning Administrator pursuant to all standards and requirements contained within this section, in Article V of this chapter, and any other applicable section of this chapter. Applications in all cases where the telecommunications tower or antenna is a use which may be authorized by special land use



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permit shall be made to and decided by the mayor and city council pursuant to all standards and requirements contained within this section, in Article V of this chapter, and any other applicable requirement of this chapter.

(11) Each applicant requesting a special administrative permit for a telecommunications tower or antenna shall provide to the Zoning Administrator as a part of the application for special administrative permit and each applicant requesting a special land use permit for a telecommunications tower or antenna shall provide to the Zoning Administrator as a part of the application for special land use permit an inventory of its existing towers that are either within the jurisdiction of the governing authority or within one-quarter mile of the boundaries thereof, including information regarding the location, height and design of each tower. The Zoning Administrator may share such information with other applicants applying for special administrative permits or special land use permits under the requirements of this chapter or with other organizations seeking to locate a telecommunications tower or antenna within the jurisdiction of The City of Lithonia, provided, however, that the Zoning Administrator is not, by sharing such information, in any way representing or warranting that such sites are available or suitable. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the Zoning Administrator in the case of application for a special administrative permit or the mayor and city council in the case of application for a special land use permit that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence shall be submitted at the time of application for special administrative permit or special land use permit, as the case may be, which demonstrates that no existing tower or structure can accommodate the applicant's proposed antenna and may consist of the following:

- a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs, or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

(12) The placement of additional buildings or other supporting equipment necessarily required in connection with an otherwise authorized telecommunication tower or antenna is specifically authorized.

(13) Any telecommunications antenna or tower that is not operated for a continuous period of 6 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within ninety (90) days of receipt of notice from the governing authority notifying the owner of such abandonment.

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Sec. 27-780. Temporary buildings, use and construction of.

Temporary buildings, except where herein otherwise specifically permitted, shall not be allowed in any district except temporary buildings used in conjunction with construction work or pending completion of a permanent building for a period not to exceed one (1) year. Such time period may be extended upon approval by the Zoning Administrator. Such temporary buildings shall be sited and permitted in any district upon approval of the Zoning Administrator. Such temporary buildings shall be removed when the construction has been completed.

Sec. 27-781. Temporary outdoor sales of merchandise.

Temporary outdoor sales of merchandise, including flea markets, may be authorized upon approval of a special administrative permit by the Zoning Administrator in the NS and C-1 districts pursuant to the following requirements:

- (a) Any applicant for a permit for temporary outdoor sales of merchandise shall have the written authorization of the owner of the property to use the property for temporary outdoor sales of merchandise;
- (b) No such temporary outdoor sales of merchandise shall be conducted on public property, within any public right-of-way and no display or sales area shall be located within fifty (50) feet of the street;
- (c) All applicants for a permit for such temporary outdoor sales of merchandise shall obtain a business license;
- (d) No such temporary outdoor sales of merchandise shall be approved for a time period exceeding three (3) consecutive days;
- (e) No special administrative permit for temporary outdoor sales of merchandise shall be approved for the same lot or any portion thereof for a total of more than six (6) days in any calendar year; and
- (f) Except as authorized herein by special administrative permit for temporary outdoor sales of merchandise, all other sales of merchandise shall be conducted within a permanent building which has a floor area of not less than three hundred (300) square feet and which complies with the requirements of this chapter and all other applicable parts of the Code of Ordinances of The City of Lithonia.
- (g) These uses shall be permitted only on developed lots.
- (h) No temporary buildings, shacks or tents shall be permitted in connection with this use.
- (i) All activities incident to this use shall be limited to daylight hours only.
- (j) All displays and equipment incident to this use shall be removed nightly.
- (k) No operator, employee or representative shall solicit directly to the motoring public.
- (l) As a part of the application a location map for the activity shall be provided.

Sec. 27-782. Temporary outdoor sales, seasonal.

Temporary outdoor seasonal retail sales and services, such as sale of plants, flowers, farm produce or seasonal greenery may be permitted in NS and C-1 districts, and as an accessory use to a place of worship, upon approval of a special administrative permit by the Zoning Administrator pursuant to the following requirements:

- (a) Any applicant for a special administrative permit for temporary outdoor seasonal retail sales and services shall have the written authorization of the owner of the property to use the property for temporary outdoor seasonal retail sales and services;

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- (b) No such temporary outdoor seasonal retail sales and services shall be conducted on public property or within any public right-of-way.
- (c) No such temporary outdoor seasonal retail sales and services shall be approved for a time period exceeding forty-five (45) consecutive days;
- (d) No single special administrative permit for temporary outdoor seasonal retail sales and services shall be approved for the same lot or any portion thereof for a total of more than ninety (90) days in any calendar year;
- (e) These uses shall be permitted only on lots that have adjacent to them hard surface parking with a curb cut;
- (f) No operator, employee or representative shall solicit directly to the motoring public;
- (g) As a part of the application for a special administrative permit for temporary outdoor seasonal retail sales and services, a plat of the site that indicates parking shall be provided.

**Sec. 27-783. Traffic and street improvements, curb cuts, and visibility requirements.**

The following regulations shall apply to all lots hereinafter developed:

- (a) Each building and use shall be located on a lot abutting a public street.
- (b) Where any street improvement or traffic signal improvement is required to accommodate any new development, and where such new development is classified under the Georgia Development Impact Fee Act, as amended, as a project improvement, such street improvement, traffic signal improvement or an equivalent improvement shall be made and costs of said project improvement shall be paid by the applicant seeking a development permit for such new development.
- (c) Curb cuts for driveways serving as entrances and exits to private property within any district other than an R district shall not be located within fifty (50) feet of any intersection or within forty (40) feet of another curb cut. No curb cut shall be greater than forty (40) feet in width and no closer than twenty (20) feet to any property line, except where approved by the Zoning Administrator. The determination of need for any such improvement shall be based upon traffic warrant standards utilized by the Federal Highway Administration and the Georgia Department of Transportation.
- (d) Any applicant for any development or building permit for any lot or parcel of land fronting on any roadway that is classified as a state route by the Georgia Department of Transportation shall obtain the preliminary approval of both the Zoning Administrator and the Georgia Department of Transportation prior to beginning any construction of any type.
- (e) No fence, wall, building, structure, sign, plant material, or other obstruction of any kind shall be maintained within fifteen (15) feet of the intersection of the rights-of-way lines of any two (2) streets extended, or of a street intersection with a railroad right-of-way line.

**Sec. 27-784. Trailers, parking of.**

In a residential district, no trailer, recreational vehicle, travel trailer, camper, pickup coach, motorized home, boat trailer or boat shall be permitted to be parked in front of the principal structure or within twenty (20) feet of the rear lot line, unless it is parked or stored completely within an enclosed garage or roofed carport.

**Sec. 27-785. Transitional buffer zone.**

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Transitional buffer zones required by this chapter shall be established and permanently maintained as follows:

- (a) The natural topography of the land shall be preserved and natural growth shall not be disturbed except where necessary to remove dead or diseased trees and undergrowth. However, a slope easement may be cleared and graded where required to prevent soil erosion upon approval of the Zoning Administrator and such easement shall cover no more than twenty (20) percent of the required transitional buffer zone and shall be immediately replanted upon completion of easement improvements. It is the intent that such work be conducted in such a manner as to avoid disturbance of the soil within the dripline of trees within said transitional buffer zone.
- (b) When the conditions described in paragraph (a) above of this section cannot be met by reason of prior removal of or lack of trees and plant material, a landscape planting plan shall be prepared and implemented to provide the necessary visual screening. Said landscape planting plan shall consist of evergreen shrubs and trees not less than six (6) feet in height, or shrubs which will in normal growth attain a height of six (6) feet within three (3) years. Said plan shall be so designed as to result in a visual screen with sufficient density and height to form a visual barrier and to diffuse the transmission of sound.
- (c) Any grading or construction adjacent to the transitional buffer zone shall be conducted far enough away from the transitional buffer zone so as to avoid disturbance to or encroachment upon the transitional buffer zone.
- (d) Access shall be provided as required for utilities and to assure adequacy of fire protection services.

Sec. 27-786. Transportation management plans required; off-street parking requirements and limitations.

The owner or owners or the authorized agent of the owner or owners of each office building or group of office buildings located within the boundaries of any zoning district in which total gross floor area of office space exceeds one thousand (100,000) square feet shall prepare and file with the Zoning Administrator a Transportation Management Plan (TMP). Any request for a development permit for new construction in which total gross floor area of office space exceeds one hundred thousand (100,000) square feet shall contain said TMP as a part of the application. For all existing office developments exceeding one hundred thousand (100,000) square feet of total gross floor area, said TMP shall be filed with the Zoning Administrator no later than one hundred eighty (180) days from the effective date of this chapter. Said TMP shall be filed on appropriate forms promulgated by the Zoning Administrator and is subject to review and decision by the Zoning Administrator. Each such TMP shall be designed so that in the horizon year, five (5) years from the date of original approval of said TMP, twenty-five (25) percent of peak-hour work trips to each such building or group of buildings shall be made by alternative transportation means other than single-occupancy vehicles. Each applicant shall thereafter on a five-year basis submit a new TMP and a report documenting the effectiveness of the previous TMP. Peak-hour work trips are the total number of persons arriving at the subject site between 7:00 a.m. and 9:00 a.m. on the average work day. Said alternative transportation means included in each such required TMP shall include both alternatives to driving alone and techniques that encourage the use of these alternatives. Each such plan shall be comprised of improved use of public transit in combination with any of the following elements, as follows:

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- (a) *Commute alternatives:*
  - (1) Public transit.
  - (2) Carpooling and vanpooling.
  - (3) Commuter bicycling and walking programs.
  - (4) Alternative work hours:
    - a. Staggered work hours.
    - b. Compressed work weeks.
    - c. Flexible work hours (flextime).
    - d. Telecommuting.
- (b) *Transportation demand strategies:*
  - (1) Improvements to alternative modes such as vanpooling.
  - (2) Financial incentives given to employees who use commute alternatives.
  - (3) Parking management programs.
  - (4) Commute alternatives information and marketing.
  - (5) Participation in a transportation management association.
- (c) *Parking limitations:*
  - (1) Parking spaces for any new office development within any zoning district shall not exceed three and seventy-five one hundredths (3.75) spaces per one thousand (1,000) square feet of gross floor area.
  - (2) Parking spaces for any new mixed-use development consisting of office, hotel, retail or other permissible uses, shall be based upon a shared parking formula approved by the Zoning Administrator.
  - (3) Parking lots shall be designed so as to provide the most convenient accessibility to building entrances by handicapped persons and persons arriving by vanpools and carpools.

**Sec. 27-787. Walls and fences.**

No wall or fence, other than a retaining wall, shall be more than eight (8) feet in height. No wall or fence shall be constructed in any public right-of-way except upon approval of the Zoning Administrator. No wall or fence in a front yard in a residential district shall exceed four (4) feet in height. When this chapter requires a wall or fence to be constructed, the wall or fence shall be completed prior to issuance of a certificate of occupancy for the principal structure.

**Sec. 27-788. Yard requirements.**

The following regulations shall apply relating to yard requirements:

- (a) *Average setback.* When a lot (or lots) is (are) located within a block where sixty (60) percent or more of the lots within said block have been developed, and where there are existing buildings fronting on the same street and within the same zoning district within seventy-five (75) feet of the side lot lines of such vacant lot (or lots), then set back averaging shall be required. The minimum required building set back line for said vacant lot (or lots) shall be determined by averaging the existing building setbacks of buildings within seventy-five (75) feet of the side lot lines of such vacant lot (or lots). The minimum setback for additions to existing structures may be the average of the existing setbacks.
- (b) *Double frontage lots.* Lots which adjoin a public street in the front and rear shall provide the minimum required front yard on each street.

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(c) *Corner lots.* Corner lots shall provide required front yard setbacks along all public street frontages.

(d) *Projections into yards.*

(1) Every part of a required yard shall be open to the sky and unobstructed except for the ordinary projections of sills, belt courses, cornices, eaves, chimneys, buttresses and other ornamental and architectural features, provided that these features do not project more than three (3) feet into any required yard.

(2) An open, unenclosed porch or hard-surfaced terrace, steps, stoops and similar fixtures of a building may project into a required front yard or rear yard for a distance not to exceed ten (10) feet, and into a side yard to a point not closer than 5 feet from any side lot line.

(3) Notwithstanding other provisions of this chapter, fences, walls, hedges, and driveways may be permitted in any required yard, provided that no fence, wall or hedge along the street sides of corner lots shall violate the corner visibility provisions of this chapter.

(e) *Spacing between buildings for attached buildings in the R-A5 and R-A8 districts, and for all multifamily buildings in RM-150, RM-100, RM-85, RM-75, RM-HD, and multifamily buildings authorized or permitted in O-I and C-1:*

(1) Yards shall be provided as is required within the applicable zoning district requirements.

(2) Structures which are front face to front face, back face to back face, or front face to back face shall be not less than sixty (60) feet apart. Structures which are side face to side face shall not be less than twenty (20) feet apart. Structures which are side face to front face or back face shall be not less than forty (40) feet apart.

(3) No structure shall exceed two hundred fifty (250) feet in length along any elevation.

(4) Spacing between buildings within a single site, or the width of side and rear yards for all multifamily buildings within the RM-HD, O-I and C-1 districts, shall be the greater of the district requirement or the yard required by application of the following formula:  $D = 4 + s + L/10$ , in which D is the depth of the required spacing, s is the number of stories in the building, and L is the length of the building wall.

Sec. 27-789. Interim development controls.

The following shall apply to interim development controls:

(a) *Intent.* The intent of the mayor and city council in enacting this section is to authorize and provide minimum procedures and standards for the imposition of interim development controls in situations in which the immediate temporary maintenance of the status quo or the immediate imposition of certain interim regulations is necessary for the protection of the public health, safety and welfare. The mayor and city council finds that imposition of such controls may be necessary when current code provisions relating to a particular area, district, use, building, structure, permit or procedure are found to be nonexistent or deficient due to newly recognized or changing conditions, when existing code provisions do not adequately address said deficiencies, and when study or review may determine a need for new regulations that are appropriate and necessary to address the problem(s) identified.

(b) *Minimum standards.* The mayor and city council may impose interim development controls on specific areas, districts, uses, buildings, structures, permits, or procedures. Such

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controls shall be imposed without the necessity for strict compliance with the procedural requirements otherwise required of such regulations, provided they are imposed by an ordinance that conforms to each of the following standards:

(1) A specific finding stating in detail the necessity for the rapid imposition of interim development controls, including but not limited to identification of the harm, risks or hazards to the public health, safety and welfare that would occur in the absence of such controls;

(2) A specific plan mandating study, review, and/or drafting of new regulations to resolve the problem(s) identified;

(3) A provision setting forth with specificity the interim regulatory controls that will be put in place consistent with the intent of this section; and

(4) A provision specifying the period of time during which the interim regulatory controls will be in effect and demonstrating the necessity for said time frame. No interim development control ordinance shall be in place for a period of time exceeding one hundred eighty (180) days, provided that said ordinance may be extended by resolution for an additional period of time not exceeding ninety (90) days when said extension is necessary to resolve the problems identified.

Sec. 27-790. Cross-district use of land and structures prohibited.

Off-street parking, driveways or any other building, structure or use of land, including any accessory use or structure, shall be permitted only on land in which the zoning district classification authorizes the principal use to which the parking or driveway or other building, structure or use of land, including any accessory use or structure, is accessory.

Sec. 27-791. Shelters for homeless persons and transitional housing facilities.

No shelter for homeless persons and no transitional housing facility shall be designed to exceed a capacity of twenty (20) persons.

Sec. 27-792. Personal care homes.

No family, group or registered personal care home shall be operated within one thousand (1,000) feet of any other family, group or registered personal care home. The one thousand-foot distance is measured by the straight line which is the shortest distance between the property lines of the two (2) tracts of land on which each personal care home is located.

Sec. 27-793. Condominiums.

The following rules and regulations shall apply to any application for a zoning permit to allow the development of a condominium with four (4) or more residential units:

(a) The condominium shall be developed to include condominium instruments that include provisions providing the following:

(1) A limit to the total number of residential units occupied by non-owners via lease to a maximum of thirty (30) percent of the total number of residential units and an express definition of the term "lease" as the regular occupancy of a unit by any person other than the owner, for which the owner receives any consideration or benefit including, but not limited to, a fee, service, gratuity or emolument;

(2) A requirement that all leases of residential units be in writing in a form approved by the condominium association and include provisions providing the

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following: (1) a requirement that non-owner residents abide by the covenants, bylaws, and rules and regulations adopted pursuant thereto; (2) an acknowledgement that non-owner residents agree to be personally obligated for the payment of all assessments and other charges against the owner, which become due during the term of the lease or become due as a consequence of the non-owner resident's activities; (3) an acknowledgement that a non-resident owner who is delinquent in the payment of assessments or other fees consents to the assignment of any rent due from his or her tenant during the period of delinquency and the non-owner resident shall pay same to the condominium association as requested by the condominium association;

(3) A requirement that non-resident owners and/or non-owner residents of residential units submit copies of their leases to the condominium association, and report the names of all non-owner residents to the condominium association; and

(4) A statement that the condominium association shall provide documents and/or information to the city to comply with any requests made by the city pursuant to section 27-793(2) of Article IX of Chapter 27 of the City of Lithonia Code.

(b) To ensure that the zoning requirements of section 27-793(a) above are met, upon the request of the city, condominium associations shall provide the following documents and/or information to the city's planning director:

(1) A copy of the condominium instruments evidencing the inclusion of the above listed requirements;

(2) A copy of the financial records, including but not limited to the operating budget;

(3) A copy of the leases submitted to the condominium association by individual owners evidencing the inclusion of the above listed requirements;

(4) A list of the units that are being leased and the names of the corresponding non-owner residents; and

(5) The city may require compliance with additional conditions to include but not be limited to the installation of separate and independent metering of water, gas, electricity, heat, and air conditioning services to each individual unit within the condominium and the installation of devices to allow the termination of the delivery of those services to an individual unit within the condominium, without disturbing the delivery of those services to any other unit within the condominium.

(c) Violations of this section are continuous with respect to time; therefore, each day the violation continues is a separate offense. Violations of this section shall be governed by the general penalty provisions of this Code, including section 1-10.

#### Sec 27- 794 Conditional Uses

In the Core, Downtown and Edge Districts, Conditional Uses are those that are permitted if they meet specified conditions as listed in this article. Conditional uses are subject to an administrative approval process.

1. Some land uses are considered generally appropriate in their respective zoning districts; however, controls and safeguards are necessary to ensure their compatibility with permitted principal uses. The conditional use permit procedure is intended to allow consideration of the impact of the proposed conditional use on surrounding



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- property, and the application of controls and safeguards to assure that the conditional use will be compatible with its surroundings.
2. A conditional use must comply with the area, height and placement requirements for the zoning district in which it is located. In addition, any specific requirements pertaining to the use listed in this article must also be met.
  3. An application for a conditional use shall be filed with the Zoning Administrator on a form provided for that purpose. The application shall be accompanied by a filing fee, as established by the city council.
  4. A site plan shall be submitted with the application, showing the proposed location of all existing and proposed buildings and structures on the site, access points, drainage, vehicular and pedestrian circulation patterns, parking areas, and the specific location of the use or uses to be made of the development, together with other information necessary to comply with the standards for a conditional use listed in this article and in other pertinent sections of this ordinance.
  5. In granting a conditional use, the Zoning Administrator shall make the following findings:
    - a. the conditional use will preserve the value, spirit, character and integrity of the surrounding area;
    - b. the conditional use fulfills all other requirements of this article pertaining to the conditional use in question;
    - c. granting the conditional use permit will not be harmful to the public health, safety, convenience and comfort; and
    - d. sufficient setbacks, lot area, buffers or other safeguards are being provided to meet the above standards.
  6. In granting a conditional use, the zoning administrator may impose conditions necessary to ensure that the conditional use meets the requirements of this ordinance and the public health, safety and welfare are protected. The decision of the zoning administrator, including any conditions imposed upon an approved conditional use, may be appealed to the City Council. Conditional use specific standards for individual conditional uses, as listed in the following sections, shall be met.

Sec. 27- 795 Child day care centers, commercial preschools and nurseries located in the Core, Downtown or Edge districts shall be subject to the following requirements:

1. Each child day care facility shall provide not less than 30 square feet of indoor play area for each child, based on maximum permissible enrollment.
2. Each child day care facility shall provide not less than 100 square feet of outdoor play area for each child, based on maximum permissible enrollment.
3. All required outdoor play areas shall be enclosed by a fence or wall not less than four feet in height.
4. Each child day care facility shall provide off-street parking spaces as required by the applicable zoning district and an adequate turnaround on the site.
5. Not more than 50 percent of the floor area of a residence may be used for a child day care facility.
6. The exterior appearance of any residential structure for which a conditional use administrative permit for a child day care facility is approved by the city manager or his designee shall be maintained as a residential structure, and no signs other than

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those otherwise authorized within the applicable zoning district shall be erected, and no cut-outs, animals characters, or other graphics shall be affixed to the exterior of the structure or displayed upon the premises.

7. No child day care facility shall be located within 1,500 feet of another child day care facility.
8. No child day care facility may be established and operated in the city until a permit to do so has been obtained in accordance with the procedures set forth in this subsection.
9. Permit application.
  - a. Persons seeking to operate a child day care facility in the city must file a permit application with the Zoning Administrator. Each application shall also be accompanied by the applicant's affidavit certifying the maximum number of children that will be served simultaneously and that the proposed child care facility will meet and be operated in accordance with all applicable state laws and regulations and with all ordinances and regulations of the city. The Zoning Administrator may require clarification or additional information from the applicant that is deemed necessary by the city to determine whether the proposed service will meet applicable laws, ordinances and regulations.
  - b. Notwithstanding the above provisions, if a proposed child care facility is subject to the requirement that the applicant obtain a certificate of registration from the state department of human resources, and even though the application may have been approved under the provisions of this section, a permit for the operation of such facility shall not be issued until proof has been submitted by the applicant that the certificate of registration has been obtained.

**Sec. 27-796 Pawn shops**

1. The following provisions apply to pawn shops whether designed as a primary use or as a part of a shopping center located in the Core, Downtown or Edge districts:
  - a. This use shall be permitted only on a parcel of land which has direct access to a major thoroughfare.
  - b. This use shall not be permitted within 1,500 feet of an existing pawn shop or check cashing establishment.
  - c. All pawn businesses shall close their establishments and cease transacting business no later than 7:00 p.m. each day and begin their operation and commence transacting business at no time before 9:00 a.m. each day.
  - d. Pawn shops shall be located in strict compliance with the city's zoning ordinance and at a location with an identifiable street address, which shall be stated on the application along with other required information; and no business under this article shall change its address without obtaining approval from the city manager and police chief. No business under this article shall be operated in or from a motel or hotel.
  - e. Separate business establishment. No business under this article shall be designed or operated so as to allow access to said business immediately from any other business without first exiting the other business into a common or open area to which the public at large has access.
  - f. The front entrance of all pawn businesses shall be clearly visible from a public street.

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- g. Prohibited activities.
- h. No pawn business shall permit on its premises any slot machines, pinball machines, video games, electronic games of any kind or character for use by the public, or any coin-operated machines operated for amusement purposes.
- i. No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon the doors of any pawnbroker's store. Each such pawn shop shall be so lighted that the interior of the store is visible day and night.
- j. All pawnbrokers shall, in addition to other records, keep books wherein shall be entered in permanent ink an accurate description of all property received by or pledged or sold to them. Such description shall include the brand name of the article, any identifying mark, manufacturers, identification, serial numbers, any numbers, any initials, social security number or name of any person or company, and a statement of the kind of material of which it is made. In such books there shall be entered also the name, age, address, signature and identification number from a driver's license and social security number of the person by whom same was delivered, deposited, or sold, the name of the broker, agent or employee receiving the item, the date and time when such transaction occurred, the price paid for the goods purchased and the check number issued if applicable. There shall be attached at all times to each item of personal property pawned or purchased by the pawn business an identification tag bearing a number corresponding to the number on the pawn or purchase tickets and book entry required herein. These entries shall be made simultaneously with the transaction. A permanent bound set of the pawn ticket shall constitute the book required by this article. All books and records required by this article and articles pledged or sold hereunder shall at all times be subject to inspection and examination by any law enforcement officer of the City of Lithonia, DeKalb County Police Department, any incorporated municipality in DeKalb County, or the State of Georgia. Any person engaged in any business under this article who shall fail or refuse to keep the records as provided in this article, or who shall make false entries concerning the transaction, or who shall fail or refuse to permit an inspection by any said law enforcement officer of said records and of the property pledged with or sold to him shall be guilty of a violation of this article and the business's bond shall be forfeited to the city and the approval to operate the business shall be revoked.
- k. The record of such pawn or purchase transaction regulated by this article shall be maintained for a period of not less than four years from date of transaction.
- l. All pawn shops shall use a standard form for pawn and a standard form for purchase; and no ticket may be used for a dual purpose. The design of this form shall be approved by the Lithonia Police Department and the forms shall be numbered and chronologically used and sent to the Lithonia Police Department as required in this article. Each number missing from the chronological sequence shall be considered a separate violation of this article.
- m. All pawn shops shall make a daily report in writing to the Lithonia Police Department of all property pledged or purchased during the 24-hour period ending at 7:00 p.m. on the date of the report. Such reports shall be legibly written

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or typed in English and shall show the name and address of the business; time of transaction; serial number of the pawn or purchase tickets; amount paid or advanced; full description of articles, including kind, style material, color, design, kind and number of stones in jewelry and all identifying names, marks, numbers, initials, or social security numbers; and a description of the person selling or pawning said item including name, address, race, weight, height, hair color, driver's license number, and social security number.

- n. All pawn shops, when receiving in pawn or in purchasing goods, shall require a driver's license or military I.D. card containing a picture showing positive identification of the person who is pawning, selling, or bartering, and shall verify the identification.
- o. All pawn shops shall require every person from whom it accepts goods on pawn or purchase to place the fingerprint of his right index finger (if right index finger is missing, the next finger in line will be used) in ink on the front of the copy of the pawn or purchase ticket which is to be sent to the Lithonia Police Department.
- p. All pawn shops shall require every person from whom it accepts goods on pawn or purchase to submit to his photograph being taken by the employee who handles the transaction. The photograph shall be of the face, shall be four inches by five inches in size, and shall be delivered to the Lithonia Police Department with the pawn or purchase ticket.
- q. Purchased articles not to be disposed of for 30 days after acquisition.
- r. All pawn shops shall hold, on the premises designated in the application for doing business, every purchase required to be listed in its records for at least 30 days before disposing of same by sale, transfer, or shipment. The provisions of this section shall not apply to purchases from licensed wholesalers in the normal course of business.
- s. Pawned articles not to be disposed of for 30 days after acquisition.
- t. All pawn shops shall hold such goods for at least 30 days unless redeemed by the owner or on authority of the owner before disposing of same by sale, transfer, shipment or otherwise.
- u. For a period of 30 days from the date of purchase and 30 days from the date of pledge (unless redeemed by or with authority of the person who pledged the goods), all goods purchased or pawned and required to be listed in the records shall be kept on the premises designated in the application for doing business. Every item required to be kept on the premises hereunder shall have attached to it either a copy of the standard ticket form required in this article or the number of said form. Any person desiring to examine any merchandise shall first obtain a copy of a police department incident or stolen property report. Upon presentation of a copy of such report to any dealer or employee and upon giving in writing to such a dealer or employee a full description of the stolen items sought, including all identifying characteristics, his name, address, signature, identification, and incident or stolen property report number and issuing department, such individual shall be allowed to examine any merchandise of the type described on the premises. Such written information shall be kept in sequential, dated order in a permanent file or book. This record shall be kept in addition to all other records required herein.

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- v. Any item required to be kept or displayed under the provisions of the sections above shall be so kept in their original form as they existed when first purchased; and their physical characteristics shall not be altered in any material or immaterial manner.
- w. Erasures, obliterations, write-overs, or type overs are not allowed.
- x. No person with an interest in a business or any employee shall erase, obliterate, typeover, write-over, or in any way cause the original entry on the records required hereunder to become illegible. All pawn or purchase tickets filled out in error shall be sent to the Lithonia Police Department in their numbered order along with daily reports and shall have the word "void" typed or written across the front, but such entry shall not be used to cause the original entry to be illegible. If an error is made, and the ticket is still to be used, then a single line shall be drawn through the incorrect entry. This line shall not cause the original entry to be illegible, and the correct information entry shall be made on the next available area.
- y. It shall be unlawful for any person to receive in pawn or in purchase any goods of any character or of any description from any person who has not attained the age of 21 years.
- z. It shall be a violation of ordinances of the city for any agent, officer, or employee to receive in pawn or in purchase any good from the person without properly checking the identification of any person who is pawning or selling, which failure results in an underage person being allowed to pawn or sell any property. An underage person shall be a person under the age of 21 years.
- aa. For the purposes of this article, the term "identification" shall mean any document issued by any governmental agency containing a description of the person so identified, such person's photograph, and such person's date of birth. As used herein, the term "identification" shall include a passport, a military identification card, a driver's license, or a state department of public safety identification card.
- bb. Any person violating the provisions of this section shall be deemed guilty of a misdemeanor offense and upon conviction thereof shall be assessed a fine of up to \$1,000.00 for each offense.
- cc. Notwithstanding any criminal prosecution which may result from a violation of this section, and notwithstanding the results or outcome of any criminal prosecution for violation of this section, any pawn business which employs any officer, agent, or employee who fails to comply with the provisions with (a) above, which failure results in an underage person being allowed to pawn or sell any property, shall have its approval to conduct a pawn business in the City of Lithonia revoked.
- dd. Business transactions conducted outside the building normally used for business transaction, parking lots or rear lot area, etc.
- ee. No business transactions shall be conducted outside the building designated as the normal place to conduct transactions. "Business transaction" means any aspect of business, including inspection or appraisal of any goods when it is possible for such goods to be taken inside the building where transactions normally are made ("possible" being here used in the broadest sense); and no person other than those possessing an employee permit or having an interest in the business as defined in

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this article shall be allowed to conduct any form of business transaction either inside the establishment or on any part of outside land area covered under address of the application.

- ff. Articles that have had serial numbers removed or altered or obliterated or have no serial number shall not be accepted.
- gg. No pawn shops shall accept any articles which have had the serial number altered, obliterated, or removed from such article or which the person who is making the business transaction knows should have a serial number upon it, unless such person immediately notifies the police department and obtains the approval of a city police officer, after giving the police officer opportunity to inspect the article and interview the customer.
- hh. No article will be accepted unless the recording provisions of this article are followed.
- ii. No pawn shops under this article shall take any item in pawn or purchase, taking full or possession title thereto, without entering each transaction of such goods on its books.
- jj. It shall be unlawful for any person or business under this article to purchase precious metals in a melted, smelted, or nonformed state, or to melt, smelt, or cause to be placed in a nonformed state any precious metals taken to pawn or purchase.
- kk. Every business under this article and every employee and agent of the business shall immediately upon request turn over to the Lithonia Police Department every item believed by the police department to be a stolen item. The police department shall furnish a property receipt, including a case number of recovery, to the dealer surrendering such items. Said item shall be returned to the business only after it has been determined that such item is not stolen. If it is determined that such item is stolen, it shall be returned to its lawful owner.

Sec. 27-797 Restaurants outdoor seating area located in the Core, Downtown or Edge districts.

Outdoor dining areas shall be permitted on a public or private sidewalk area where adjacent to and directly abutting a restaurant located in a building. However, the outdoor dining area shall not reduce the clear zone of a public sidewalk to a width of less than five feet. Tables, chairs, umbrellas, and similar items shall be stored in the interior of the restaurant or in similar enclosed area so that a minimum clear zone of ten feet is unobstructed when the outdoor dining area is not in use because of inclement weather or when the restaurant is closed.

Sec. 27- 798 Accessory uses and structures in the Core, Downtown and Edge Districts

The following are the accessory uses of land and structures which are authorized in the Core, Downtown and Edge Districts:

1. Accessory commercial uses, subject to the following requirements:

- a) Such use shall be limited to uses which are permissible within the applicable zoning district;
- b) All accessory commercial uses shall be located within the interior of the Core, Downtown and Edge districts and shall not be visible from any public street outside the

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boundaries of these districts or from any dwelling located outside the boundaries of these districts district;

- c) Accessory commercial use shall not exceed 25 percent of the gross residential floor space of the total development;
- d) Within multifamily development, accessory commercial use may be located in freestanding buildings or in the ground floor level of multifamily dwellings;
- e) All accessory commercial space shall be concentrated within a designated area within any Core, Downtown and Edge district; and
- f) Accessory commercial space shall be constructed concurrently with or after the construction of the dwelling units to which it is accessory, and no certificate of occupancy for such accessory commercial space shall be issued until certificates of occupancy have been issued for at least 50 percent of the dwelling units to be constructed within said development.

2. Accessory uses and structures incidental to any authorized use.

Sec. 27-799. Group homes in the Downtown district.

1. Group homes, as classified herein, may be allowed in the Downtown district, hereinafter designated, only upon the granting of an administrative conditional use approval upon compliance with the standards hereinafter provided. All personal care homes shall comply with the following standards:

- a. All group personal care homes must provide at least the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by city ordinances, or that amount required by the State of Georgia for the licensing of personal care homes, whichever is greater;
- b. Comply with the "Rules and Regulations for Personal Care Homes" Chapter 290-5-35 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof and,
- c. Licensed by the Georgia Department of Human Resources as a personal care home.

2. Any nursing home and assisted living facilities shall comply with the following standards:

- a. All nursing homes must provide at least the minimum square footage of bedroom personal space, personal closet space and bathrooms, as required by city ordinances or that amount required by the State of Georgia for the licensing of intermediate care homes, whichever is greater;
- b. Comply with The "Rules and Regulations of Nursing Homes," Chapter 290-5-8 as promulgated by the Georgia Department of Human Resources, and as hereafter amended, and the same is hereby adopted and made a part hereof;
- c. Nursing homes shall be allowed Core, Downtown and Edge zoning districts; and
- d. Licensed by the Georgia Department of Human Resources as a nursing home.

3. The required separations between uses established above shall be measured in a straight line from the nearest lot line of such a use to the nearest lot line of the property occupied by or proposed to be occupied by, any other such use.

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Sec. 27-800. Animal Clinic/Hospital in the Downtown and Edge districts.  
Animal Clinics and Hospitals are permitted in the Downtown and Edge districts provided that no outdoor storage of animals is provided. All animal storage must be enclosed.

Section 27-801. Other Conditional Uses in the Core, Downtown and Edge zoning districts.

1. Repair of consumer goods, electronics, household items, clothing and footwear is permitted in the Core, Downtown, and Edge Districts. All such consumer repair stores are prohibited from using outdoor storage.
2. Greenhouses and nurseries are permitted in the Downtown and Edge districts, however the enclosed store size is limited to 8,000 square feet of space.
3. Telecommunications towers are permitted in the Core, Downtown, and Edge districts provided that they co-locate on an existing tower or are affixed to a building to preserve the historic character of the downtown.

Secs. 27-802 –27-820. Reserved.



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**ARTICLE V. ADMINISTRATION**

**Division 1. Official Zoning Map, Text, and Comprehensive Plan Land Use Map Amendments**

Sec. 27-821. Initiation of amendments.

The text of this chapter and the official zoning map, and the comprehensive plan land use maps may be amended by the mayor and city council pursuant to a proposed ordinance introduced by one (1) or more members of the mayor and city council. In addition, amendments to the official zoning map and the comprehensive plan land use maps may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s) or by the City of Lithonia staff. Before enacting any amendment to this chapter or the official zoning map, or the comprehensive plan land use maps the mayor and city council shall provide for the public notice and public hearings required by this chapter.

Sec. 27-826. Filing of applications; amendments of filed applications.

(a) All applications for amendments to the comprehensive plan land use maps and the official zoning map shall be filed with the Zoning Administrator on forms provided by the Zoning Administrator. No application shall be considered an authorized application unless complete in all respects. No application shall be amended later than the required deadline for advertising in the legal organ of the city prior to the scheduled hearing before the mayor and city council. There shall be no refund of application fees after the Zoning Administrator has accepted an application.

Sec. 27-827. Types of applications.

Applicants seeking amendment to the official zoning map may request to change their property from one zoning district classification to another zoning district classification with no further conditions proposed, or may include the following proposed conditions as a part of their application:

- (a) Written conditions; or
- (b) Site plan(s), architectural rendering(s), elevation(s), photograph(s), or other graphic representation(s) of proposed conditions; or
- (c) Any combination of (a) and (b) above.
- (d) Any site plan filed as a proposed condition of a zoning amendment shall be prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia.

Sec. 27-828. Amendments to official zoning map; application forms.

Each applicant seeking an amendment to the official zoning map shall complete all questions and requested materials contained within the required application form and shall provide the following information:

- (a) Survey plat of subject property, prepared and sealed within the last ten (10) years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

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(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for zoning amendment.

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for zoning amendment, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for zoning amendment. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property.

(d) Written legal description of property.

(e) Statement of current zoning classification of property and classification which applicant is seeking in the official zoning map amendment.

(f) A written, documented, detailed analysis of the impact of the proposed zoning map amendment with respect to each of the standards and factors specified in section 27-832.

Sec. 27-830. Application fees.

The application fees for amendments to the official zoning map shall be as established by the mayor and city council.

Sec. 27-831. Initiation of ordinance for amendment.

Upon receipt of a complete application for an amendment to the official zoning map the Zoning Administrator shall prepare a proposed ordinance to change the subject property from its existing zoning district classification to the zoning district classification for which the application is filed. Said proposed ordinance shall be referred to the mayor and city council for public hearing pursuant to the requirements of this chapter and presented to the mayor and city council for decision at their next scheduled zoning meeting agenda.

Sec. 27-832. Standards and factors governing review of proposed amendments to official zoning map.

The following standards and factors are found to be relevant to the exercise of the city's zoning powers and shall govern the review of all proposed amendments to the official zoning map:

(a) Whether the zoning proposal is in conformity with the policy and intent of the *comprehensive plan*.

(b) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby properties.

(c) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.

(d) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.

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- (e) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- (f) 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.
- (g) Whether the zoning proposal will adversely affect historic buildings, sites, districts, or archaeological resources.
- (h) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.

**Sec. 27-833. Conditions.**

Conditions may be requested by an applicant, recommended by the Zoning Administrator or Planning and Zoning Commission and imposed by the Mayor and City Council, as a part of any proposed change to the official zoning map, in accordance with the following requirements:

- (a) Conditions may be imposed so as to ameliorate the effect(s) of the proposed developmental change for the protection or benefit of neighboring persons or properties consistent with the purpose and intent of the district(s) involved, and the goals and objectives of the *comprehensive plan* and state law. No condition shall be imposed which reduces the requirements of the district(s) involved. All conditions shall be of sufficient specificity to allow lawful and consistent application and enforcement. All conditions shall be supported by a record that evidences the relationship between the condition and the impact of the developmental change. No condition in the form of a development exaction for other than a project improvement shall be imposed within the meaning of the Georgia Development Impact Fee Act, as amended.
- (b) Once imposed, conditions shall become an integral part of the approved amendment and shall be enforced as such. Changes to approved conditions shall be authorized only pursuant to section 27-845 of this chapter.

**Sec. 27-834. Analysis, findings of fact, and recommendation on applications to amend the official zoning map and text; time limit regarding amendments.**

The Zoning Administrator shall conduct a site inspection on all applications for zoning map amendments and shall investigate and prepare an analysis of each proposed ordinance to amend the text of this chapter and each proposed ordinance to amend the official zoning map. The findings and recommendations of the Zoning Administrator shall be made based on each of the standards and factors contained in section 27-832. In any recommendation of approval of any application for an amendment, the Zoning Administrator may recommend the imposition of conditions in accordance with section 27-833. The Zoning Administrator shall present his findings and recommendations in written form to the Planning and Zoning Commission and the Mayor and City Council. Copies of the written findings and recommendations of the Zoning Administrator shall be reasonably made available to the public.

**Sec. 27-836. Notice of applications filed.**

The Zoning Administrator shall, no later than twenty-one (21) days following each closing date for receipt of applications, provide to the mayor and city council a list of all applications

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and amendments filed. The listing of applications shall be reasonably made available to the public.

Sec. 27-838. Notice of public hearings.

(a) For any zoning decision initiated by the city, at least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing before the mayor and city council, the city shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.

(b) For any zoning decision initiated by a party other than the city, notice of the public hearing shall be provided as follows:

(1) Written notice of the proposed zoning decision shall be mailed by via first class mail by the Zoning Administrator to all property owners within two hundred fifty (250) feet of the boundaries of the subject property, as such property owners are listed on the tax records of the City, at least fifteen (15) days before and not more than forty-five (45) days prior to the date of the public hearing before the mayor and city council, which states the nature of the proposed change, and the date, time, and place of the public hearing before the mayor and city council; and

(2) The Zoning Administrator must post signs within the public right-of-way in front of or on the subject property at least fifteen (15) days before the hearing before the mayor and city council and not more than forty-five (45) days prior to the date of the public hearing before the mayor and city council.

(A) At least one (1) sign shall be posted on each street on which the subject property has frontage. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage.

(B) Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street to allow the signs to be read by the traveling public in both directions. All signs shall be no smaller than six (6) square feet with lettering on the signs at least two (2) inches in size.

(C) The sign shall state the nature of the proposed zoning decision and the date, time and place of the public hearing before the mayor and city council. The Zoning Administrator shall sign an affidavit attesting to the posting of signs in accordance with the requirements herein, and shall photograph each sign as evidence of its proper posting.

(3) The city shall cause a notice of the public hearing regarding the proposed zoning decision to be published in a newspaper of general circulation within the city at least fifteen (15) days and not more than forty-five (45) days prior to the public hearing before the mayor and city council. The notice shall include the date, time and place of the hearing before the Mayor and City Council, the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

Sec. 27-840. Hearing Procedures of Legislative Bodies.

The governing, calling, and conducting of hearings shall be accomplished in accordance with the following policies and procedures:

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- (1) If any person desires a stenographic record of the proceedings, such person shall make arrangement for and bear the cost of such.
- (2) The Presiding Officer of the Hearing Body shall indicate that a public hearing has been called for the consideration of zoning decisions. Thereupon the Hearing Body shall consider each application on an individual basis.
- (3) Before comments and concerns of the public have been heard, the Hearing Body may thereupon request a report from officers or agents of the City.
- (4) The Presiding Officer shall allow the applicant to make a presentation, not to exceed 10 minutes. The Presiding Officer shall then allow additional persons who appear in support of or those in opposition to the Petition to speak. The mayor and council may adopt policies to limit this time as is appropriate for the orderly conduct of business. If it appears that the number of persons wishing to appear in support of or in opposition to the Petition are in excess of that which may reasonably be heard, the Presiding Officer may request that a spokesperson for the group(s) be chosen so that the entire presentation of the positions of those in support of or in opposition to the Petition shall not exceed ten (10) minutes per side.
- (5) The applicant for the Zoning Amendment shall be allowed a short opportunity for rebuttal and final comment, the length of which shall not exceed ten (10) minutes.
- (6) After the above procedures have been completed, the Presiding Officer will indicate that the public hearing is formally closed.
- (7) The body may either vote upon the proposed change or may delay their vote to a subsequent meeting.

Sec. 27-841. Action by the mayor and city council.

(a) Following review and recommendation from the Zoning Administrator and from the Planning and Zoning Commission, the Mayor and City Council, after conducting a public hearing with public notice as is required by this chapter, shall vote to approve the proposed ordinance, approve the proposed ordinance with conditions, deny the proposed ordinance, defer the proposed ordinance, or, upon request of the applicant, permit withdrawal of the proposed ordinance without prejudice. No proposed ordinance to amend the text of this chapter and no proposed ordinance to amend the official zoning map shall be approved except by the majority vote of the members of the Mayor and City Council. In the approval of any proposed ordinance to amend the official zoning map, the Mayor and City Council may impose conditions in accordance with section 27-833. For each proposed ordinance to amend the official zoning map, the analysis submitted by the applicant, if any, the record prepared by the Zoning Administrator, and the recommendation of the Planning and Zoning Commission shall be presented in written form to and reviewed by each member of the Mayor and City Council. A limited supply of said findings shall be available at the public hearing and available upon request to the public. All decisions of the Mayor and City Council relating to each proposed ordinance to amend the text of this chapter and each proposed ordinance to amend the official zoning map shall be made based on each of the standards and factors contained in section 27-832. Any proposed amendment or any proposed substitute ordinance considered by the Mayor and City Council shall be presented in written form prior to being voted on by the Mayor and City Council. Except in the case of an application to amend the Official Zoning Map, Zoning Ordinance or Comprehensive Plan that is initiated by the City Council, written notification of the action taken by the City Council shall be

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mailed within ten (10) days following action of the City Council to the applicant and property owner, if different.

(b) An aggrieved party shall have the right to appeal de novo within thirty (30) days of the date of the service of the decision of the City Council to the Superior Court of DeKalb County.

Sec. 27-842. Withdrawal of application by applicant; filing of ordinances by mayor and city council.

Applications shall not be withdrawn prior to the meeting of the Mayor and City Council after they have been filed for advertising for public hearing. Application fees shall be forfeited in any case where the Mayor and City Council permits the withdrawal of an application.

Sec. 27-843. City Clerk to provide signed copy of ordinance to Zoning Administrator for modification of zoning maps.

The city clerk shall, within ten (10) days from action of the mayor and city council on each proposed ordinance to amend the text of this chapter and each proposed ordinance to amend the official zoning map, provide to the Zoning Administrator a signed and certified copy of each such ordinance. The Zoning Administrator shall thereafter cause the official zoning map to be changed in accordance with any such approved ordinance.

Sec. 27-844. Successive applications.

An application for an amendment to the official zoning map affecting all or a portion of the same property shall not be submitted more than once every twelve (12) months measured from the date of final decision by the Mayor and City Council. The Mayor and City Council may waive or reduce this twelve-month time interval by resolution, provided that if the application to amend the official zoning map was denied by the Mayor and City Council, the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months. This twelve-month time interval shall not apply to amendments initiated by the Mayor and City Council, provided that if such a proposed amendment to the official zoning map was denied by the Mayor and City Council, the time interval between the date of said denial and any subsequent application or amendment shall be no less than six (6) months.

Sec. 27-845. Modifications and changes to conditional zoning amendments.

The Zoning Administrator shall have sole authority to approve minor changes to conditions attached to an approved zoning amendment. Minor changes are those that implement only slight alterations to the approved conditions, made necessary by actual field conditions at the time of development, that do not alter the impact of the development on nearby properties nor the intent or integrity of the conditions as originally imposed. Any request for minor change of conditions shall be made in written form to the Zoning Administrator. If an approved site plan exists, the request for minor change shall be accompanied by four copies of the revised site plan. Any major change to conditions attached to an approved zoning amendment shall require an application and hearing before the Planning and Zoning Commission and the Mayor and City Council as is required in this Article V, Division 1 for amendments to the official zoning map generally. Without limiting the meaning of the

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phrase, the following shall be deemed to constitute "major change" for purposes of interpreting this section:

- (a) The movement of any building or structure adjacent to an exterior boundary line, closer to the boundary line of the property;
- (b) Any increase in the number of dwelling units or any increase in the total amount of floor space of any nonresidential building;
- (c) Any decrease in the minimum size of residential units imposed in the original conditional zoning amendment;
- (d) Any change in any buffer requirement(s) imposed in the original conditional zoning amendment;
- (e) Any increase in the height of any building or structure; or
- (f) Any change in the proportion of floor space devoted to different authorized uses.

Secs. 27-846--27-860. Reserved.

**DIVISION 2. SPECIAL LAND USE PERMITS**

Sec. 27-861. Special land use permits generally.

A special land use permit is a means by which the mayor and city council gives special consideration, pursuant to a clear set of standards and criteria, to those types of uses which may or may not be compatible with uses and structures authorized as of right within a particular zoning district. Special land use permits are required for uses that have operational characteristics and/or impacts that are significantly different from the zoning district's principal authorized uses and therefore require individual review pursuant to the standards and criteria set forth in this division and chapter. Special land use permit applications shall be authorized only for those uses specifically listed in the applicable zoning district regulations as permitted by special land use permit. An applicant desiring to apply for a special land use permit authorized within a district contained within this chapter shall file an application with the Zoning Administrator in accordance with this division. The mayor and city council shall determine whether the proposed use, in the particular location contemplated, meets the standards and criteria set forth in this division and chapter. Such uses may further require, and the mayor and city council shall be authorized to impose, special conditions in order to assure their compatibility with surrounding uses and to minimize adverse impacts of the use on surrounding property.

Sec. 27-862. Initiation of applications.

Special land use permit applications may be initiated upon application by the owner(s) of the subject property or the authorized agent of the owner(s). Before deciding on any special land use permit pursuant to the requirements set forth in this division and chapter, the mayor and city council shall provide for public notice and a public hearing thereon as is required by this division.

Sec. 27-863. Application forms; filing of applications; plans required.

Applications for special land use permits shall be made on forms published and provided by and shall be filed with the Zoning Administrator. Each applicant shall complete all questions

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and requested materials contained within the required application form and shall provide all of the following information:

(a) Survey plat of subject property, prepared within the last ten (10) years by a professional engineer, landscape architect or land surveyor registered in the State of Georgia. Said survey plat shall:

(1) Indicate the complete boundaries of the subject property and all buildings and structures existing thereon;

(2) Include a notation as to whether or not any portion of the subject property is within the boundaries of the one hundred-year floodplain; and

(3) Include a notation as to the total acreage or square footage of the subject property.

(b) Name, mailing address and phone number of all owners of the property which is the subject of the application for special land use permit;

(c) Signed and notarized affidavit of all owners of the subject property authorizing the filing of the application for special land use permit, and where applicable, the signed and notarized affidavit of the owner(s) of the subject property authorizing an applicant or agent to act on their behalf in the filing of the application for special land use permit. The application also shall contain the mailing address and phone number of any applicant or agent who is authorized to represent the owner(s) of the subject property;

(d) Written legal description of property.

(e) Statement of current zoning classification of property, the proposed use of the property, and the specific reference within the applicable zoning district classification which authorizes application for said use by special land use permit.

(f) A written, documented analysis of the impact of the proposed special land use permit with respect to each of the criteria contained in section 27-873 and, where applicable to the use proposed, also the criteria contained in section 27-874.

(g) Complete and detailed site plan of the proposed use prepared, signed and sealed by an architect, landscape architect or engineer licensed in the State of Georgia, showing the following:

(1) All buildings and structures proposed to be constructed and their location on the property;

(2) Height of proposed building(s);

(3) Proposed use of each portion of each building;

(4) All driveways, parking areas, and loading areas;

(5) Location of all trash and garbage disposal facilities;

(6) Setback and buffer zones required in the district in which such use is proposed to be located;

(7) Landscaping plan for parking areas.

Sec. 27-864. Application fees.

Application fees shall be as established by ordinance by the mayor and city council.

Sec. 27-865. Analysis, findings of fact, and recommendation on each application.

Applications shall be filed on forms provided by the Zoning Administrator and shall not be considered an authorized application unless complete in all respects. The Zoning Administrator shall conduct a site inspection and shall prepare an analysis of each application



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for special land use permit and shall present its findings and recommendations in written form to the mayor and city council. No application shall be amended later than the required deadline for advertising by the legal organ of the city prior to the scheduled hearing before the mayor and city council. Zoning Administrator recommendations on each application for special land use permit shall be based on the criteria contained in section 27-873 and in addition, where applicable to the use proposed, to the criteria contained in section 27-874.

Sec. 27-866. Initiation of ordinance for application for special land use permit. upon receipt of a complete application for a special land use permit, the Zoning Administrator shall prepare a proposed ordinance to grant the proposed special land use permit and said proposed ordinance shall be referred to the mayor and city council for public hearing pursuant to the requirements of this chapter and presented at their next scheduled zoning meeting agenda.

Sec. 27-867. Notice of applications filed.

The Zoning Administrator shall provide to the mayor and city council, no later than twenty-one (21) days following the monthly closing date for receipt of applications, a list of all applications for special land use permit. The listing of applications shall be reasonably made available to the public.

Sec. 27-868. Reserved.

Sec. 27-869. Notice of public hearings.

Notice of public hearing on any proposed application for a special land use permit shall be provided as is required in section 27-838 of this chapter.

Sec. 27-870. Reserved.

Sec. 27-871. Withdrawal of application by applicant; filing of ordinances by mayor and city council. Applications may not be withdrawn after they have been filed for advertising for public hearing.

Sec. 27-872. Action by the mayor and city council.

(a) The mayor and city council, after conducting the public hearing with public notice required by this division, shall vote to approve the application, approve the application with conditions, deny the application, defer the application, or, upon request of the applicant, to permit withdrawal of the application without prejudice. The mayor and city council may impose conditions based upon the facts in a particular case in accordance with section 27-833. The decision of the mayor and city council on each application for special land use permit shall be based on a determination as to whether or not the applicant has met the criteria contained in section 27-873, the criteria contained in section 27-874 where applicable to the use proposed, and the requirements of the zoning district in which such use is proposed to be located. The mayor and city council shall specify the length of time of the duration of each such special land use permit which is approved. Written notification of the action taken by the City Council shall be mailed within ten (10) days following action of the City Council

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to the applicant and property owner, if different. The decision shall be filed in the office of the Zoning Administrator in accordance with the Zoning Ordinance.

(b) An aggrieved party shall have the right to appeal de novo within thirty (30) days of the date of the service of the decision of the City Council to the Superior Court of DeKalb County.

Sec. 27-873. Special land use permit; criteria to be applied.

The following criteria shall be applied by the Zoning Administrator and the mayor and city council in evaluating and deciding any application for a special land use permit. No application for a special land use permit shall be granted by the mayor and city council unless satisfactory provisions and arrangements have been made concerning each of the following factors, all of which are applicable to each application:

- (a) Adequacy of the size of the site for the use contemplated and whether or not adequate land area is available for the proposed use including provision of all required yards, open space, off-street parking, and all other applicable requirements of the zoning district in which the use is proposed to be located;
- (b) Compatibility of the proposed use with adjacent properties and land uses and with other properties and land uses in the district;
- (c) Adequacy of public services, public facilities, and utilities to serve the use contemplated;
- (d) Adequacy of the public street on which the use is proposed to be located and whether or not there is sufficient traffic-carrying capacity for the use proposed so as not to unduly increase traffic and create congestion in the area;
- (e) Whether or not existing land uses located along access routes to the site will be adversely affected by the character of the vehicles or the volume of traffic generated by the proposed use;
- (f) Ingress and egress to the subject property and to all proposed buildings, structures, and uses thereon, with particular reference to pedestrian and automotive safety and convenience, traffic flow and control, and access in the event of fire or other emergency;
- (g) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of noise, smoke, odor, dust, or vibration generated by the proposed use;
- (h) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the hours of operation of the proposed use;
- (i) Whether or not the proposed use will create adverse impacts upon any adjoining land use by reason of the manner of operation of the proposed use.
- (j) Whether or not the proposed plan is otherwise consistent with the requirements of the zoning district classification in which the use is proposed to be located;
- (k) Whether or not the proposed use is consistent with the policies of the *comprehensive plan*;
- (l) Whether or not the proposed plan provides for all required buffer zones and transitional buffer zones where required by the regulations of the district in which the use is proposed to be located;
- (m) Whether or not there is adequate provision of refuse and service areas;
- (n) Whether the length of time for which the special land use permit is granted should be limited in duration;

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- (o) Whether or not the size, scale and massing of proposed buildings are appropriate in relation to the size of the subject property and in relation to the size, scale and massing of adjacent and nearby lots and buildings;
- (p) Whether the proposed plan will adversely affect historic buildings, sites, districts, or archaeological resources;
- (q) Whether the proposed use satisfies the requirements contained within the supplemental regulations for such special land use permit.
- (r) Whether or not the proposed building as a result of its proposed height will create a negative shadow impact on any adjoining lot or building.

Sec. 27-874. Additional criteria for specified uses.

In addition to the criteria contained in section 27-873 above, which each applicant for special land use permit is required to meet, the following additional criteria shall apply to the uses specified below. No application for a special land use permit for the uses specified below shall be granted by the mayor and city council unless it is determined that in addition to meeting the requirements contained within the zoning district in which such property is located and the criteria contained in section 27-873 above, satisfactory provisions and arrangements have been made concerning each of the following factors:

(a) *Telecommunications towers and antennas.* In determining whether to authorize a special land use permit for a telecommunication tower or antenna, the mayor and city council shall also consider each of the following factors:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree cover and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness; and
- (7) Compliance with all requirements specified in section 27-779.

(b) *Mine, mining operation, gravel pit, quarry, or sand pit.* In determining whether to authorize a special land use permit for a mine, mining operation, gravel pit, quarry, or sand pit, the mayor and city council shall also consider each of the following factors:

(1) Whether the type and volume of traffic associated with such use will cause congestion in the streets and will create noise and vibration along streets used for residential purposes.

(2) Whether the applicant has provided a soil erosion control plan and a reuse or reclamation plan which meets the requirements of DeKalb County and of the Georgia Surface Mining Act, O.C.G.A. § 12-4-70 et seq., as amended, and the Rules of Department of Natural Resources, Chapter 391-3-3, as amended; and

(3) Whether or not the applicant meets the requirements of noise limitations in Article IV, Division 1.

(c) *Child day care facility.* In determining whether to authorize a special land use permit for a child day care facility, the mayor and city council shall also consider each of the following factors:

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(1) Whether there is adequate off-street parking for all staff members and for visitors to the child day care facility.

(2) Whether the proposed off-street parking areas and the proposed outdoor play areas can be adequately screened from adjoining properties so as not to adversely impact any adjoining land use.

(3) Whether there is an adequate and safe location for the dropping off and picking up of children at the child day care facility.

(4) Whether the character of the exterior of the proposed structure will be compatible with the residential character of the buildings in the district in which the child day care facility is proposed to be located.

(d) *Truck stops.* The following provisions apply to truck stops whether designed as primary uses or as part of planned industrial centers.

(1) These uses shall be permitted only within one thousand (1,000) feet of an interstate highway interchange.

(2) These uses shall be permitted only on parcels of ten (10) acres or more.

(3) These uses shall not be permitted within one thousand (1,000) feet of any property used for a school, park, playground, church, day care center, or community center.

(4) These uses shall not be permitted within one thousand (1,000) feet of any R or RM district.

(5) Entrance drives for truck stop facilities shall not be closer than three hundred (300) feet from any point of an interstate highway interchange.

(6) These uses shall meet state and federal environmental guidelines and requirements.

Sec. 27-875. City Clerk to provide signed copy of ordinance to Zoning Administrator to be noted on official zoning map.

The city clerk shall, after action by the mayor and city council on any special land use permit application, provide to the Zoning Administrator a signed, certified copy of each such ordinance. The Zoning Administrator shall cause the official zoning map to be appropriately annotated to reflect the approval of any such ordinance granting a special land use permit by the mayor and city council.

Sec. 27-876. Successive applications.

An application for a special land use permit affecting all or a portion of the same property shall not be submitted more than once every twelve (12) months measured from the date of final decision by the mayor and city council. The mayor and city council may waive or reduce this twelve-month time interval by resolution, provided that if the application for a special land use permit was denied by the mayor and city council, the time interval between the date of said denial and any subsequent application affecting the same property shall be no less than six (6) months.

Sec. 27-877. Transfer of special land use permits.

A special land use permit, including the site plan and any conditions imposed at the time of the grant of the special land use permit by the mayor and city council, is granted to a person,

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corporation or other legal entity. A special land use permit may be transferred from one person, corporation, or other legal entity to another person, corporation, or other legal entity upon application to the Zoning Administrator. Any such application by any person, corporation, or other legal entity to transfer a special land use permit shall be accompanied by an affidavit of the proposed transferee certifying that the new owner or operator is familiar with and will abide by the approved site plan and all of the conditions, if any, imposed by the mayor and city council at the time of the grant of the special land use permit.

Sec. 27-878. Compliance upon denial.

In such case that an application to the mayor and city council is initiated due to an existing violation of this chapter and such application is denied, the violation shall be required to cease within thirty (30) days of such denial or as specified by the mayor and city council if a greater time period is required. The maximum extension of time the mayor and city council may grant for correction shall not exceed ninety (90) days.

Secs. 27-879--27-890. Reserved.

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**DIVISION 3. SPECIAL ADMINISTRATIVE PERMITS**

Sec. 27-891. Special administrative permits generally.

The Zoning Administrator is hereby authorized to consider and decide requests for special administrative permits specifically authorized in any zoning district classification or specifically authorized in Article IV, Division 1. All such requests for special administrative permits shall be filed in writing on forms promulgated by the Zoning Administrator.

Sec. 27-892. Standards for special administrative permits.

Each application for special administrative permit specifically authorized in this chapter shall be considered and decided by the Zoning Administrator. All applications filed for special administrative permit with the Zoning Administrator shall be considered and decided pursuant to the standards contained in section 27-873 of this chapter. All special administrative permits approved by the Zoning Administrator shall specify the length of time of the duration of each such special administrative permit.

Sec. 27-893. Time limitations.

All applications for special administrative permits shall be considered and decided pursuant to the standards in the zoning ordinance by the Zoning Administrator no later than thirty (30) days from the receipt of a complete application for such special administrative permit, unless an extension of time is agreed to by the applicant and the Zoning Administrator.

Sec. 27-894. Planning and Zoning Commission:

There is hereby created a body known as the Planning and Zoning Commission for the City of Lithonia.

1. Membership and appointments.

The planning and zoning commission, referred to hereinafter as the "commission," shall consist of six members residing within the City of Lithonia and shall be appointed by the Mayor after consultation with the City Council. Each councilmember may place names in nomination for consideration by the mayor. The mayor shall make the actual appointments. The City Council must approve by a simple majority the appointments made by the mayor. None of the commission members shall hold any other public office, including public office within the City of Lithonia, DeKalb County, or the State of Georgia or federal government. Commission members may be removed, with or without cause, upon a vote in favor of removal by four members of the City Council at a public meeting. Any member of the commission shall be disqualified to act or deliberate upon a matter before the commission with respect to any property in which the member has an interest, and the member shall disclose his or her interest, shall exclude himself from the portion of the meeting in which the matter is discussed, considered and voted upon by the commission.

2. Term of office.

The term of office of each member of the commission shall be for two years or until his successor is appointed. The Mayor shall appoint the members at the first council meeting in January, and each member's term shall continue until the next appointment, or until the

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member is removed from office. Commissioners #1, #3, and #5 shall be appointed to begin their terms at the first council meeting in January during odd-numbered years. Commissioners #2, #4, and #6 shall be appointed during even-numbered years to begin their terms at the first City Council meeting in January. The mayor shall appoint commissioners to fill any unexpired term on the commission as per section 23.

3. Compensation.

The commission members shall receive compensation for their services to the City of Lithonia as determined by and established by the City Council.

4. Quorum.

Four of the six commissioners must be present to constitute a quorum for a regularly scheduled or called meeting. If said quorum is not present, official business may not be conducted.

5. Rules and procedures.

The commission, at its first meeting each January, shall elect one of its members as chairman, and another as vice-chairman, for one-year terms or until their successors are elected, whichever first occurs. The vice-chairman shall have the authority to act as the chairman in the chairman's absence. The chairman shall preside over all meetings of the commission. The chairman of the commission can make and/or second motions but shall not vote except in cases of a tie vote by the other commissioners. If the vice-chairman is presiding, the same rule shall apply. The commission shall appoint a secretary who may be an employee of the City of Lithonia. The commission shall have the authority to adopt rules of procedure, which shall be submitted to and approved by the city council prior to their adoption. The chairman shall establish the day, time and place for the commission's regularly scheduled monthly meeting. Called meetings of the commission may be held at the call of the chairman, [or] in the chairman's absence, the vice-chairman, or by the mayor. Reasonable attempts shall be made to notify all members as soon as possible of a called meeting. Any member may waive notice of the meeting in writing. The commission shall keep minutes of its proceedings, showing the vote of each member upon each question, and if absent or failing to vote, indicate such fact. Said minutes shall be filed with the clerk of the city and shall be public record. The minutes of the commission shall contain the decisions of the commission, a statement of the subject matter being considered, and the grounds for the decision. All meetings of the commission shall be open to the public.

6. Powers and duties.

The commission shall hear and act upon applications pursuant to procedures and standards established by the city council. The commission shall act upon applications for preliminary plat; non-residential site development plans, architectural elevations and landscape plans; variance and special exception; and extension, enlargement, or continuation of nonconforming use, subject to the council's right to review said decision and the applicant's right to appeal the commission's action to the city council. The commission shall review, conduct public hearings, and make recommendations to the

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council, on applications for annexations and rezoning applications. The commission shall have such other powers and duties as the city council may, from time to time, establish.

7. Hearings.

- a. Public notice of hearing. The commission shall give public notice of a hearing to consider any matter which the City Council or the law requires public notice, in a newspaper designated as the official organ for the City of Lithonia, at least 15 days prior to the date of the public hearing.
- b. Who may appear. Any party may appear at the public hearing in person or by agent or by attorney.
- c. Decision. The decision of the commission shall be made by a public vote and shall constitute a recommendation to the city council, unless the city council provides otherwise in its ordinances.

8. Standard for review.

The commission shall review all applications pursuant to the applicable standards established by the City Council or established by state or federal law.

Sec. 27-895. Powers of the Planning and Zoning Commission to allow special exceptions and variances.

1. The following provisions shall apply to special exceptions and variances:

- a. Submission of requests. Requests for variances from these zoning regulations, and special exceptions shall be submitted to the planning and zoning commission pursuant to the following powers and procedures:
  - i. A written application for a variance or special exception, as approved and provided by the city, shall be submitted to the commission indicating the section of this chapter under which the special exception or variance is sought, and stating the grounds upon which it is requested.
  - ii. Before making its decision on a request, the commission shall hold a public hearing thereon.
  - iii. At the expense of the applicant, the commission shall give public notice of a hearing on a variance or special exception in the newspaper used as the official legal organ for the City of Lithonia, published at least 15 days, but not more than 45 days prior to the date of the hearing, and shall further cause the erection at least 15 days prior to the date of the hearing, in a conspicuous place on the property in question, a sign as a notice to the public that a petition for a variance or special exception has been filed as to the property and that a public hearing will be held on the request before the planning and zoning commission, stating the date, time and place of that hearing.
  - iv. The applicant or any aggrieved party may appear at the public hearing in person or by agent.
  - v. The commission shall reach a decision within 30 days of the hearing.



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- vi. Decision of the planning and zoning commission with regard to the grant of variance or special exceptions may be reviewed by the city council pursuant to article XX of this zoning chapter.

Sec. 27-896. Standards for review for special exception.

1. General policy. Special exceptions are neither absolutely permitted as a matter of right nor prohibited in particular zoning districts. Such uses of property are permitted as generally compatible with the zoning district, but not in every location therein, nor without certain standards or other requirements or conditions met. Uses which require special exceptions are potentially incompatible with uses usually allowed in the particular district or particularly incompatible with nearby or contiguous districts.
2. Special exceptions shall be authorized only upon making a finding that the application conforms to all of the requirements of section 27-873.
3. Standards for review. Special emphasis shall be placed on the justification for the proposed use at the proposed location and how the proposal relates to and affects neighboring properties. Therefore, the commission and the council, on appeal, shall consider among other matters, the statement of general policy stated above and the following:
  - a. Compliance with the City of Lithonia's zoning ordinance.
  - b. The character and use of buildings and structures adjoining or in the vicinity of the subject property.
  - c. The compatibility of the proposed use at the subject property to the present uses of the buildings, structures, or properties adjoining or in the vicinity of the subject property.
  - d. Impact of the proposed use on nearby properties, including existing and possible future uses.
  - e. Impact of the proposed use on public facilities, utilities and public infrastructure.
  - f. Appropriateness of the proposed use as related to the city's land use plan.
  - g. The number of persons residing, studying, working in or otherwise occupying buildings adjoining or in the vicinity of the subject property.
  - h. Traffic conditions in the area of the proposed use and possible aggravation of traffic conditions by the proposed use.
  - i. Accessibility of building for fire and police protection.
  - j. Materials of combustible, explosive or inflammable nature to be sold, stored, or kept on the premises.
  - k. Protection of occupants of adjoining and surrounding buildings from noise, dust, gases, pollution.
  - l. Population density in the surrounding area and threats to the public safety created by the proposed use.
  - m. Relationship of the proposed use to the neighboring areas in the context of how the use might service or have utility to the area.
  - n. Adequacy of the site in terms of protecting and screening nearby properties from adverse impacts which might result from the proposed use.
  - o. The number, size, and type of signs proposed for the site.

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- p. The amount and location of open space on the site.
  - q. Hours and manner of operation of the proposed use.
  - r. The type of electrical illumination for the proposed use with special reference to its effects on nearby structures and the glare, if any, from such illumination in surrounding sleeping quarters.
  - s. Adequacy of ingress and egress to the property.
  - t. Impact of the proposed use on the property values of surrounding properties at the uses for which the surrounding properties are presently being used.
3. Conditional approval. The commission or the City Council, upon appeal, may impose such conditions as it deems necessary to insure compatibility of the proposed use with the neighboring area and with the policies of the city's zoning ordinance and land use plan and the standards of this chapter. Such conditions may include, at a minimum, any of the following:
- a. The existence of certain public facilities, utilities, or infrastructures.
  - b. The existence of traffic control devices or modifications to streets and traffic patterns.
  - c. Parking.
  - d. Screening or buffering.
  - e. Distance from other similar uses.
  - f. Building or improvement setbacks.
  - g. Minimum lot size.
  - h. Hours of operation.
  - i. Number and location of curb cuts or driveway entrances into public roads or into the subject tract.
  - j. Type and placement of outdoor lighting.
  - k. Type and placement of signs.
  - l. Physical design and layout of property.
  - m. Limitations on operation of use.
4. Compliance requirements. Once granted, and unless otherwise extended by City Council upon notice from the property owner showing that the applicant is proceeding with development in due course, a special exception approval shall be valid for 365 days. If a development permit has been obtained during the 365-day period, then the parcel may continue to be used pursuant to the special exception permit. If the property owner fails to obtain a development permit within the 365-day period, then such special exception approval shall expire. The city manager or his designee may issue a stop work order and may initiate action to revoke a special exception whenever the city manager or his designee has reason to believe that the conditions of approval or conditions of the zoning ordinance are not being followed.
5. Prior to the approval of a land disturbance permit, a building permit or a certificate of occupancy, a site plan based on a certified boundary survey of the property, showing the exact location of all improvements, and incorporating the stipulations of the special exception and meeting and exceeding the requirements of this zoning chapter, shall be first approved.

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Section 27-897. Procedures for application for special exception.

Application for special exception shall include all information required for a rezoning application by a property owner. In addition, such application shall include a letter of intent indicating specifically how the property is to be used, hours of operation, a front elevation and rendering of all proposed buildings and any existing buildings which are to remain on the property, and a site plan showing the exact location of improvements on the tract as presently built or as will be built. Any proposed additions or expansions which have not previously been incorporated into an approved special exception will require approval under this section before issuance of any land disturbance permits, building permits, or occupancy permits.

Section 27- 898. Criteria for granting of variance.

The commission may authorize, only in the specific cases of height and size of structures, buffers, yard requirements, parking, fences, pools, and accessory buildings, such variance from the terms of these regulations as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done; provided, however, that a variance shall not be granted for use of land, building, structure that is prohibited by this chapter in the district in question. Such variance may be granted, in an individual case, upon a finding by the commission that the following exists:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question, because of its size, shape or topography; and
2. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
3. Such conditions are peculiar to the particular piece of property involved; and
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter and the City Comprehensive Plan text, however, no variance may be granted for a use of land, building, structure that is prohibited by this chapter; and
5. A literal interpretation of this chapter would deprive the applicant of any rights that others in the same district are allowed; however,
6. Provided that the commission may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood; and provided that wherever the commission shall find, in the case of any permit granted pursuant to the provisions of these regulations, that any of the terms, conditions, or restrictions upon which such permit was granted are not complied with, said commission shall rescind and remove such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.

Sec. 27-899 Limitations of the Planning and Zoning Commission for granting of variances.

1. The Planning and Zoning Commission shall not review sign variances. Sign variance applications are made to the Mayor and City Council.
2. The Planning and Zoning Commission shall not grant variance to:

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- a. Allow a structure or use not authorized in the applicable zoning district or a density of development that is not authorized within such district;
  - b. Allow an increase in maximum height of building;
  - c. Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the mayor and city council;
  - d. Reduce, waive or modify in any manner the minimum lot width and minimum lot area where the lot has been conditionally zoned to a specific site plan;
  - e. Reduce, waive or modify in any manner the minimum lot area established by the mayor and city council for any use permitted by special land use permit or by special exception;
  - f. Extend the time period for a temporary outdoor social, religious, entertainment or recreation activity approved by the Zoning Administrator;
  - g. Permit the expansion or enlargement of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit;
  - h. Permit the reestablishment of any nonconforming use of land, nonconforming use of land and buildings in combination, nonconforming use of land and structures in combination, or nonconforming use requiring special land use permit where such use has lapsed pursuant to the requirements and limitations of Article IV, Division 5 of this chapter; or
  - i. Permit customer contact for a home occupation authorized by this chapter.
3. Requests for variances from the provisions of the noise ordinance set forth in section 27-762, the mayor and city council shall be authorized to grant variances only upon making all of the following findings:
- a. By reason of exceptional conditions, which were not created by the owner or applicant, the strict application of section 27-762 would deprive the property owner of rights and privileges enjoyed by other property owners in the same residential, commercial district;
  - b. The requested variance does not go beyond the minimum necessary to afford relief, and the applicant has exhausted the best practical noise control measures, such as those promulgated by INCE, without being able to conform to the noise levels established in section 27-762(c);
  - c. The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located;
  - d. The literal interpretation and strict application of the applicable provisions or requirements of section 27-762 would cause undue and unnecessary hardship; and
  - e. The requested variance would be consistent with the purposes of the section 27-762 and shall not exceed:
    - i. Ten (10) dB(A) beyond what is allowed by the section 27-762 during the hours of 7:00 am to 10:00 p.m.; and
    - ii. Five (5) dB(A) beyond what is allowed by section 27-762 during the hours of 10:00 p.m. to 7:00 a.m.

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Section 27- 900. Criteria for granting of administrative variance.

The city manager may authorize an administrative variance of up to 10% variance from city standards, in the specific cases of the distance of fences, the location and distance requirements for accessory uses, the minimum setback for residences. Administrative variances may be granted in cases that will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of these regulations will, in an individual case, result in practical difficulty or unnecessary hardship, so that the spirit of these regulations shall be observed, public safety and welfare secured, and substantial justice done; provided, however, that a variance shall not be granted for use of land, building, structure that is prohibited by this chapter in the district in question. Such variance may be granted, in an individual case, upon a finding by the director that the following exists:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question, because of its size, shape or topography; and
- b. The application of these regulations to this particular piece of property would create a practical difficulty or unnecessary hardship; and
- c. Such conditions are peculiar to the particular piece of property involved; and
- d. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of these regulations provided, however, no variance may be granted for a use of land, building, structure that is prohibited by this chapter; and
- e. A literal interpretation of this chapter would deprive the applicant of any rights that others in the same district are allowed; however,
  - i. Within ten days of the city manager's decision, the planning and zoning commission or city council may review any variance granted under section XX. During this ten-day "waiting period" no work may commence. Also, if either the planning and zoning commission or city council requests a review, no work may commence until the requesting body has rendered a decision.
  - ii. A variance will not be granted to relieve a landowner from a hardship that is self-created.
  - iii. In exercising the above powers, the director shall not consider any nonconforming use of the neighboring lands, structures or building in the same district and no permitted use of lands, structures, or buildings in other districts as grounds for the issuance of a variance.

Secs. 27-901—908 Reserved.

Sec. 27-909. Application forms; filing of applications; application fees.

Applications for appeals, variances and special exceptions shall be filed on forms provided by the Zoning Administrator and shall not be considered authorized or accepted unless complete in all respects. Application fees shall be as established by the mayor and city council.

Sec. 27-910. Analysis, findings of fact, and recommendation on each application for variance and special exception.

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The Zoning Administrator shall conduct a site inspection of and shall prepare an analysis of each application for variance and special exception applying the criteria and standards set forth in this division appropriate to each such application. The Zoning Administrator shall present its findings and recommendations in written form to the Planning and Zoning Commission at least five (5) days prior to the public hearing thereon.

**Sec. 27-911. Testimony.**

All testimony before the mayor and city council shall be taken as if under oath regardless of whether or not a formal oath or affirmation is administered. The mayor, or in his or her absence the mayor pro tem, may administer oaths and compel the attendance of witnesses by subpoena.

**Sec. 27-912. Establishment of appeals process.**

1. All appeals from actions of the Zoning Administrator or the Planning and Zoning Commission shall be heard by the Mayor and City Council during their regularly scheduled council meetings or at other times at the call of the mayor with notice thereof pursuant to the requirements of section 27-917 as well as due notice to the parties in interest.
2. Appeals may be filed by any person aggrieved by any final order, requirement, or decision of the Zoning Administrator or the Planning and Zoning Commission, based on or made in the enforcement of the zoning ordinance, by filing with the city clerk an application for appeal specifying the grounds thereof, within ten (10) days after the action appealed from was taken. A person shall be considered aggrieved for purposes of this subsection only if:
  - a. Said person or said person's property was the subject of the action appealed from; or
  - b. Said person has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.
3. Appeal stays all legal proceedings. An appeal stays all legal proceedings in furtherance of the action appealed from unless the Zoning Administrator certifies to the Mayor and City Council, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that Zoning Administrator's opinion, cause imminent peril to life and property. In such a case, proceedings shall be stayed only by a restraining order granted by the Superior Court of DeKalb County.
4. Cases brought before the Mayor and Council shall be decided by majority vote of members present and voting. Any member may elect to abstain from any vote. The appeal before the city council shall be de novo. The City Council may publish its decision in writing within ten days of the vote.
5. The Mayor and Council shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be filed in the office of the zoning administrator and shall be a public record.

**Sec. 27-913. Powers of the mayor and council to decide appeals.**

The mayor and council shall have the power to hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the zoning

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administrator or Planning and Zoning Commission in the enforcement of this zoning chapter. In exercising the above powers, the mayor and city council may reverse or affirm, wholly or partly, or may modify the orders, requirements, decisions, or determinations of the zoning administrator or the planning and zoning commission.

**Sec. 27-914. Appeals to and reviews by the Mayor and City Council.**

1. Persons aggrieved by a decision of the Planning and Zoning Commission or by the zoning administrator may appeal said decision to the Mayor and City Council by a written notice of appeal specifying the decision appealed from and the specific grounds for the appeal filed with the city clerk within ten days from the date of the decision of the zoning administrator or the planning and zoning commission. Upon a notice of appeal being filed, the zoning administrator shall forthwith transmit to the mayor and city council all the papers constituting the record upon which the action appealed from was taken. Furthermore, within ten days of any decision of the Planning and Zoning Commission or of the zoning administrator, the City Council may, by the written concurrence of three members, call any decision of the Planning and Zoning Commission or the zoning administrator for review by it pursuant to the procedures for appeal set forth herein.
2. No permit shall be issued upon any decision of the planning and zoning commission or the zoning administrator until ten days have passed from said decision, provided that no appeal is filed by the aggrieved person or the matter is not called for review by the city council. No permit shall issue on any decision of the Planning and Zoning Commission or the zoning administrator during the pendency of any appeal or review by the city council and until a final decision has been published by the city council.
3. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the zoning administration certifies to the mayor and council after the notice of appeals shall have been filed with him, that by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and property. In such case proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record on application, on notice to the zoning administrator, and on due cause shown.

**Sec. 27-915. Appeals from decisions of mayor and city council.**

Any person aggrieved, as provided by state law, by any decision of the mayor and city council may seek review by a court of record of such decision, in the manner provided by the laws of the State of Georgia

**Sec. 27-917. Notice of public hearings.**

1. Notice of public hearing before the Planning and Zoning Commission or Mayor and City Council on any application shall be provided as follows:
  - a. Written notice of the nature of the proposed application, and the date, time, and place of the public hearing before the mayor and city council shall be mailed by first class mail to all property owners within two hundred fifty (250) feet of the boundaries of the subject property as measured by use of the official zoning map, and as such property owners are listed on the tax records of the City, at least fifteen (15) days before the public hearing before the mayor and city council;

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- b. Signs shall be posted within the public right-of-way or on the subject property at least fifteen (15) days before the hearing before the mayor and city council. One (1) sign shall be posted for each five hundred (500) feet of street frontage or fraction thereof along each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street in order that said signs can be read by the traveling public in both directions. The lettering on the signs shall be at least one (1) inch in size and the sign shall state the nature of the proposed application and the date, time and place of the public hearing before the mayor and city council; and
- c. Notice of the nature of the proposed application and the date, time and place of the public hearing before the mayor and city council shall be published in the newspaper of general circulation within the city in which are carried the legal advertisements of the city at least fifteen (15) days prior to the date of the hearing before the mayor and city council and not more than forty-five (45) days prior to the date of the hearing before the mayor and city council.

Sec. 27-918. Decision by mayor and city council.

Each application presented to the mayor and city council regarding a variance or special exception shall be scheduled for a public hearing within sixty (60) days of the filing of a complete application and shall be supported by findings and conclusions which shall be a part of the record established by the mayor and city council for each application. The mayor and city council may adopt the findings of fact of the Zoning Administrator, or they may adopt the findings of fact of the Zoning Administrator with modifications, or they may adopt a separate set of facts developed by the mayor and city council.

Sec. 27-919. Compliance with standards upon denial.

In such case that an application to the Planning and Zoning Commission or Mayor and City Council is initiated due to an existing violation of this chapter and such application is denied, the violation shall be required to be corrected within thirty (30) days of such denial or as specified by the Mayor and City Council if a greater time period is required. The maximum extension of time the Mayor and City Council may grant for correction shall not exceed ninety (90) days.

Sec. 27-920. Successive applications.

An application for a variance or special exception affecting all or a portion of the same property which was denied by the Planning and Zoning Commission or Mayor and City Council shall not be submitted more than once every twelve (12) months measured from the date of final decision. The mayor and city council may waive or reduce this twelve-month time interval by resolution provided that the time interval between the date of said denial and any subsequent application or amendment affecting the same property shall be no less than six (6) months.

Secs. 27-921--27-935. Reserved.



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**DIVISION 5. NONCONFORMING USES**

Sec. 27-936. Statement of intent and purpose.

Within the districts established by this chapter, or by amendments that may later be adopted, there exist lots, uses of land, uses of land and buildings, uses of land and structures, and characteristics of buildings and structures which were lawful before this chapter was adopted or amended, but which would be prohibited under the terms of this chapter or future amendment. Such nonconforming uses are hereby declared to be incompatible with authorized and permitted uses in the districts involved. It is the intent of the mayor and city council to require the cessation of certain of these nonconformities, and to permit others to continue until they are otherwise removed or cease. It is further the mayor and city council's intent that nonconformities not be used as grounds for adding other buildings, structures, or uses of land prohibited by this chapter, and that no such building, structure, or use of land shall be enlarged, expanded, moved, or otherwise altered in a manner that increases the degree of nonconformity.

Sec. 27-937. Nonconforming use of land.

The nonconforming use of land may be continued, but no such nonconforming use of land which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property. Such nonconforming use of land shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

Sec. 27-938. Nonconforming lot of record.

A nonconforming lot of record in a residential district may be used for a single-family residence without the need for a variance from the mayor and city council.

Sec. 27-939. Nonconforming use of land and buildings in combination and nonconforming use of land and structures in combination.

The following regulations apply to the nonconforming use of land and building(s) in combination and the nonconforming use of land and structure(s) in combination:

- (a) Such uses of land and buildings or land and structures may be continued, but no such use which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.
- (b) Such uses of land and buildings or land and structures, or any such building or structure, shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.
- (c) A nonconforming use of a building may be extended into those interior parts of a building which were manifestly designed for such use prior to the enactment of this chapter.

Sec. 27-940. Nonconforming characteristics of buildings and structures.

Any building or structure with nonconforming characteristics which is occupied by a conforming use shall not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

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Sec. 27-941. Nonconforming uses requiring special administrative permit, special exception or special land use permit.

No nonconforming use, building or structure requiring a special administrative permit, special exception or special land use permit under the terms of this chapter, including any use, building or structure that was authorized as of right prior to the adoption of this chapter but would require a special administrative permit, special exception, or special land use permit upon the adoption of this chapter, shall be enlarged, expanded, moved, or otherwise altered in any manner except after application for and approval of a special administrative permit, special exception or special land use permit. Normal repair and maintenance of buildings and structures is authorized without the need for special permits. No such use, building, or structure which has been discontinued for a continuous period of six (6) months shall be reestablished unless such cessation is a direct result of governmental action impeding access to the property.

Sec. 27-942. Reconstruction of buildings or structures which are defined as nonconforming use of land and building or nonconforming use of land and structure.

Any building or structure constituting a nonconforming use of land and building(s) or nonconforming use of land and structure(s) which has been damaged by fire or other cause, may be reconstructed and used as it was prior to damage if said reconstruction is completed within one (1) year of the date of the damage, except that if said building or structure has been declared by the Zoning Administrator to have been damaged to an extent exceeding sixty (60) percent of its fair market value at the time of destruction, then any repair, reconstruction or new construction shall conform to all of the requirements of the district in which said building or structure is located.

Sec. 27-943. Strengthening and restoring to safe condition of buildings and structures.

Nothing in this chapter shall prevent the strengthening or restoration to a safe condition of any part of any building or structure declared unsafe by the Zoning Administrator.

Sec. 27-944. Buildings and structures where construction has begun.

To avoid undue hardship, nothing in this chapter shall be deemed to require a change in the plans, construction, or designated use of any building or structure for which development or building permits were lawfully applied for or issued, or preliminary or final subdivision plats were lawfully approved, prior to the effective date of this chapter or amendment thereto, provided: (i) such permit or approval has not by its own terms expired prior to such effective date; (ii) actual building construction is commenced prior to the expiration of such permit or approval; (iii) actual building construction is carried on pursuant to said permit or approval and limited to and in strict accordance with said permit or approval; and (iv) no renewals or extensions of said permit or approval shall be authorized.

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Sec. 27-945. Prior variances, special exceptions, and special permits authorized. Variances, special exceptions, and special permits lawfully authorized and granted prior to the effective date of this chapter shall continue to be utilized provided the terms of said authorization are followed.

Secs. 27-946--27-955. Reserved.

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**ARTICLE VI. ENFORCEMENT AND PENALTIES**

**DIVISION 1. ADMINISTRATION AND ENFORCEMENT**

Sec. 27-956. Administration and enforcement; granting of permits.

The Zoning Administrator shall be responsible for the interpretation, administration and enforcement of the provisions of this chapter, except with regard to the current zoning status of property as specified in section 27-9. The Zoning Administrator shall have the duty to issue development permits as required with respect to this chapter.

Sec. 27-957. Development permits.

Unless otherwise exempted by this article, a development permit shall be required for any proposed use of land or buildings in order to assure compliance with all provisions of this chapter and all other city ordinances and regulations before any building permit is issued or any improvement, grading, or alteration of land or buildings commences.

Sec. 27-958. Building permits and certificates of occupancy required.

A building permit and a certificate of occupancy shall be obtained from the Zoning Administrator prior to occupancy of any building or structure. Such permit and certificate of occupancy shall be approved by the Zoning Administrator.

Sec. 27-959. Applications for permits and certificates of occupancy.

All applications for development permits, building permits, and certificates of occupancy shall be made to the Zoning Administrator.

Sec. 27-960. Development and building permits; plans required.

The Zoning Administrator shall be responsible for determining whether applications for development permits and building permits required by this chapter comply with the requirements of this chapter, and no development permit shall be issued without certification that plans conform to applicable zoning regulations.

(a) *Plans required.* All applications for development permits shall be accompanied by complete plans which shall be drawn to scale, filed in duplicate, and which shall contain the following information:

(1) The name and signature of the author, and the author's address and telephone number;

(2) Plans shall show the actual shape and dimensions of the lot to be built upon, based on an actual survey by a professional engineer or land surveyor registered in the State of Georgia;

(3) Plans shall show all required building setback lines, buffer zones, and open space required by this chapter;

(4) Plans shall show the exact sizes and locations on the lot of the buildings and accessory buildings then existing and the lines within which the proposed building or structure shall be erected or altered;

(5) Plans shall show the current zoning classification of the property including zoning conditions and zoning variances, if any;

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(6) Plans shall show the existing or intended use of each building or part of building, and the number of families or housekeeping units the building is designed to accommodate;

(7) Plans shall show such other information as may be required by the Zoning Administrator with regard to the lot and neighboring lots as may be necessary to determine and provide for the application of and enforcement of the requirements of this chapter.

(b) One (1) copy of the plans shall be returned to the owner when the plans have been approved by the Zoning Administrator.

(c) Approval of the preliminary subdivision plat and compliance with all applicable provisions of the subdivision regulations contained in Chapter 14 and in this chapter shall constitute approval of the development permit for a subdivision.

(d) Development permits for individual structures within approved residential subdivisions or developments shall not be required.

**Sec. 27-961. Issuance of development permits.**

All development permits shall be issued by the Zoning Administrator, which shall in no case grant any development permit for the use, construction or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this chapter or any other ordinances and laws of the city or the state, except as provided herein. Development permits issued on properties for which any variance or special exception has been approved by the mayor and city council shall be in compliance with all of the terms and conditions of such approval. Development permits issued on properties for which any special land use permit has been approved by the mayor and city council shall be in compliance with all of the terms, conditions, and site plans related to such approval. Development permits issued on properties for which conditional zoning is approved shall be in compliance with the approved statement of zoning conditions for such application. Minor alterations of conditions shall be authorized only in accordance with the provisions of section 27-785 of this chapter.

**Sec. 27-962. Duration of validity of development permits.**

A development permit shall be valid for two (2) years from its issuance subject to the following provisions:

(a) If the work authorized in any development permit has not begun within ninety (90) days from the date of issuance thereof, the permit shall expire.

(b) If the work described in any development permit has not been substantially completed within two (2) years of the date of issuance thereof, the permit shall expire.

(c) Written notice of the expiration shall be given to the persons affected, together with notice that further work as described in the canceled permit shall not proceed until a new development permit has been obtained.

**Sec. 27-963. Building inspection.**

The building inspection duties of the Zoning Administrator with respect to this chapter shall include, but not be limited to:

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- (a) Issuance of building permits in accordance with all provisions of this chapter and only after the department has issued a development permit.
- (b) Making field inspections to determine that the building or structure being constructed, reconstructed or structurally altered or used is being pursued in accordance with the site plan for which a development and building permit has been issued. These inspections and reports of findings shall be made within two (2) working days of the date that an inspection is requested by the developer. When a violation is found to exist, the Zoning Administrator shall immediately initiate appropriate legal action to ensure compliance.
- (c) Ensuring that all construction has been completed in accordance with all applicable requirements of the Code of The City of Lithonia prior to allowing occupancy.

**Sec. 27-964. Records.**

The Zoning Administrator shall maintain records of all official administrative actions. The Zoning Administrator shall further maintain records of all complaints filed pursuant to the requirements of this chapter and of all actions taken with regard to such complaints, and of all violations discovered by whatever means, with remedial action taken and disposition of cases. All such records shall be public records.

**Sec. 27-965. Inspection; right of entry.**

Upon presentation of city identification to the developer, contractor, owner, owner's agent, operator or occupants, city employees or agents authorized by the Zoning Administrator may enter during all reasonable hours any property for the purpose of making inspections to determine compliance with the provisions of this chapter.

**Sec. 27-966. Inspection; warrants.**

The Zoning Administrator, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this division. The warrant shall authorize the Zoning Administrator to conduct a search or inspection of property, either with or without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.

(a) Inspection warrants may be issued by the recorder's court when the issuing judge is satisfied that all of the following conditions are met:

(1) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property.

(2) The issuing judge determines that the issuance of the warrant is authorized by this section.

(b) The inspection warrant shall be validly issued only if it meets all of the following requirements:

(1) The warrant is attached to the affidavit required to be made in order to obtain the warrant.

(2) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor

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of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection.

(3) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal.

(4) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

**Sec. 27-967. Remedies.**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this chapter, the city may, in addition to other remedies, and after due notice to the owner of the violation, issue a citation for violation of this chapter requiring the presence of the violator in the recorder's court (*is this correct?*). The city may also in such cases institute injunction or other appropriate action or proceeding to prevent an unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate this violation or to prevent the occupancy of this building, structure of land. Where a violation of this chapter exists with respect to a structure or land, the Zoning Administrator may, in addition to other remedies, require that public utility service be withheld therefrom until such time as the structure or premises is no longer in violation of this chapter.

**Sec. 27-968. Notice in writing; order to stop work; revocation of permits.**

Whenever any building or premises is being constructed, used, or occupied contrary to the provisions of this chapter, the Zoning Administrator may order the work stopped. The Zoning Administrator may revoke any building permit or certificate of occupancy for any land, building or this chapter in order to protect the health, safety and general structure being constructed, used or occupied in violation of welfare of the residents of the city.

**Sec. 27-969. Fees.**

Fees and charges for permits and inspections shall be as adopted by the mayor and city council.

**Sec. 27-970. Certificates of occupancy.**

Certificates of occupancy are required as follows and shall be issued by the Zoning Administrator only after all requirements of this chapter and other applicable parts of the Code of The City of Lithonia have been met:

(a) *For new or altered structures and uses.* No person shall use or permit the use of any building, structure, or premises or part thereof hereafter created, erected, changed, converted, enlarged or moved, wholly or partly, in use or structure, until a certificate of occupancy reflecting use, extent and location shall have been issued to the owner or tenant by the Zoning Administrator. Where a building permit is involved, such certificate of occupancy shall show that the structure or use, or both, to the affected part thereof, are in conformance with the requirements of this chapter. It shall be the duty of the Zoning Administrator to issue such certificate of occupancy if the Zoning Administrator finds that all of the requirements of

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this chapter have been met, and to withhold such certificate of occupancy if the Zoning Administrator finds that all of the requirements of this chapter have not been met.

(b) *Temporary certificates of occupancy.* A temporary certificate of occupancy for a part of a building or premises may be issued and the Zoning Administrator may impose such additional conditions and safeguards as are necessary in the circumstances of the case to protect the safety of the occupants and of the general public.

(c) *Certificates of occupancy for existing uses or structures.* An owner may request a new certificate of occupancy for existing uses or structures. Said requests shall be in the form required by the Zoning Administrator and shall require all professional surveys or certifications required by said Zoning Administrator to adequately comply with said request. The Zoning Administrator shall require as a part of said request, fees to process said requests as are established by the mayor and city council. Upon review of the application and other relevant investigation by the Zoning Administrator, if in conformance with the requirements of this chapter, the Zoning Administrator shall issue a certificate of occupancy for any buildings, premises or use, certifying that the building, premises or use is in conformance with the requirements of this chapter.

Secs. 27-971--27-980. Reserved.



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**DIVISION 2. VIOLATION AND PENALTIES**

Sec. 27-981. Violations of this chapter.

It shall be unlawful for any person, firm or corporation to erect, construct, enlarge, alter, repair, move, improve, remove, convert or demolish, equip, use, occupy or maintain any building or structure or use any land in the city, or cause the same to be done, contrary to or in violation of any of the provisions of this chapter.

Sec. 27-982. Penalties.

Any person, firm or corporation violating any of the provisions of this chapter shall be deemed guilty of an offense and upon conviction in recorder's court (*is this correct?*) shall be punished as is provided in the Code of The City of Lithonia. Where any violation continues, each day's continuance of a violation shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this chapter exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense. In addition, the city may revoke the City of Lithonia business license of any entity found guilty of violating this chapter in accordance with the procedures of this subsection for a period of time not to exceed five years, except to the extent prohibited by law.

Sec. 27-983. Repeal of conflicting ordinances; validity of prior approvals and actions.

This chapter is the zoning ordinance of the city, and all other conflicting ordinances or resolutions are hereby repealed, provided that nothing herein shall be construed as repealing the conditions of use, operation, or site development accompanying zoning approval(s) or permits issued under previous zoning ordinances or resolutions, provided further that modification or repeal of these past conditions of approval may be accomplished as authorized and provided by this chapter. 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 shall remain in effect insofar as required for the initiation of any proceedings against these violations and for the prosecution of any violations heretofore commenced.

Sec. 27-984. Additional legal remedies.

In addition to all other actions and penalties authorized in this chapter, the city attorney, upon authorization from the mayor and city council, is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this chapter.

