

Chapter 106

ZONING*

* **Charter References:** Power regarding planning and zoning, § 1.14(24); urban redevelopment, § 1.14(41); zoning, § 8.10 et seq.

Cross References: Location requirements for adult entertainment establishments, § 14-106; environment, ch. 34; utilities, ch. 74; buildings and building regulations, ch. 86.

State Law References: Authority to adopt plans and exercise the power of zoning, Ga. Const. art. IX, § II, ¶ IV; the Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq.; local government zoning powers, O.C.G.A. § 36-66-2.

ARTICLE I.

IN GENERAL

Sec. 106-1. Title.

A resolution of the city regulating the location, height, number of stories and size of buildings and other structures; the density of population; the size of yards and other open spaces; the uses of land, buildings and structures for industry, commerce, conservation, recreation, residence, public activities and other purposes; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, amendment and enforcement and for the imposition of penalties for violation; providing for a zoning board of appeals and defining its powers and duties; and repealing conflicting resolutions; and other matters.
(Code 1979, § 8-4-1; Code 1998, § 106-1; Ord. No. 6-2002, 3-4-2003)

Sec. 106-2. Preamble and enactment clause.

Pursuant to authority conferred by the 1983 Constitution of Georgia, article IX, section II, paragraph IV, and for the purposes of promoting the health, safety, morals, convenience, order, prosperity or the general welfare of the present and future inhabitants of the city; of lessening congestion in the streets; securing safety from fire, panic and providing adequate light and air; preventing the overcrowding of land, avoiding both undue concentration of population and urban sprawl; facilitating the adequate provision of transportation, water, sewerage, schools, parks and other public requirements; protecting property against blight and depreciation; encouraging the most appropriate use of land, buildings and other structures throughout the city; securing economy in government expenditures; and for other purposes, all in accordance with a comprehensive plan for the development of the city, the city council do hereby ordain and enact into law the following articles and sections of the zoning resolution of the city.
(Code 1979, § 8-4-2; Code 1998, § 106-2; Ord. No. 6-2002, 3-4-2003)

Sec. 106-3. Short title.

This chapter shall be known and may be cited as the *Zoning Resolution of the City of Norcross, Georgia*.
(Code 1979, § 8-4-3; Code 1998, § 106-3; Ord. No. 6-2002, 3-4-2003)

Sec. 106-4. Interpretation.

(a) Except as specifically defined in this section, all words used in this chapter have their customary dictionary definitions.

(b) Interpretation of certain words.

(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.

(7) The word "person" includes the words "individuals," "firms," "partnerships," "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."

(Code 1998, § 106-4; Ord. No. 6-2002, 3-4-2002)

Sec. 106-5. Definitions.

~~The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~ Words and phrases used in this Code shall have the following meanings, unless otherwise specified:

Banner- means a piece of fabric or similar material which is attached to a pole, enclosed in a frame, or mounted as a temporary sign.

Buffer means land used to visibly separate one use from another through screening and distance; to shield or block noise, light, glare, physical or visual or other nuisances; to block physical passage to dangerous or undesirable areas; or to reduce air pollution, dust, dirt and litter or otherwise to promote the public safety and welfare.

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 Face means the wall of a building that most closely parallels the front setback line regardless of where the main entrance(s) is located. A building may have more than one face only if a front setback is maintained from more than one right-of-way.

Bus station means a building in which patrons of a for-pay motor carrier may purchase tickets for passage on such motor carrier, may board and disembark such motor carrier, but which does not allow any motor carrier to remain on the premises for more than two hours at a time, except under extraordinary circumstances, such as inclement weather or mechanical failure. All motor carriers located on bus station property shall have the driver or chauffeur present and in charge of such motor carrier while located on bus station property.

Bus terminal means a building in which patrons of a for-pay motor carrier may purchase tickets for passage on said motor carrier, may board and disembark such motor carrier, and which allows buses to remain in a secured area for more than 12 hours at a time. All motor carriers located on the bus terminal property shall have the driver or chauffeur or designated company personnel present and in charge of such motor carrier while it is located on bus terminal property.

Comprehensive plan, unless otherwise stated, means the general plan for land use, transportation and community facilities prepared and maintained by the city council. "Comprehensive plan" includes component or functional plans for the city, including but not limited to a plan for land use.

Drive-in restaurant means a building or portion thereof where food and/or beverages are sold in a form ready for consumption and where all or a significant portion of the consumption takes place or is designed to take place outside the confines of the building, often in a motor vehicle on the site. Note: A drive-thru pick-up window does not necessarily indicate a drive-in restaurant.

Duplex means a residential structure designed for two-family occupancy.

Dwelling unit means one or more rooms designed for the occupancy, cooking and sleeping of one or more persons living as a family.

Extended stay motels means and includes any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation including but not limited to such facilities as refrigerators, stoves, dishwashers and ovens.

Family means an individual or two or more persons related by blood, marriage, or law; or family is a group of not more than four persons, who need not be so related, living together in a dwelling unit. The term "family" does not include any organization or institutional group.

Flag. A piece of fabric or other flexible material solely containing distinctive colors, patterns, standards, words or emblems used as the symbol of an organization or entity.

Floor area, one-family dwelling, means the gross horizontal area of the several floors of a one-family residential structure, exclusive of carport, basement, attic and open porches.

Height of building means the vertical distance measured from grade to the highest

finished roof surface in the case of flat roofs or to a point at the average height of the highest roof having a pitch.

Home occupation means an occupation customarily carried on within a dwelling unit for profit or support involving the sale of only those articles, products or services produced on the premises, conducted entirely within the dwelling by those who reside in the dwelling unit with equipment customarily used for household purposes and involving no display of articles or products. A home occupation includes the accommodation of not more than two boarders. A home occupation includes the provision of care and supervision by a state registered resident adult for no more than six persons who are not residents of the premises for less than 24 hours per day.

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 housewrecking demolition and structured steel materials and equipment or for the dismantling, or abandonment of automobiles or other vehicles or machinery or parts thereof.

Livestock means and includes cattle, horses, goats, sheep, swine and other hoofed animals; poultry, ducks, geese and other live fowl; and rabbits, mink, foxes and other fur or hide-bearing animals customarily bred or raised in captivity for the harvesting of their skins; whether owned or kept for pleasure, utility or sale.

Livestock quarters means any structure which surrounds or is used to shelter, care for, house, feed, exercise, train, exhibit, display or show any animals, other than fenced pasture land for grazing.

Lot means a developed or undeveloped tract of land in one ownership, legally transferable as a single unit of land.

Lot, through, means a lot having frontage on two streets that are approximately parallel.

Lot, width, means the horizontal distance between the side lines of a lot measured at the minimum required front yard (building setback) line.

Lot Width (Cul-de-sac), For a lot having the majority of its frontage on a cul-de-sac, the lot width shall be the horizontal distance between the side lines of the lot, measured at the minimum required front yard (building setback) line or at a line parallel to said setback line, which is no more than twice the minimum front yard setback distance from the street.

Miniwarehouse means a structure containing separate storage spaces of varying sizes leased, rented or owned on an individual basis. No storage of chemicals or flammable goods is allowed.

Mobile home lot means a parcel of land for the exclusive use of the occupants of a single mobile home.

Mobile home, mobile building means a detached, single-family dwelling or other use type factory-manufactured structure with tongue, axles and wheels when originally built designed for occupancy; made to be transported after fabrication on wheels. Removal of

the wheels and placement on a foundation does not change its classification. Travel trailers and recreational vehicles are not mobile homes.

Mobile home park means a parcel of land that has been planned and improved for the placement of mobile homes for nontransient use.

Modular home, modular building means a factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a structure to be used for residential or commercial purposes.

Nonconforming use means any building or land lawfully occupied at the time of passage or amendment of this chapter which does not conform, after the passage or amendment of this chapter, with the use regulations of the district in which it is located.

Offices means structures, or portions of structures, in which business activities take place on a regular basis, but where goods are not produced physically, sold or repaired. These include, but are not limited to: banks, general offices; governmental offices; insurance offices and real estate offices.

Pet (household pet) means any animal owned or kept for pleasure rather than sale, which is an animal of a species customarily bred and raised to live in the habitat of humans and is dependent upon them for food and shelter; except that livestock and wild animals shall not be deemed pets.

Planned development means an area of not less than five acres, developed according to a development plan containing single-family residential structures to be sold as fee simple units with all streets, recreational areas, and other properties to be owned and maintained by a mandatory home owners association. A planned residential development contains single-family dwelling units, either detached or attached to similar units which is so constructed and arranged that no dwelling unit is above or below any other dwelling unit, and that each dwelling unit is:

- (1) Separated from any and every other attached dwelling unit by a firewall.
- (2) Self-contained within defined limits with individual heating or air conditioning systems and separately metered utilities.
- (3) Served by a private entrance.

Only the land which is directly beneath the dwelling unit is to be individually owned.

Portable structure means a structure or building designed to be movable from one location to another which is not designed to be permanently attached or permanently anchored to the ground, and which is not within the definition of "modular building" or "mobile building"; such as pushcarts, bicycle carts, motorized carts, tents, etc.

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

Residential Property (a) Any lot or other tract of land zoned in any of the following districts under this *Ordinance*: R-100, R-75, R-65, RMD, RM6, RM8 and RM10; (b) Any lot or other tract of land adjoining, abutting or within 1,000 feet of the City Limits of Norcross in any of the following districts, as defined in the *1985 Zoning Resolution of Gwinnett County, Georgia*, as amended: RA-200, R-140, R-100, R-75, R-60, R-100M, R-75M, R-ZT, RTH, RL, RMD, RM, MH, MHS, RM-6, RM-8, RM-10 and RM-13.

Sign means and includes every outdoor advertising device, billboard, poster, panel, statuary, freestanding ground sign, sign painted on or affixed in any manner to a wall, window, marquee, awning or canopy, and shall include any announcement, declaration, demonstration, display, ribbon, banner, illustrations or insignia used to advertise or promote the interests of any person, group, organization, corporation or other legal entity, when the same is placed in view of the general public traveling along a public street right-of-way.

Sign, Area, means the smallest square, rectangle, triangle, circle, or combination thereof, which encompasses the entire sign, inclusive of any border and trim but excluding the base, apron, supports, and other structural members.

Sign, awning, means a sign located on a roof-like cover extending before a place as a shelter and which may be used in lieu of a wall sign.

Sign, Billboard or Oversize, means a stanchion sign with a sign area no larger than 672 square feet and no smaller than 181 square feet.

Sign, business or institution identification, means a sign that may give the name and address of a business or institution that is located on the premises on which the sign is placed, as well as the nature of its activity.

Sign, Freestanding, means a sign securely affixed to a steel support structure which is permanently attached to the ground and wholly independent of any building for support, such as monument or stanchion signs.

Sign, Monument, means a freestanding sign mounted directly upon the ground. Such sign may not be attached to or be a part of or supported by the building in or to which the sign applies.

Sign Portable, means any sign which is manifestly designed to be transported, including by trailer or on its own wheels, even though the wheels of such sign may be removed and the remaining chassis or support constructed without wheels is converted to an "A" or "T" frame sign or attached temporarily or permanently to the ground.

Sign, Reader board, means any sign that is designed so that its letters and numbers can be changed.

Sign, Stanchion, means a freestanding sign mounted on one or more steel poles set in the ground and of sufficient strength and size to support the advertisement portion of such structure which rests upon or is supported by such poles.

Sign, temporary, means a sign of a nonpermanent nature.

Sign, Wall, means a sign applied or mounted to the wall or surface of a building or structure. (The total lettering on one side of a building or structure shall constitute one wall sign).

Sign height: Measured to the highest portion of the sign, including any molding, trim, border or frame.

Special exception means a use listed in this chapter is permitted if it meets stated conditions and is approved by the zoning board of appeals after a public hearing.

Street means a thoroughfare that affords the principal means of access to abutting property.

Streets, local, residential arterial, major collectors, minor arterials, major arterials principal arterials and interstates are the streets that are shown as such on the "Official Thoroughfare Map of the City of Norcross," prepared by Robert G. Appleby, G.I.S. Consultants, which has been adopted by the Mayor and Council, was last revised in May of 1998, and which is on file in the Office of Community Development.

Structure means anything constructed or erected on the ground or attached to something on the ground.

Use means the purpose for which land, premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied, used or maintained.

Use, accessory, means a use or building customarily incidental and subordinate to the principal use or building and located on the same lot as the principal use or building.

Use, permitted, means a use which is lawfully established in a particular district or districts and which conforms with all requirements, regulations and performance standards of such district. A permitted use may be a principal use or an accessory use.

Use, principal, means a use or structure which determines the predominant or major use of the lot on which it is located. A principal use may be either a permitted or a special use.

Use, protected (a) A church, mosque, synagogue or other place of worship; (b) A public or private nursery school or any other public or private school serving any one or more grades K through 12; (c) A child care facility, licensed by the Georgia Department of Human Resources; (d) A public park, playground or playing field. (e) A public or private cemetery;

Use, special (conditional), either a public or private use as listed which, because of its unique characteristics, cannot be properly classified as a permitted use in a particular district. After consideration of the public need for the particular use at the specific location, a permit for such special use may be granted by the city council or the community development director. A special use may be a principal use or an accessory use.

Variance means a modification of the specific provisions of this zoning chapter granted when strict enforcement of the zoning chapter would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

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

Yard, front, 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 line and the front line of the building projected to the side lines of the lot.

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 full width of the lot and located between the rear line of the lot and the rear line of the building or use projected to the side lines of the lot.

Yard, side, means an open, unoccupied space on the same lot with a principal building or use, located between the building or use and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.
(Code 1979, § 8-4-5; Code 1998, § 106-5; Ord. No. 10-95, 8-7-1995; Ord. No. 16-96, 8-5-1996; Ord. No. 21-96, 10-7-1996; Ord. No. 6-2002, 3-4-2002; Ord. No. 10-2002, 6-3-2002; Ord. No. 18-2003, 12-1-2003; Ord. No. 6-2005, 9-6-2005)

Cross References: Definitions generally, § 1-2.

Sec. 106-6. General use regulations.

No building or structure or land shall be used or occupied and no building or structure or part thereof shall be erected, constructed, reconstructed, moved or altered, except in conformity with the regulations of this chapter.

(Code 1979, § 8-4-6; Code 1998, § 106-6; Ord. No. 6-2002, 3-4-2002)

Sec. 106-7. Height and density.

No building or structure shall be erected, constructed, reconstructed or altered to:

- (1) Exceed the height limits;
- (2) House a greater number of families per acre or occupy a smaller lot area per family than are herein required; and
- (3) Have narrower or smaller front, rear or side yards than are herein required.

(Code 1979, § 8-4-7; Code 1998, § 106-7; Ord. No. 6-2002, 3-4-2002)

Sec. 106-8. Reduction in lot size.

No lot shall be reduced in size so that lot width or depth, size of yards, lot area per family or any other requirement of this chapter is not maintained. This limitation shall not apply when a portion of a lot is acquired for a public purpose.

(Code 1979, § 8-4-8; Code 1998, § 106-8; Ord. No. 6-2002, 3-4-2002)

Sec. 106-9. Yards and other spaces.

No part of a yard or the off-street parking or loading spaces that are required in connection with any building or use for the purpose of complying with the regulations of

this chapter shall be included as part of the yard or off-street parking or loading spaces required for another building, except as specifically provided in this chapter.
(Code 1979, § 8-4-9; Code 1998, § 106-9; Ord. No. 6-2002, 3-4-2002)

Sec. 106-10. Only one principal building or use on a lot.

Only one principal building or structure or use and its customary accessory buildings and uses shall be permitted on any lot.
(Code 1979, § 8-4-10; Code 1998, § 106-10; Ord. No. 6-2002, 3-4-2002)

Sec. 106-11. Street frontage requirement.

Except for planned residential developments, no building or structure shall be erected on a lot that does not abut for at least 40 feet upon an open street which shall be either a public street, a publicly approved street or a publicly maintained street. Any unit of a planned residential development as defined in this chapter shall not constitute a lot under the provisions of this section and shall not require road frontage on a public street.
(Code 1979, § 8-4-11; Code 1998, § 106-11; Ord. No. 21-96, 10-7-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-12. Classification of streets.

For the purposes of this chapter, all of the streets, roads and highways in the city are classified as shown on the "Official Thoroughfare Map of the City of Norcross, Georgia," prepared by Robert G. Appleby, G.I.S. Consultants, and which is on file in the office of the Community Development Department.
(Code 1979, § 8-4-12; Code 1998, § 106-12; Ord. No. 18-95, § XI, 11-6-1995; Ord. No. 6-2002, 3-4-2002)

Sec. 106-13. Nonconforming uses.

(a) The lawful use of any building or structure or land existing at the time of the enactment or amendment of this chapter may be continued, even though such use does not conform with the provisions of this chapter, except that the nonconforming use shall not be:

- (1) Extended to occupy a greater area of land.
- (2) Extended to occupy a greater area of a building or structure unless such additional area of the building or structure existed at the time of the passage or amendment of this chapter and was clearly designed to house the same use as the nonconforming use occupying the other portion of the building or structure.
- (3) Reestablished after discontinuance for six (6) months.
- (4) Changed to another nonconforming use.

(b) A building occupied by a nonconforming use at the time of the enactment or amendment of this chapter may be retained except that it shall not be:

- (1) Enlarged, altered or rebuilt except in conformance with this chapter, but it

may be repaired to the extent necessary to maintain it in a safe and sanitary condition.

(2) Rebuilt, altered or repaired after damage exceeding 50 percent of its replacement cost at the time of destruction, except in conformity with this chapter.

(Code 1979, § 8-4-13; Code 1998, § 106-13; Ord. No. 6-2002, 3-4-2002; Ord. No. 14-2003, 10-6-2003)

Sec. 106-14. Modular or mobile buildings.

Except where specifically allowed under other sections of this chapter, modular or mobile buildings used for purposes other than residential or accessory to residential shall not be permitted except as a special exception granted by the zoning board of appeals (i.e., temporary church or school classrooms, car lot sales offices, hot dog stands).

(Code 1979, § 8-4-14; Code 1998, § 106-14; Ord. No. 6-2002, 3-4-2002)

Sec. 106-15. Portable structures.

Portable structures such as tents used for purposes other than residential or accessory to residential shall not be permitted for more than 90 days in any 12-month period except as a special exception granted by the zoning board of appeals.

(Code 1979, § 8-4-15; Code 1998, § 106-15; Ord. No. 6-2002, 3-4-2002)

Sec. 106-16. Designation of street numbers.

- (a) Each one- and two-family dwelling unit shall have posted and maintained in a conspicuous place on the property, visible from the street providing general public access, the address of such dwelling unit in figures at least three inches high on a contrasting background that will allow 24-hour visibility.
- (b) Each multifamily dwelling shall have posted and maintained in a conspicuous place on the building, visible from the parking lot or street providing general public access, the address or number of the building in figures at least six inches high on a contrasting background, and each individual apartment/unit within the building shall be marked on or about its main entrance with individual apartment/unit number and/or address in figures at least three inches high on a contrasting background that will allow 24-hour visibility. In addition to the above, where a multifamily building has more than one exterior entrance, each such entrance shall be marked, in figures at least three inches high on contrasting background, with the number and/or address of each and every individual apartment/unit to which access is provided through that common entrance.
- (c) Each business or other nonresidential building shall have posted and maintained in a conspicuous place on the property, visible from the street providing public access, the address of such building in figures at least four inches high on a contrasting background that will allow 24 hour visibility. If the numbers are not placed within 15 feet of the back of the street curbing or edge of the street surface, then such figures shall be at least six inches high. In cases where there is a loading deck in the rear of a warehouse building, the numbers must be displayed in the same manner as described above.

(d) A quadrant designation will be posted as part of the address in figures at least two inches high on a contrasting background of a material that will allow 24 hour visibility and be placed with the number designation.

(e) This section shall be effective upon the date of its adoption by the city council; however, the persons or businesses occupying property subject to this section shall have six months from the date of adoption to comply with its terms.

(Code 1979, § 8-4-16; Code 1998, § 106-16; Ord. No. 6-2002, 3-4-2002)

Sec. 106-17. Facades of nonresidential buildings.

In order to aesthetically enhance the appearance of the city, the facades of all new nonresidential buildings must be constructed of wood, composite wood, brick, stone, stucco, glass or a combination of these treatments or other such treatment as approved by the community development director. For the purposes of this section the facade of a building is any face of the building that is visible from the public right-of-way.

(Ord. No. 16-2004, 12-6-2004)

Secs. 106-18--106-40. Reserved.

ARTICLE II.

GENERAL REGULATIONS

Sec. 106-41. Accessory uses or structures.

(a) Accessory uses or structures shall be permitted only in rear yards, except as otherwise provided in this chapter.

(b) An accessory use or structure shall be set back not less than five feet from any lot line.

(c) No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is an accessory.

(d) In Residential districts the total square footage of accessory structures shall not exceed one-half the size of the principal structure.

(Code 1979, § 8-4-21; Code 1998, § 106-41; Ord. No. 6-2002, 3-4-2002; Ord. No. 11-2003, 8-4-2003)

Sec. 106-42. Vision clearance at intersection.

In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three feet and 15 feet, except utility poles, light or street sign standards or tree trunks shall be permitted within 20 feet of the intersection of the right-of-way lines of streets, roads, highways or railroads.

(Code 1979, § 8-4-22; Code 1998, § 106-42; Ord. No. 6-2002, 3-4-2002)

Sec. 106-43. Approvals for business and industrial developments on state highways.

For all business and industrial developments fronting on a state highway, no building permit shall be issued until the approval of the state department of transportation has been obtained by the applicant on entrances and exits, curb radii, drainage and other matters that are the appropriate concern of the department.

(Code 1979, § 8-4-23; Code 1998, § 106-43; Ord. No. 6-2002, 3-4-2002)

Sec. 106-44. City approvals required; zoning fees.

All city approvals that are required for the use of land and structures and for the location and operation of businesses and industries shall be obtained by the applicant and transmitted by him/her with his/her request for a building permit, an occupancy permit, a zoning amendment, a special exception or a variance. Except as otherwise required by state law, no local action shall be taken and no public hearings shall be held until the above required approvals have been obtained by the applicants. A copy of the schedule of zoning fees shall be maintained in the office of the community development department.

(Code 1979, § 8-4-24; Code 1998, § 106-44; Ord. No. 6-2002, 3-4-2002)

Sec. 106-45. Minimum floor area requirements.

To promote the public health, safety, morals or general welfare, all single family residences shall have a minimum area of 1,250 heated square feet, except that there shall be a minimum area of 1,500 heated square feet in the R75 zoning district and a minimum of 1,750 heated square feet in the R100 zoning district.

(Code 1998, § 106-45; Ord. No. 1-95, § 8-4-25, 2-6-1995; Ord. No. 6-2002, 3-4-2002)

~~**Sec. 106-46. Required buffers between dissimilar districts.**~~¹

~~(a) Required buffer areas shall provide necessary visual privacy for the conduct of residential lifestyles in an undisturbed environment and shall provide protection to preserve property values in residential districts.~~

~~(b) A buffer shall be required for the following:~~

~~(1) All property zoned C-1, C-2, C-3, O-I, ODW, M-1 shall have a buffer strip along all rear and side property lines abutting a residential zoning district (R-100, R-75, R-65, RMD, RM-6, RM-8 or RM-10 districts); provided, however, no buffer strip shall be required if the residential zoning district is designated as other than a residential district on the city's land use plan; further provided, that if no buffer is required the community development director may require fencing and/or vegetative screening within the setback in order to provide a visual screen for adjoining property owners.~~

~~(2) All property zoned for use as RMD, RM-6, RM-8 and RM-10 shall have a buffer strip along all rear and side property lines abutting a zoned single family residential zoning district; provided, however, no buffer strip shall be required if the single-family residential zoning district is designated as other than a single-family residential district on the city's land use plan; further provided, that if no buffer is required the community development director may require fencing and/or~~

¹ **Code 1998, § 106-46, Required buffers between dissimilar districts.** This section was deleted in its entirety as per Ord. No. 18-2003, adopted 12/1/2003.

~~vegetative screening within the setback in order to provide a visual screen for adjoining property owners.~~

~~(c) All buffer areas and screening shall be established in accordance with the following requirements:~~

~~(1) Buffers shall be established and maintained along required property lines in accordance with the landscaping policies and standards of *Development Regulations* and any additional specification that may be established by the Community Development Department and approved by the City Council. All trees to be planted as part of new buffer strip or as an enhancement to an existing buffer strip must meet the requirements of Section §106-46 (Trees). In the event that the buffer includes a utility of pipeline easement, a minimum buffer of no less than 20 feet in width will be required outside the easement. In no case will the buffer be less than 20 feet.~~

~~(2) Buffers shall meet the minimum width requirements for dissimilar districts as shown in the "Minimum Buffer Strip Requirements" table (Section 106-47(f)).~~

~~(3) Screening shall be established within any buffer along the entire length of the side and rear lot lines. However, this screening requirement may be adjusted in order to observe the sight distance required in the development regulations or as a condition of zoning, special use, or variance approval or as approved by the director.~~

~~(4) Screening shall be required where a nonresidential use abuts a public street across from a residential district. However, this screening requirement may be adjusted in order to observe the sight distance required in the development regulations or as a condition of zoning, special use, or variance approval or as approved by the director.~~

~~(d) All buffers shall be designated on the appropriate permit application (s) and indicated on the required site plan or final subdivision plat.~~

~~(e) Structures including driveways, parking facilities, or retaining walls will be located a minimum of five (5) feet from any buffer.~~

~~(f) Minimum Buffer Strip Requirements~~

	R100 (feet)	R75 (feet)	R65 (feet)	RMD, RM6 RM8, RM10 (feet)
R100	--	--	--	--
R75	--	--	--	--
R65	--	--	--	--
RMD, RM6, RM8, RM10	30	30	30	--
O-1 (standard height)	30	30	30	30
ODW standard height)	30	30	30	30
M-1 (standard height)	50	50	50	50
C-1 (standard height)	50	50	50	50
C-2 (standard height)	50	50	50	50
C-3 (standard height)	50	50	50	50
DCD	Buffers will be determined by approved DCD Concept Plan.			

- ~~(g) The community development director may require additional screening outside or inside buffer areas, to obscure objectionable features such as dumpsters, rear entrances, utility and maintenance structures, loading facilities, and other objectionable features.~~
- ~~(h) The screening requirements of this section may be waived or modified, as appropriate, by the community development director, if and only if any one or more of these criteria apply:~~
- ~~(1) It is clearly demonstrated to the community development director that existing topography and/or vegetation achieve the purpose and intent of this section.~~
 - ~~(2) It is clearly demonstrated to the community development director that because of existing topography, a fence, wall and/or other screening device will not screen activities conducted at ground level from view as required in subsection (c)(3) of this section.~~
 - ~~(3) Required screening would obscure sight distances necessary for safe ingress and egress from subject properties.~~
- ~~(i) All required buffers shall be designated on the appropriate permit application(s) and shown as a permanent buffer on the required site plan or final subdivision plat, as appropriate.~~
- ~~(j) Prior to issuance of a certificate of occupancy for a structure, the developer or record title holder shall guarantee to the city to replace any required landscaping materials which die within one year after approval or acceptance thereof by the city, and shall warrant all work in the buffer area for a period of one year after approval or acceptance thereof by the city, whichever is later. The community development director may at his/her option require that a bond or other suitable security be posted to assure compliance with this provision.~~
- ~~(k) The required buffer shall be maintained by the record title holder at the time of development, for so long as he/she holds title, and thereafter by any subsequent record title holders.~~
- ~~(Code 1979, § 8-4-27; Code 1998, § 106-47; Ord. No. 4-96, § 8-4-27, 2-5-1996; Ord. No. 08-97, § II, 5-5-1997; Ord. No. 6-2002, 3-4-2002)~~

Secs. 106-47--106-75. Reserved.

ARTICLE III.

ZONING DISTRICTS AND USE PROVISIONS

Sec. 106-76. Establishment of zoning districts.

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

- (1) R100, One-family residence district.

(2) R75, One-family residence district.

(3) R65, Multifamily residence district.

(4) RM, Multifamily residence district, which includes:

a. RMD, duplexes.

b. RM6, six units per acre.

c. RM8, eight units per acre.

d. RM10, ten units per acre.

(5) OI, Office-institutional district.

(6) C1, Neighborhood business district.

(7) C2, General business district.

(8) C3, Central business district.

(9) M1, Light industry district.

(10) FH, Flood hazard district.

(11) ODW, Office-distribution-warehouse district.

(12) DCD, Design Concept Development district.

(Code 1979, § 8-4-41; Code 1998, § 106-76; Ord. No. 6-2002, 3-4-2002)

Sec. 106-77. Location and boundaries of zoning districts.

(a) The approximate location and boundaries of the zoning districts are hereby established as shown on the map entitled Official Zoning Map of the City of Norcross, Georgia, prepared by the community development department and adopted by motion of the mayor and council September 6, 2005, which is hereby made a part of this chapter, which may be amended from time to time and which shall be kept on file in the office of the community development department, where it shall be available for public inspection.

(b) The precise location and boundaries of the zoning districts are hereby established as shown on the map entitled Official Zoning Map of the City of Norcross, Georgia, prepared by the community development department and adopted by motion of the mayor and council September 6, 2005, which is hereby made a part of this chapter, which may be amended from time to time and which shall be kept in the office of the community development department where it shall be available for public inspection.

(Code 1979, § 8-4-42; Code 1998, § 106-77; Ord. No. 6-2002, 3-4-2002; Ord. No. 6-2005, 9-6-2005; Ord. No. 6-2005, 9-6-2005)

Sec. 106-78. Interpretation of zoning district boundaries.

Where uncertainty exists with respect to the location of the boundaries of any zoning district in the city, the following rules shall apply:

- (1) Where a zoning district boundary line is shown as approximately following a corporate limits line, a militia district line, a land lot line, a lot line or the centerline of a street, county road, a state highway, an interstate highway or a railroad right-of-way or such lines extended, then such lines shall be constructed to be the zoning district boundary lines.
- (2) Where a zoning district boundary line is shown as being set back from a street, a county road, a state highway, an interstate highway or a railroad right-of-way, and approximately parallel thereto, then such zoning district boundary line shall be construed as being at the scaled distance from the centerline of street, county road, state highway, interstate highway or railroad right-of-way and as being parallel thereto.
- (3) Where a zoning district boundary line divides a lot, the location of the line shall be the scaled distance from the lot lines. In this situation, the requirements of the zoning district in which the greater portion of the lot lies shall apply to the balance of the lot except that such extension shall not include any part of a lot that lies more than 50 feet beyond the zoning district boundary line.
- (4) In the case of a through lot fronting on two approximately parallel streets, that is divided by a zoning district boundary line paralleling the streets, the restrictions of the zoning district in which each frontage of the through lot lies shall apply to that portion of the through lot.

(Code 1979, § 8-4-43; Code 1998, § 106-78; Ord. No. 6-2002, 3-4-2002)

Sec. 106-79. R100, one-family residence district.

- (a) This zoning district is intended primarily for one-family residences and related uses.
- (b) Within the R100 one-family residence district, the following uses are permitted:
 - (1) One-family dwellings, except mobile homes and modular homes.
 - (2) Customary accessory buildings and uses are permitted provided they conform to ~~Section~~ § 106-41.
 - (3) Home occupation. In order to protect and preserve the residential character of the city:
 - a. The home occupation must be clearly secondary to the use of the dwelling as a residence and must not change the residential character of the dwelling or lot in any visible manner.
 - b. The home occupation must not create any objectionable odor, noticeable vibration, or offensive noise that increases the level of ambient sound at the property lines.

- c. The home occupation must not cause unsightly conditions or waste which is visible from off the property.
- d. The home occupation must not cause interference with radio or television reception in the vicinity.
- e. The home occupation employees in the residence are only those persons who reside in the residence.
- f. The home occupation has no signs.
- g. The home occupation occupies less than one-fourth of the floor area of the dwelling.
- h. The home occupation has a maximum of one commercial vehicle that is in compliance with the off-street parking ordinance parked at the residence.
- i. The home occupation has no storage outside the residence.
- j. The home occupation does not create a volume of passenger or commercial traffic that is inconsistent with the normal level of traffic on the street on which the dwelling is located.
- k. The following uses shall not be permitted as home occupations: massage therapists, psychics and fortunetellers, tattoo and/or body piercing businesses.

(4) Churches, mosques, synagogues and other places of worship, including church schools as an accessory use, provided:

- a. They are located on not less than five acres; and
- b. A 30-foot undisturbed buffer is provided where the property abuts residential property.
- c. Schools are located on the same lot as the church or place of worship and are clearly secondary to the use of the property as a church or place of worship.

(5) Existing cemeteries.

(6) Public buildings and land uses.

(7) Static electric transformer or gas regulator stations, if essential for service to this zoning district, provided:

- a. The structures are placed not less than 50 feet from any property line.
- b. The structures are enclosed by a woven wire fence at least eight feet high.
- c. The lot is suitably landscaped, including a buffer strip at least ten feet wide

along the side and rear property lines but not extending into the required front yard, planted with evergreen trees and shrubs that grow at least eight feet tall and provide an effective visual screen.

d. No vehicles or equipment are stored on the premises.

(8) The raising and keeping of livestock for personal pleasure or utility on a lot which contains the dwelling of the owner of the livestock, provided that the lot is at least three acres in area and that no livestock quarters are located closer than 100 feet to any property line and provided that no nuisance is created as defined under other sections of this Code.

(9) The raising and keeping of household pets provided that no nuisance is created as defined by other sections of the city code.

(10) No more than two garage sales are permitted during any 12-month period and each garage sale is limited to a period not to exceed three consecutive days.

(11) Commercial filming operations.

a. Prior to the issuance of a permit for conducting commercial filming in the city an application for a permit must be completed and filed with the city marshal's department and the permit fee as set by resolution of the mayor and council must be paid to the city marshal's department.

b. Commercial filming is limited to four commercial filming operations for a total of six days in any 12-month period. Any part of a day is considered a whole day. Filming of longer duration is not permitted without approval by the mayor and council after a public hearing to consider the impact on the community. It is the purpose of this section to give the mayor and council the broad power to refuse permission when in their determination such filming would be disruptive to the community. Commercial filming is permitted only between the hours of 7:00 a.m. and 9:00 p.m.

c. At least one or more off-duty police officer must be employed by the film company to control traffic as determined by the chief of police.

d. A certificate of insurance including general liability coverage must be provided to the city when commercial filming operations will take place on city property and must list the city as an insured. Where the filming occurs on city property an indemnification and hold harmless agreement shall be supplied to the city.

(Code 1979, § 8-4-44; Code 1998, § 106-79; Ord. No. 22-96, 12-2-1996; Ord. No. 01-99, 1-4-1999; Ord. No. 06-99, 5-3-1999; Ord. No. 8-2001, 6-4-2001; Ord. No. 6-2002, 3-4-2002; Ord. No. 11-2003, 8-4-2003)

Sec. 106-80. R75, one-family residence district.

(a) This zoning district is intended primarily for one-family residences and related uses on land served by a central sewerage system. The development of lots in this district is permitted with septic tanks, provided lot sizes correspond to the area in square feet in

the R100 district and provided such installation conforms to all other restrictions found in this Code. All septic tank installations are subject to the approval of the county health department and the city council.

- (b) Within the R75 one-family residence district, the following uses are permitted; all uses permitted in the R100 one-family residence district, including special exceptions.
- (c) Within an R75 one-family residence district, the following uses may be permitted as a special exception, subject to the approval of the zoning board of appeals after a public hearing and subject to such appropriate conditions as the zoning board of appeals may require.
 - (1) One mobile, manufactured, or modular home as a second and temporary accessory dwelling on a lot, providing the following conditions are met:
 - a. The mobile, manufactured, or modular home is an accessory use on a lot that meets all of the requirements of the R75 residence district, provided further that the occupant of the mobile, manufactured, or modular home and the occupant of the principal dwelling and lot are related to one another, i.e., father, mother, son or daughter.
 - b. The mobile, manufactured, or modular home is not located within any required front or side yard.
 - c. The mobile, manufactured, or modular home is located on a lot that is not less than one acre in size.
 - d. It is the intent herein that when any of the required conditions no longer are met the special exception is rendered invalid and the mobile home must be removed.

(2) It shall be unlawful for any person to place, store or maintain any trailer in the city except as outlined in this chapter.

(Code 1979, § 8-4-45; Code 1998, § 106-80; Ord. No. 1-95, 2-6-1995; Ord. No. 10-95, 8-7-1995; Ord. No. 6-2002, 3-4-2002)

Sec. 106-81. R65, one-family residence district.

The R65 one-family residence zoning district is intended primarily for one-family residences and related uses on land served by a central sewerage system. Within the R65 one-family residence district the following uses are permitted:

- (a) All uses permitted in the R100 and R75 one-family residence districts, including special exceptions.
- (b) Single-family residential subdivisions meeting the following criteria:
 - (1) A minimum tract size of one (1) acre (gross);
 - (2) A minimum lot size of 7,200 square feet;
 - (3) A minimum lot width at the building line 65 feet;

- (4) Minimum setbacks:
 - a. Front yard: 25 feet
 - b. Rear yard: 25 feet
 - c. Side yard: 7.5 feet, 15 feet between houses;
- (5) Maximum height of 35 feet;
- (6) Minimum dwelling size of 2,000 square feet with the following exception: within the same subdivision one dwelling size may be reduced to 1,800 square feet for every dwelling constructed or under construction containing 2,500 square feet;
- (7) Two trees each with a diameter of three inches or more must be planted in every front yard prior to issuance of the certificate of occupancy;
- (8) At least 50 percent of the dwellings in the subdivision must have fronts constructed of brick or other approved masonry material; and
- (9) All houses must have a two-car garage.
(Code 1998, § 106-81; Ord. No. 10-95, 8-7-1995; Ord. No. 6-2002, 3-4-2002; Ord. No. 16-2004, 12-6-2004)

Sec. 106-82. RM, multifamily residence district.

The following districts are intended for two-family and multifamily dwellings. These zoning districts are to be located where public water supply and sewerage facilities are available or can be obtained and where there is convenient access to collector streets, major thoroughfares or state or interstate highways. The purpose of the following zoning districts is to promote better utilization of land and freedom of architectural and engineering design without maximizing density. On any tract of land zoned for RMD, RM6, RM8 or RM10, the entire tract must be developed as the same type of use. No combinations of allowed uses are permitted on any one tract of land.

- (a) RMD, multifamily residence district (duplexes). This zoning district is intended primarily for two-family dwellings providing only one two-family structure is constructed on each lot of record. Within the RMD, multifamily residence district (duplexes), the following uses are permitted:
 - (1) All uses permitted in the R65 one-family residence district, including special exceptions; and
 - (2) Two-family dwellings which may be duplexes.
- (b) RM6, multifamily residence district (maximum density six units per acre). This zoning district is intended primarily for multifamily dwellings with a maximum density of six units per acre. Within the RM6 multifamily residence district (maximum density six units per acre), the following uses are permitted:

- (1) All uses permitted in the RMD, multifamily residence district (duplexes); and
- (2) Multifamily dwellings, which may be duplexes, apartments, condominiums, or planned residential developments, subject to the following provisions:
 - a. All condominium developments shall comply with all state laws regarding condominium developments.
 - b. All planned residential developments shall provide for a mandatory homeowners association, which shall hold title to all common areas in the development. A declaration of covenants for the development shall be provided to and approved by the city prior to said declaration of covenants being recorded in the public records. Following the approval by the city, the declaration of covenants shall be recorded in the public records of Gwinnett County and title to the common areas transferred to the homeowners association prior to the approval of a final plat for the planned residential development and before any Certificates of Occupancy for the individual residential units are issued by the city.²
 - c. RM8, multifamily residence district (maximum density eight units per acre). This zoning district is intended primarily for two-family and multifamily dwellings. Within the RM8 multifamily residence district (maximum density eight units per acre) the following uses are permitted: all uses permitted in the RM6 multifamily residence district (maximum density six units per acre).
 - d. RM10, multifamily residence district (maximum density ten units per acre). This zoning district is intended primarily for two-family and multifamily dwellings. Within the RM10 multifamily residence district (maximum density ten units per acre), the following uses are permitted: All uses permitted within the RM8 multifamily residence district (maximum density eight units per acre).

(Code 1979, § 8-4-46; Code 1998, § 106-82; Ord. No. 14-95, 8-16-1995; Ord. No. 21-96, 10-7-1996; Ord. No. 08-97, § II, 5-5-1997; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002; Ord. No. 18-2003, 12-1-2003)

Sec. 106-83. OI, office-institutional district.

- (a) The OI, office-institutional zoning district is established to provide a location for offices, institutions and limited related service activities in buildings of high character in attractive surroundings.
- (b) Within the OI office-institutional district, the following uses are permitted:
 - (1) Professional and business offices
 - (2) Public offices.
 - (3) Semipublic institutions, such as clubs and churches, mosques, synagogues or other

² **Code 1998, § 106-82(b), RM, multifamily residence district.** Although Ord. No. 18-2003, adopted 12/1/2003, stated that it was to amend § 106-82(b)(1)(b), it was determined that the provision which it actually intended to amend was (b)(2)(b) since (b)(1) did not contain any further subsections and (b)(2) did.

places of worship, provided that:

- a. The church, mosque, synagogue or other place of worship is located on not less than five acres if it is a stand-alone use; or
- b. A special use permit is obtained if the church, mosque, synagogue or other place of worship is located in an established business park or industrial park.

(4) Cultural facilities.

(5) Accessory parking garages and parking lots.

(6) State licensed health care home; provided such home is located on not less than three acres.

(c) Office-institutional districts shall be located on collector or arterial streets, as shown on the "Official Thoroughfare Map."

(Code 1979, § 8-4-47; Code 1998, § 106-83; Ord. No. 21-96, 10-7-1996; Ord. No. 22-96, 12-2-1996; Ord. No. 08-97, § II, 5-5-1997; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002)

Sec. 106-84. C1, neighborhood business district.

(a) The C1 neighborhood business district provides a location for convenience goods and services for people in nearby residential neighborhoods.

(b) Within the C1 neighborhood business district, the following uses are permitted:

(1) Retail and Service Uses

- a. Antique shops.
- b. Art, school and office supply stores.
- c. Art galleries.
- d. Bakeries.
- e. Banks or financial institutions (without drive-in facilities). Automatic teller as an accessory use (no drive-in).
- f. Beauty parlors and barber shops;
- g. Book or stationery stores
- h. Instructional Dance studios.
- i. Dry cleaning and pick up and delivery stations;
- j. Florists

- k. Food stores
- l. Gift shops.
- m. Hardware stores.
- n. Hobby shops.
- o. Ice cream shops.
- p. Interior decorating shops.
- q. Jewelry stores.
- r. Museums.
- s. Music studios.
- t. Nursery schools and kindergartens meeting the following requirements:
 - 1. At least 100 square feet of outdoor recreation space per child based on the total number of children that the facility is licensed to serve, enclosed with a woven wire fence at least four feet high;
 - 2. Compliance with all state day care requirements; and
 - 3. Compliance with all health regulations.
- u. Photography shops and studios.
- v. Radio and television repair shops.
- w. Shoe stores and shoe repair shops.
- x. Small appliance repair shops.
- y. Tailor shops.
- z. Toy stores (children's and hobby shops).
- aa. Watch and clock repair shops.
- bb. Weaving apparel shops.

(2) Professional Office uses.

- a. Accounting offices
- b. Architecture or engineering offices.
- c. Doctor, dentist or chiropractor offices.

- d. Insurance offices
- e. Other public or professional offices.
- f. Real estate offices.

(3) Public and semipublic uses.

- a. Semipublic institutions, such as clubs, churches, mosques, synagogues or other places of worship, provided that:
 - 1. The club, church, mosque, synagogue or other place of worship is located on not less than five acres if it is a stand-alone use; or
 - 2. A special use permit must be obtained if the club, church, mosque, synagogue or other place of worship is located in an established business park or industrial park.
- b. Public or semipublic buildings and land uses, parks, playgrounds or community centers.

(c) Within the C1 neighborhood business district, gasoline service station pumps are permitted within the front yard setback, provided they are located:

(1) Not closer than 15 feet to the highway right-of-way; and

(2) Not less than the existing setback for any residential structure on abutting lots on either the frontage street or a side street.

(Code 1979, § 8-4-48; Code 1998, § 106-84; Ord. No. 10-95, 8-7-1995; Ord. No. 21-96, 10-7-1996; Ord. No. 22-96, 12-2-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-85. C2, general business district.

(a) The C-2 general business district is intended to provide adequate space in appropriate locations along major streets, thoroughfares and at intersections for various types of business use. These uses should include the retailing of major goods and services, general office facilities and public functions that would serve a community area of several neighborhoods. Development of uses in the district characteristically occupies a larger area than in the C-1 neighborhood business district because it is intended to serve a greater population and to offer a wider range of services. Orientation and expansion of this district should occur as an increase in depth at major intersections rather than as a strip-like extension along the street or thoroughfare.

(b) Permitted uses. Only the following permitted uses shall be allowed in the C-2 general business district and no structure shall be erected, structurally altered or enlarged for any use other than a use permitted herein with the exception of (1) uses lawfully established prior to the effective date of the amendment; (2) special uses as permitted herein; (3) accessory uses as defined in Section §106-85, Definitions; or (4) other uses which are clearly similar to and consistent with the purpose of this district.

(1) Retail and service uses.

- a. Antique shops.
- b. Animal hospitals or veterinary clinics.
- c. Art and school supply stores.
- d. Art galleries.
- e. Automotive carwash (full service or self-service).
- f. Automotive parts stores (no on-premises installation).
- g. Automobile service garages provided:
 1. They are located on a minimum lot size of three-quarters (0.75) of an acre; and
 2. No more than two (2) inoperable vehicles per bay are visible from the public right-of-way.
- h. Bakeries.
- i. Banks or financial institutions. Automatic tellers as accessory or freestanding use.
- j. Barber and beauty shops.
- k. Bicycle shops.
- l. Blueprinting establishments.
- m. Book or stationery stores.
- n. Building, electrical or plumbing contractors (provided no equipment or materials are stored outside).
- o. Business college or business schools operated as a business enterprise.
- p. Bus stations, provided:
 1. They are not located in shopping centers;
 2. They are located in a freestanding building;
 3. No other uses are permitted on the same lot as the bus station.
- q. Certified massage therapist meeting the requirements of the massage therapist ordinance under Article 10 of Chapter 14.
- r. Clothing sales or rental stores.

- s. Convenience food stores with or without fuel pumps.
- t. Custom dressmaking and sewing shops.
- u. Instructional Dance studios.
- v. Day care centers, provided the following conditions are met:
 - 1. At least 100 square feet of outdoor recreation area per child and the outdoor play area is enclosed with a six-foot-high fence.
 - 2. Comply with all state day care requirements.
 - 3. Comply with all health regulations.
- w. Department stores.
- x. Drive-in restaurants
- y. Drugstores.
- z. Dry cleaning pickup and delivery stations.
- aa. Electronic sales and service establishments.
- bb. Emission inspection stations, provided the following design standards are met:
 - 1. The facility shall be located in a permanent noncombustible structure.
 - 2. The structure shall include a designated indoor public waiting area (minimum six fixed seats) with restrooms; or as an alternative, shall provide the required designated indoor waiting area and restrooms upon the same lot, within 500 feet of the testing facility.
 - 3. The facility shall provide a minimum of four paved parking spaces. Drive-through facilities shall also provide a paved stacking lane for a minimum of four vehicles. Parking spaces and stacking lane shall be striped.
 - 4. If constructed in an existing parking lot, the facility and stacking lane(s) shall not occupy any required on-site parking space or encroach into any minimum required driveway width.
- cc. Florists.
- dd. Food catering establishments.
- ee. Food stores or grocery stores.
- ff. Funeral homes and mausoleums.

- gg. Furniture rental or sales establishments.
- hh. Equipment rental (excluding heavy equipment, bulldozers, backhoes, forklifts, cranes, etc., and provided there is no outside storage associated with the use).
- ii. Garden supply centers and greenhouses (including accessory outdoor storage).
- jj. Gift shops.
- kk. Group and congregate personal care homes.
- ll. Hardware stores.
- mm. Health clubs or spas.
- nn. Hobby shops.
- oo. Ice cream shops.
- pp. Instruction of fine arts.
- qq. Interior decorating shops.
- rr. Jewelry stores.
- ss. Laundries and dry cleaning establishments, including self-service laundries.
- tt. Locksmith shops.
- uu. Mobile buildings (temporary, while any of the permitted or special uses are under construction, but not to exceed six months).
- vv. Motels, provided that extended stay motels are subject to the following requirements:
 - a. Limited to no more than 25 guest units per acre;
 - b. Each guest unit must be a minimum of 600 square feet;
 - c. A fenced playground facility of a minimum of 1,000 square feet must be provided;
 - d. Access to all guest units must be through an enclosed interior hallway.
- ww. Museums and libraries.
- xx. Music stores or studios.
- yy. New and used automobile sales and rental facilities provided:
 - 1. They are located on a minimum of one and one-half (1.5) acre lot.;

2. Inventory of automobiles shall be displayed in parking lot/spaces that meet the minimum standard of this code for parking lots/spaces including size and surface treatment; and

3. All vehicles on sales lots are in operating condition at all times.

zz. Newspaper and printing plants.

aaa. Off-street parking lots.

bbb. Outdoor theaters, provided there are acceleration and deceleration lanes at least 200 feet in length, and provided the screen is not visible from any public street located within 500 feet of the screen.

ccc. Parking lots and garages.

ddd. Pest control businesses.

eee. Pet shops or grooming establishments.

fff. Photocopying and reproduction services.

ggg. Photography shops and studios.

hhh. Plant nursery sales facilities.

iii. Plumbing, electrical, pool and home building supply showrooms and sales centers (provided there is no outdoor storage associated with the use).

jjj. Psychics and/or fortunetellers, provided they meet the following standards:

1. Road Frontage Requirement. The proposed establishment must have road frontage, in conformance with the requirements of this zoning district, on a Major Arterial street. Major Arterial streets are shown on the "Official Thoroughfare Map of the City of Norcross," on file with the Office of Community Development;
2. Minimum Distance Requirement from Other Psychics and/or Fortunetellers. No Psychics and/or Fortunetellers shall be located, established, maintained or operated on any lot that has a property line within 500 feet of the property line of any other lot on which any other Psychics and/or Fortunetellers are located, established, maintained or operated.
3. Minimum Distance from Protected Uses. No Psychic and or Fortuneteller shall be located, established, maintained or operated on any lot that has a property line within 500 feet of the property line of any lot on which any Protected Use is located, established, maintained or operated.
4. Minimum Distance from Residential Property. No Psychic and/or Fortuneteller

shall be located, established, maintained or operated on any lot that has a property line within 500 feet of the property line of any Residential Property.

5. Measurement. For purposes of this subsection, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Psychic and/or Fortuneteller is located to the nearest point on a property line of (i) any Residential Property or (ii) any lot on which a protected Use or other Psychic and/or Fortuneteller, as the case may be, is established, maintained or operated.
6. Limited Exception for Subsequent Protected Uses or Residential Property. No Psychic and or Fortuneteller lawfully operating under this Code shall not be deemed to be in violation of the location restrictions set forth solely herein because (i) a Protected Use subsequently locates within the minimum required of the Psychic and/or Fortuneteller, (ii) property within the minimum required distance of an Psychic and or Fortuneteller subsequently becomes Residential Property. This Paragraph (g.) shall not apply to a Psychic and/or Fortuneteller at a time when an application for a Business License for that Establishment is submitted after the License has previously expired, has been revoked, or is at that time under suspension.

kkk. Radio, recording or television studios and broadcasting stations.

lll. Radio and television repair shops.

mmm. Record/video sales and rental stores.

nnn. Recreation facilities (indoor, such as bowling alleys, skating rinks, shooting ranges, movie theaters, billiard halls, and game rooms).

ooo. Restaurants

ppp. Shoe stores and shoe repair shops.

qqq. Small appliance repair shops.

rrr. Sporting goods stores.

sss. Tailor shops.

ttt. Tattoo and/or body piercing establishments

1. Road Frontage Requirement. The proposed establishment must have road frontage, in conformance with the requirements of this zoning district, on a Major Arterial street. Major Arterial streets are shown on the "Official Thoroughfare Map of the City of Norcross," on file with the Office of Community Development;
2. Minimum Distance Requirement from Other Tattoo and/or Body Piercing Establishment. No Tattoo and/or Body Piercing Establishments shall be

located, established, maintained or operated on any lot that has a property line within 500 feet of the property line of any other lot on which any other Tattoo and/or Body Piercing Establishments are located, established, maintained or operated.

3. Minimum Distance from Protected Uses. No Tattoo and/or Body Piercing Establishments shall be located, established, maintained or operated on any lot that has a property line within 500 feet of the property line of any lot on which any Protected Use is located, established, maintained or operated.
4. Minimum Distance from Residential Property. No Tattoo and/or Body Piercing Establishments shall be located, established, maintained or operated on any lot that has a property line within 500 feet of the property line of any Residential Property.
5. Measurement. For purposes of this subsection, distances shall be measured in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the lot on which the Tattoo and/or Body Piercing Establishments is located to the nearest point on a property line of (i) any Residential Property or (ii) any lot on which a protected Use or other Psychic and or Fortuneteller, as the case may be, is established, maintained or operated.
6. Limited Exception for Subsequent Protected Uses or Residential Property. A Tattoo and/or Body Piercing Establishment lawfully operating under this Code shall not be deemed to be in violation of the location restrictions set forth solely herein because (i) a Protected Use subsequently locates within the minimum required of the Tattoo and/or Body Piercing Establishments, (ii) property within the minimum required distance of a Tattoo and/or Body Piercing Establishments subsequently becomes Residential Property. This Paragraph (g.) shall not apply to a Tattoo and/or Body Piercing Establishments at a time when an application for an Business License for that Establishment is submitted after the License has previously expired, has been revoked, or is at that time under suspension.

uuu. Taxidermist.

vvv. Theaters and other indoor places of amusement, not specifically excluded by law.

www. Toy stores (children's and hobby stores).

xxx. Travel agencies.

yyy. Watch and clock repair shops.

zzz. Weaving apparel shops.

aaaa. Limousine and Taxi Services, provided that no more than five limousines and/or taxis are present on the site at the same time unless the business is located on a stand alone site of at least 1.5 acres.

bbbb. Indoor flea markets.

cccc. Full service and/or self service car wash.

dddd. Private schools, vocational schools and commercial schools.

eeee. Window tinting or stereo installation that is not associated with an auto repair business.

ffff. pawn shops.

gggg. Personal Services (hair salons, nail salons, tanning salons, hydro-therapy salons, and sauna salons).

hhhh Adult Entertainment Establishments meeting all the requirements of the Adult Entertainment Establishment Ordinance.

(2) Office uses.

- a. Accounting offices.
- b. Architecture or engineering offices.
- c. Doctor, dentist or chiropractor offices.
- d. Insurance offices.
- e. Law offices.
- f. Medical clinics.
- h. Office/showroom facilities.
- i. Other public or professional offices.
- j. Real estate offices.
- k. Wholesale warehouses and with no outdoor storage.

(3) Public and semipublic uses.

- a. Semipublic institutions, such as clubs, churches, mosques, synagogues or other places of worship, provided that:
 - 1. The club, church, mosque, synagogue or other place of worship is located on not less than five acres if it is a stand-alone use; or
 - 2. A special use permit must be obtained if the club, church, mosque, synagogue or other place of worship is located in an established business park or industrial park.

- b. Clubs, lodges, fraternal institutions and meeting halls.
- c. Government offices.
- d. Post offices.
- e. Public or semipublic buildings and land uses, parks, playgrounds or community centers.
- f. Utility offices.

(4) Residential.

a. Caretaker or watchman quarters as an accessory use when granted a special exception by the Zoning Board of Appeals.

(c) Within the C2 general business district, gasoline service station pumps are permitted within the front yard setback provided they are located not closer than 15 feet to the highway right-of-way.

(d) Within the C2 general business district the following uses may be permitted provided the applicant for such development is granted a special use permit by the governing authority after receiving recommendation from the community development department head and the planning and zoning board and after a public hearing.

(1) Telecommunications antenna.

(2) Telecommunication tower.

(Code 1979, § 8-4-49; Code 1998, § 106-85; Ord. No. 1-95, 2-6-1995; Ord. No. 10-95, 8-7-1995; Ord. No. 13-96, 5-6-1996; Ord. No. 16-96, 8-5-1996; Ord. No. 21-96, 10-7-1996; Ord. No. 08-97, § II, 5-5-1997; Ord. No. 06-98, 4-6-1998; Ord. No. 02-99, 2-1-1999; Ord. No. 13-2000, 10-2-2000; Ord. No. 14-2000, 11-6-2000; Ord. No. 6-2002, 3-4-2002; Ord. No. 3-2003, 3-3-2003; Ord. No. 11-2003, 8-4-2003; Ord. No. 14-2003, 10-6-2003)

Sec. 106-86. C3, central business district.

(a) Within the C3 central business district, the following uses will be permitted:

(1) Professional Office uses.

- a. Accounting offices
- b. Architecture or engineering offices.
- c. Doctor, dentist or chiropractor offices.
- d. Insurance offices
- e. Other public or professional offices.

f. Real estate offices.

(2) Public buildings and structures.

(3) Churches, mosques, synagogues and other places of worship, provided that the church or other place of worship meets the following requirements:

- a. A church, mosque, synagogues or other place of worship which is a stand-alone use must be located on not less than five acres; or
- b. A special use permit is obtained if the church or other place of worship is located in an established business park or industrial park.

(4) Restaurants and delicatessens with no drive-in service or drive-through windows.

(5) Animal hospitals and veterinarian clinics.

(6) Business, social and catering event facilities of high quality construction.

(7) Retail uses:

- a. Antique shops.
- b. Art, school and office supply stores.
- c. Art galleries.
- d. Automotive parts
- e. Bakeries (retail sales only).
- f. Banks or financial institutions (without drive-in facilities). Automatic teller as an accessory use (no drive-in).
- g. Beauty parlors and barber shops;
- h. Book or stationery stores, other than adult book stores
- i. Instructional Dance studios.
- j. Dry cleaning and pick up and delivery stations
- k. Drug stores and pharmacies
- l. Florists
- k. Food stores
- m. Gift shops.

- n. Hardware stores.
- o. Hobby shops.
- p. Ice cream shops.
- q. Interior decorating shops.
- r. Jewelry stores.
- t. Museums.
- u. Music studios.
- v. Photography shops and studios.
- w. Radio and television repair shops.
- x. Shoe stores and shoe repair shops.
- y. Small appliance repair shops.
- z. Sporting goods stores
- aa. Tailor shops.
- bb. Toy stores (children's and hobby shops).
- cc. Watch and clock repair shops.
- dd. Weaving apparel shops.

(ee) Indoor custom auto repair shall be permitted provided: (1) the gross square foot area of the business in the building is less than three thousand (3,000) square feet; (2) no auto repairs are conducted outside the building; (3) no inoperable vehicles are parked outside the building; (4) no more than a maximum of two (2) vehicles other than employee vehicles are parked outside the building; (5) no car sales (6) no outdoor air compressors; (7) no outdoor storage of any kind; (8) no outdoor incidental uses such as car washes.

(10) Public Parking facilities and parking lots associated with a business establishment.

(c) In the C-3 central business district, construction of new buildings within the limits of the national historic district shall be subject to the architectural review and approval of the downtown development authority. In reviewing and approving new construction, the downtown development authority may refer to the Norcross Downtown Study prepared by EDAW in 1987 and the Norcross Town Center Study prepared by Jordan, Jones & Goulding in 2001. This review and the requisite approval is conducted in order to maintain the historical integrity and viability of the national historic business district.

(d) In the C3 central business district, alteration of the appearance of existing buildings

used for commercial purposes within the national historic district shall be subject to review and approval of the community development director. Alteration shall mean any change to the exterior appearance of the structure including reconstruction, demolition, remodeling, siding replacement using a different material including painting over unpainted brick, replacement or addition of awnings and shall also include any change in the color of the exterior. Prior to commencement of any such alteration, a certificate of appropriateness shall be obtained by applying to the community development department. Said application shall be accompanied by such drawings, photographs, plans or other documentation as may be required by the community development director and shall be signed by the owner of record. In reviewing the application, the director may refer to the Norcross Downtown Study prepared by EDAW in 1987, the Norcross Town Center Study prepared by Jordan, Jones and Goulding in 2001 and the compatibility of the proposed alterations with the building itself and the surrounding buildings. If the community development director denies the certificate of appropriateness, then the applicant may make appeal to the mayor and council. This paragraph is adopted in order to protect, enhance and perpetuate the historical, cultural and aesthetic heritage of the city and promote the health, prosperity and general welfare of its people as well as stimulate the revitalization of the historic business district thereby attracting visitors and tourists.

- (e) Within the C3 central business district, a single-family dwelling unit may be permitted as a secondary use in the national historic district provided the applicant is granted a special use permit by the city council after receiving recommendations from the planning and zoning board and after a public hearing. A special use permit may only be considered for applications meeting the following minimum criteria:
- (1) The dwelling unit must be a secondary use to an established C3 use on the same lot (The "principal use");
 - (2) The principal use and secondary use shall be subject to fire separation as required by the Gwinnett County Fire Marshall;
 - (3) The dwelling unit must not occupy ground floor frontage (storefront) on South Peachtree Street or Jones Street;
 - (4) The heated square footage shall be no less than 1,250;
 - (5) The dwelling unit must not displace any space that has been actively used within the preceding 12 months for retail, office or food service not including passive storage;
 - (6) The exterior appearance of any new construction will be subject to the approval of the city council;
 - (7) Only one secondary use per lot is permitted.

It is the intent of this article that the historical integrity and viability of the national historic business district take priority in consideration of any secondary residential use requested by an applicant for a special use permit.

(Code 1979, § 8-4-50; Code 1998, § 106-86; Ord. No. 1-95, 2-6-1995; Ord. No. 10-95, 8-7-1995; Ord. No. 16-96, 8-5-1996; Ord. No. 21-96, 10-7-1996; Ord. No. 18-97, § I,

11-3-1997; Ord. No. 11-99, 7-12-1999; Ord. No. 08-00, 3-6-2000; Ord. No. 13-2000, 10-2-2000; Ord. No. 6-2002, 3-4-2002; Ord. No. 3-2003, 3-3-2003; Ord. No. 14-2003, 10-6-2003; Ord. No. 18-2003, 12-1-2003)

Editors Note: Ord. No. 08-00, adopted March 6, 2000, set out provisions pertaining to C3, central business district regulations. To maintain the numeric sequencing of this Code, these provisions have been included to read as herein set out at the discretion of the editor. See the Code Comparative Table.

Sec. 106-87. M1, light industry district.

(a) The M1 light industry district is comprised of lands that are located on or have ready access to a major street or state highway and are well adapted to industrial development but whose proximity to residential or commercial districts makes it desirable to limit industrial operations and processes to those that are not objectionable by reason of the emission of noise, vibration, smoke, dust, gas, fumes, odors or radiation and that do not create fire or explosion hazards or other objectionable conditions.

(b) Within the M1 light industry district, the following uses are permitted:

(1) Baking plants.

(2) Building material or other outdoor storage yards, other than junkyards, if they meet the following requirements:

a. Not be located within a required front yard;

b. Set back at least 25 feet from any side or rear property lines and shall be screened by a solid fence at least six feet high set back a similar distance from any side or rear property lines, appropriately landscaped and maintained; and

c. If an outdoor storage yard is established in connection with a permitted building, it shall meet the above requirements.

(3) Businesses that serve industries or their employees.

(4) Cold storage plants.

(5) Farm equipment, mobile home, recreational vehicles and equipment, sales and service.

(6) Billboard or Oversize Signs.

(7) Soft drink bottling and distributing plants.

(8) Truck terminals.

(9) Wholesaling and warehousing with offices (accessory retail sales are permitted, but shall not exceed 20% of gross floor area.)

(10) Miniwarehouses, provided the storage of flammable and/or hazardous materials is prohibited.

(11) Similar industries that meet the standards of this zoning district.

(12) Telephone marketing (telemarketing) enterprises.

(13) Open air markets and outdoor flea markets.

(14) Bus terminals.

(15) Trade/vocational school.

(16) Recreational facility/training center, indoor (gymnastic schools, baseball academies, etc.)

(c) Within the M1 light industry district, the following uses are permitted: churches or other places of worship, provided that a special use permit is obtained if the church or other place of worship is located in an established business park or industrial park.

(d) Within the M1 light industrial district the following uses may be permitted provided the applicant for such development is granted a special use permit by the governing authority after receiving recommendation from the community development department head and the planning and zoning board and after a public hearing.

(1) Telecommunications antenna.

(2) Telecommunication tower.

(Code 1979, § 8-4-51; Code 1998, § 106-87; Ord. No. 13-96, 5-6-1996; Ord. No. 16-96, 8-5-1996; Ord. No. 21-96, 10-7-1996; Ord. No. 22-96, 12-2-1996; Ord. No. 14-2000, 11-6-2000; Ord. No. 6-2002, 3-4-2002; Ord. No. 11-2004, 8-2-2004)

Sec. 106-88. FH, flood hazard district.

(a) The FH flood hazard district is comprised of lands that are subject to periodic flooding. The intent of the regulations within this zoning district is to limit the use of such floodplain lands to:

(1) Prevent flood damage to persons and properties and minimize expenditures for flood relief programs, flood control projects and flood damage repair.

(2) Preserve drainage courses that will be adequate to carry stormwater runoff from existing and future land developments.

(3) Prohibit landfills or other obstructions to the flow of floodwaters, except those included in the permitted uses listed below.

(4) Permit uses that are appropriate on floodplains and utilize effectively this valuable city resource.

(b) Within the FH flood hazard district, the following uses are permitted:

- (1) Dams, provided they are constructed in accordance with specifications of the United States Department of Agriculture Soil Conservation Service or the United States Army Corps of Engineers;
 - (2) Fences;
 - (3) Parking areas;
 - (4) Roads, provided adequate portions of them are constructed on bridges or piers to permit the free flow of floodwaters;
 - (5) Public, semipublic, private and commercial recreation uses requiring no structures within the floodplain except structures for temporary shelter;
 - (6) Public utility poles, towers, pipe lines and sewage treatment outfalls;
 - (7) Wastewater Treatment Facilities, including sewage lagoons:
 - a. They are located so as not to obstruct the flow of floodwaters;
 - b. The elevation of the top of their embankments is such that they are not subject to flooding;
 - c. Their embankments are protected against erosion by rip-rap, vegetative cover or other permanent protective cover; and
 - d. They are surrounded by a woven wire fence at least six feet high; and
 - (8) The erection, construction or maintenance of signs in areas adjacent to and within 660 feet of either side of the rights-of-way of primary and interstate highway systems shall be limited to M1 zoning districts.
- (c) Procedure for correction of error in the FH flood hazard zoning district boundary line. If a property owner can demonstrate to the satisfaction of the zoning board of appeals that an error has been made in establishing the flood hazard zoning district boundary line and that his/her property or a designated portion of it that now lies in the flood hazard zoning district is actually not subject to flooding, the zoning board of appeals may correct the flood hazard district boundary line accordingly. The zoning board of appeals and the property owner involved may seek the advice and assistance of the Soil Conservation Service of the Department of Agriculture or of the United States Army Corps of Engineers.
- (Code 1979, § 8-4-52; Code 1998, § 106-88; Ord. No. 6-2002, 3-4-2002)

Sec. 106-89. ODW, office-distribution-warehouse district.

- (a) ODW office-distribution-warehouse district is to provide for large scale office facilities and related distribution/warehouse activities that may be incompatible with other land use classifications. The ODW district provides for office, office distribution and office warehousing facility in high-quality buildings in an attractive surrounding. No product manufacturing or outdoor storage of any type shall be permitted in an ODW district.

Office and business park activities are allowed in this district, so long as outside storage is prohibited. Buildings must be developed on public street frontage.

(b) Within the ODW office-distribution-warehouse district, the following uses are permitted:

(1) Professional and business offices.

(2) Office/distribution/warehouse facilities, provided the distribution/warehouse activity is an integral part of the office activity and is located in the same facility.

(3) Wholesale trade/distribution offices with showroom and/or display facilities and areas for assembly and warehousing; provided, however, no more than 50 percent of the floor area shall be used for these purposes and no assembly or storage activity shall be allowed outdoors.

(4) Accessory uses such as retail business and service establishments (cafeterias, snack shops, etc.) located within office buildings.

(5) Telephone marketing and telemarketing enterprises.

(6) Other uses determined by the city council to be similar and compatible with the permitted uses listed above.

(Code 1979, § 8-4-53; Code 1998, § 106-89; Ord. No. 1-95, § 8-4-53(b), 2-6-1995; Ord. No. 6-2002, 3-4-2002)

Sec. 106-90. DCD, Design concept development district.

(a) The purpose of a design concept development district is to encourage the best possible site plans and building arrangements under a unified plan of development, rather than under lot-by-lot regulation. The developer benefits from better land utilization, economy in the provision of roads and utilities and flexibility in design. Approval of an overall concept plan will be in accordance with the land use plan and the character of the neighborhood in which the development is located.

(b) The design concept development district is intended to encourage ingenuity and resourcefulness in land planning in order to promote unique solutions to land development issues. A design concept development district is intended to promote mixed-use infill developments within the Downtown Business District. Applications for rezoning to the DCD district will only be accepted in the Downtown Development District east of the railroad on property designated on the Land Use Map as other than Low Density Residential.

(c) In furtherance of the purposes for which the DCD district is established, the following provisions shall apply to all proposed DCD projects:

(1) *Concept Plan Required* – Development of the DCD shall be guided by a concept plan that designates the land uses of the DCD. The concept plan shall be accompanied by a development standards text, which may be approved as a condition of zoning, providing development standards and

uses for the project which can vary, augment or limit the requirements of this Zoning Resolution and the Development Regulations. The Concept Plan shall be submitted as a part of the petition to rezone any property within the Downtown Development District to the DCD district. At a minimum the concept plan shall include architectural elevations of four sides, a description of the types of exterior treatments of buildings, a site plan to scale, a tree plan showing the existing trees on site that are 10" diameter at breast height or greater for hardwoods and 16" d.b.h. for other trees, an existing site survey and a grading plan.

(2) *Applicability of Existing Regulations* - To the extent that the approved concept plan and development standards for a DCD contradict the Development Regulations and the Zoning Resolution, the contradictory provisions of the Development Regulations and Zoning Resolution are inapplicable.

(3) *Concept Plan as a Condition of Zoning* - No changes in land use or density shall be allowed in any approved and incorporated concept plan or development standards text, except as subsequently approved pursuant to a rezoning of the property.

(4) *Underlying Assumptions Regarding Design Standards* - The City Council of Norcross has accepted the *Norcross Downtown Study*, prepared in 1987 by EDAW, and the *Norcross Town Center Study*, prepared by Jordan Jones and Goulding in 2001. These documents provide desired design characteristics for streets, buildings, yards and other spaces. All persons, firms or agencies wishing to develop a DCD proposal for consideration by the City of Norcross must utilize the design guidelines within these documents in developing their concept plans and accompanying development standards text.

(5) *Architectural Standards* - Due to the mixed-use nature of DCD proposals, especially in the Town Center study area, architectural compatibility is necessary in order to visually integrate development and allow for proximity of varied uses. In order to promote visual integration and to acknowledge the historical and architectural heritage character of the city, all persons, firms or agencies wishing to develop a DCD proposal must incorporate the Architectural Design Standards adopted by the City of Norcross and shall conform to guidelines spelled out by the *Norcross Downtown Study*, prepared in 1987 by EDAW, the *Norcross Town Center Study*, prepared by Jordan Jones and Goulding in 2001.

(6) *Procedure for application* - Prior to acceptance of an application by the Community Development Department for rezoning to the DCD district, the application shall be submitted to the Downtown Development Authority for review and approval of the sufficiency of the application in meeting the above criteria. The Downtown Development Authority shall conduct this review within sixty (60) days of receiving the application. Submission to the Downtown Development Authority shall adhere to the submission requirements for a Certificate of Appropriateness.

Allowed commercial uses – Unless otherwise specified as a condition of zoning, the commercial uses allowed in the DCD district shall be those allowed in C-3 within the Norcross Historic District/National Register Historic District.

(Ord. No. 6-2002, 3-4-2002; Ord. No. 16-2004, 12-6-2004; Ord. No. 6-2005, 9-6-2005)

Sec. 106-91. Area, yard and height requirements.

(a) Residential uses

District	Minimum Lot Size			Minimum Front Yard Setback in Feet				Minimum Side Yards in Feet	Minimum Rear Yards in Feet	Maximum Height in Feet
	Area in Square Feet	Square Feet Per Family	Minimum Width in Feet	Minor Road	County Road	Collector St. or Major Highway	State Highway			
R100	18,000 15,000 if sewered	18,000 15,000 if sewered	100	50 from R-O- W	50 from R-O-W	50 from R-O-W	50 from R-O-W	1 yard- 10 2 yards-25	40	35
R75	12,000 Lot must be served by a central sewerage system	12,000	75	35 from R-O- W	50 from R-O-W	50 from R-O-W	50 from R-O-W	1 yard- 10 2 yards-25	40	35
R65	7,200	7,200	65	25 from R-O- W	25 from R-O-W	25 from R-O-W	25 from R-O-W	7 1/2	25	35
RMD	16,000 if on sewer 24,000 if on septic tank	8,000	100	50 from R-O- W	50 from R-O-W	50 from R-O-W	50 from R-O-W	15	40	40
RM6	6 units per acre	N/A	N/A	50 from R-O- W	50 from R-O-W	50 from R-O-W	50 from R-O-W	20-1st 2 stories; 4 ea. additional story	40	40
RM8	8 units per acre	N/A	N/A	50 from R-O- W	50 from R-O-W	50 from R-O-W	50 from R-O-W	20-1st 2 stories; 4-each additional story	40	40
RM10	10 units per acre	N/A	N/A	50 from R-O- W	50 from R-O-W	50 from R-O-W	50 from R-O-W	20-1st 2 stories; 4-ea. additional story	40	40

(b) Non Residential Uses

District	Minimum Lot Size			Minimum Front Yard Setback in Feet				Minimum Side Yards in Feet	Minimum Rear Yards in Feet	Maximum Height in Feet
	Area in Square Feet	Square Feet Per Family	Minimum Width in Feet	Minor Road	County Road	Collector St. or Major Highway	State Highway			
OI	no minimum	N/A	N/A	50 from R-O-W	50 from R-O-W	50 from R-O-W	50 from R-O-W	If provided, 10; 20 if abutting an R district	15, but 40 if abutting an R district	40
C1	no minimum	N/A	no minimum	50 from R-O-W	50 from R-O-W	50 from R-O-W	50 from R-O-W	If provided, 10; 20 if abutting an R district	15, but 40 if abutting an R district	35
C2	no minimum	N/A	no minimum	50 from R-O-W	50 from R-O-W	50 from R-O-W	50 from R-O-W	If provided, 10; 20 if abutting an R district	15, but 40 if abutting an R district	35
C3	no minimum	N/A	no minimum	50 from R-O-W	50 from R-O-W	50 from R-O-W	50 from R-O-W	If provided, 10; 20 if abutting an R district	15, but 40 if abutting an R district	40
M1	1 acre	N/A	100	50 from R-O-W	50 from R-O-W	50 from R-O-W	50 from R-O-W	20, but 50 if abutting an R district	15, but 50 if abutting an R district	40
FH	no minimum	N/A	no minimum	N/A	N/A	N/A	N/A	N/A	N/A	N/A
ODW	25,000	--	75	50 from R-O-W	50 from R-O-W	50 from R-O-W	50 from R-O-W	10, but 30 if abutting an R district	15, but 40 if abutting an R district	20 or 2 stories, whichever is less
DCD	Area, Yard and Height requirements for the DCD District will be determined by the conditions of zoning or specific development standards adopted for each individual subject property.									

N/A = Not applicable

R-O-W = Right-of-way

For purposes of determining the setback requirements as to a corner lot, both sides abutting the street shall be considered front yards for setback purposes, and the minimum front yard setback of this section shall apply, provided the setback as imposed does not fall within the exception of section § 106-118. When a lot is deemed to have two front

yards, then the remaining yards shall be considered side yards for determination of setbacks for the principal building. The minimum separation between buildings located on the same lot shall be twenty (20) feet, unless fire, building or other applicable codes require a greater separation; except that the minimum separation between a residential building and residential accessory building located on the same lot shall be five (5) feet. (Code 1979, § 8-4-54; Code 1998, § 106-90; Ord. No. 18-95, § XI, 11-6-1995; Ord. No. 21-96, 10-7-1996; Ord. No. 03-98, 2-2-1998; Ord. No. 6-2002, 3-4-2002; Ord. No. 3-2003, 3-3-2003)

Sec. 106-92. Permitted encroachments upon required setbacks.

Cornices, eaves, chimneys, landings, porches, bay windows or other similar architectural features may extend into the required front, side or rear yard setbacks, provided such extensions do not exceed three feet into the setback. Decks and patios may extend into the side or rear yard setbacks but no closer than five feet from any property line. Steps and landings may extend into the required setbacks, provided such extensions do not exceed ten feet into the front yard setback. Steps and landings may extend into the rear yard setback, but no closer than five feet from the property line. (Code 1998, § 106-91; Ord. No. 03-98, 2-2-1998; Ord. No. 6-2002, 3-4-2002)

Secs. 106-93--106-115. Reserved.

Sec. 106-94. CSO Conservation subdivision overlay district.

1. Purposes.

The purposes of this overlay district are as follows:

- a.** To encourage the development of residential communities, that are density neutral based upon the Comprehensive Plan, designed to preserve and protect environmental resources, scenic vistas, and natural and cultivated landscapes.
- b.** To enhance land, water, air and tree resources by minimizing the area of land disturbance, reducing impervious surface, optimizing stream buffers, preserving tree cover and encouraging the provision of open space.
- c.** To reduce infrastructure maintenance costs as a result of efficient community design.
- d.** To provide open space and pedestrian linkages and wildlife corridors among residential communities and to encourage recreation opportunities.
- e.** To preserve significant historical and archeological features.
- f.** To preserve and protect contiguous undeveloped areas within the development.

2. Applicability.

A Special Use Permit is required to utilize the overlay district. The overlay district is only allowed in the R-100, R-75 or R-65 zoning districts for property served by

public sewer. Any conditions of zoning or special use approval of the underlying district shall also be observed (exception: lot area, width or quantity). For properties which are submitted for rezoning to R-100, R-75, or R-65 the applicant shall declare the intent to apply for a Special Use Permit at the time of application and the application shall be accompanied by a Concept Plan and Existing Features Site Analysis Plan meeting the requirements of this section. Said Special Use Permit and Rezoning may be applied for simultaneously. In the absence of a declaration of intent to use the overlay district with a rezoning application, the overlay district shall not be used on rezoned property for at least two (2) years from the date of the resolution adopting a zoning change.

3. Permitted Uses.

Those uses permitted in the underlying zoning district are permitted in the overlay district.

4. Existing Features Site Analysis Plan.

At time of development, or if a zoning action is proposed, an Existing Features Site Analysis Plan, sealed by a registered engineer or landscape architect, is required which identifies areas that are most significant for open space designation. The plan shall include at least the following information:

- a.** Delineation of streams, 100-year floodplains and wetlands, and shall include the source of this information.
- b.** Topographic contours at intervals no greater than 4 feet.
- c.** Identification of tree lines, woodlands, open fields or meadows.
- d.** Delineation of tree resource areas by type such as hardwoods, pines or mixed; and old or new growth.
- e.** Delineation of steep slope areas (i.e. greater than 25%).
- f.** Identification of historical features as identified in the 2001 Norcross Town Center Study, and archaeological features as listed in the Georgia Archaeological Site Files located at the University of Georgia in Athens.
- g.** Identification of significant wildlife habitats and scenic vistas as identified by the Georgia Department of Natural Resources or the Comprehensive Plan.
- h.** Identification of existing structures and easements.
- i.** Identification of open space in adjacent developments.

5. Concept Plan.

At time of development, a Concept Plan shall be submitted by the developer for review and approval in accordance with the requirements and procedures of the Development Regulations. If a zoning action is proposed, the rezoning site plan shall

include the following information:

- a.** Delineation and specifications of open space including calculations and exclusions (see section § 106-94 6(c)); and any "pocket parks," "greens," play areas, or trail system to be constructed.
- b.** A typical detail on the plan indicating dwelling size, lot width, building setback lines, off-street parking, street trees, sidewalks, and street pavement and right-of-way width.
- c.** Lot width average, area and percent of floodplain specifications in tabular form; and density calculations (gross and net).

6. Open Space Requirements.

In order to qualify for this overlay district, open space shall meet the following requirements:

a. Delineation.

Priority shall be given in delineating open space areas as those areas of significance identified in the Existing Features Site Analysis Plan.

b. Undeveloped and Natural.

Open space shall remain undeveloped and natural except for the provision of non-motorized passive recreation opportunities such as running, walking, biking, and similar outdoor activities. Exceptions: "pocket parks," "greens" and storm water management facilities and practices may be constructed and maintained in open space. A "pocket park" or "green" is a landscaped area larger than 0.33 acres constructed for community gathering or play, or visual enhancement. "Pocket parks" or "greens" shall not exceed 10% of the total open space.

c. Exclusions.

Excluded from meeting the minimum amount of open space are the following:

- 1) Proposed Permanent Lakes. No more than 50% of land area located within a proposed permanent lake may be credited.
- 2) Recreation Area Improvements. Impervious surfaces in recreation areas shall not be credited.
- 3) Easements. Land area within power or gas pipeline easements shall not be credited.
- 4) Floodplains conservation area. No more than 20% of land area in a 100 year floodplain will be allowed.
- 5) Other. Land area devoted to public or private streets or any land that has been, or is to be, conveyed to a public agency via a purchase agreement for such uses as parks, schools, or other public facilities shall not be credited.

d. Ownership.

Open space shall be owned in fee-simple by a mandatory property owner's association; or other entity approved in advance by the City Council during their normal course of business. The developer shall record the deed to the open space prior to, or concurrent with, the recording of the first final subdivision plat. An access easement following the alignment of future public streets is acceptable. However, "pocket parks" or "greens" may be deeded concurrent with the unit or phase of the final subdivision plat of which it is a part.

e. Property Owner's Association.

The property owner's association bylaws or covenants, at a minimum, shall contain the following provisions:

- 1) Governance of the association by the Georgia Property Owner's Association Act (~~OCGA Section~~ O.C.G.A. § 44-3-220 et seq.) or a successor to that Act that grants lien rights to the association for maintenance expenses and tax obligations.
- 2) Responsibility for maintenance of the open space.
- 3) Responsibility for insurance and taxes.
- 4) Automatic compulsory membership of all lot purchasers and their successors; and compulsory assessments.
- 5) Conditions and timing of transferring control of the association from the developer to the lot owners.
- 6) The association shall not be dissolved without the advance approval of the City Council.

f. Conservation Surety.

Open space delineated in the Concept Plan, except for "pocket parks" or "greens," or developed recreation areas, shall be permanently protected by the conveyance of (i) a covenant or scenic easement which runs in perpetuity under ~~OCGA Section~~ O.C.G.A. § 44-5-60 in favor of any corporation, trust, or other organization holding land for the use of the public or certain governmental entities; or (ii) a conservation easement running in perpetuity to a third party "qualified organization" recognized by Federal Treasury Regulation ~~Section~~ § 1.170A-14(c)(1). Qualified organizations recognized by this Treasury Regulation include, but may not be limited to, governmental entities, certain publicly supported charities, local and national land trusts, or other conservation groups that are organized or operated primarily or substantially for one of the conservation purposes specified in the Internal Revenue Code. Governmental entities that qualify to be named in covenants under ~~OCGA Section~~ O.C.G.A. § 44-5-60 or to receive conservation easements under the Treasury Regulation referred to above for purposes of this ~~ordinance~~ chapter shall include the Federal government, the State of Georgia or the City of Norcross. If a covenant or conservation easement is recorded in favor of a governmental entity, the written acceptance of the covenant or conservation easement by the governmental entity shall be obtained prior to the recording of the covenant or easement. The developer shall record the necessary legal instrument to accomplish

protection of the open space prior to, or concurrent with, the recording of the final subdivision plat.

g. Maintenance.

The property owner's association, or other entity approved in advance by the City Council, shall be responsible for the continuous maintenance of buffers, open space and recreation areas.

7. Density.

The Comprehensive Plan establishes recommended residential density not to exceed 4 units per acre in many areas of the city. Consequently, subdivisions in the overlay district shall not exceed a maximum net density in the underlying district, and shall provide at least the percent of open space, as stated below:

- a. R-100.** 2.3 units per acre with 40% open space; or,
3.0 units per acre with 50% open space.
- b. R-75.** 3.0 units per acre with 40% open space.
- c. R-65.** 4.0 units per acre with 30% open space.

8. Development Requirements.

Subdivisions in this overlay district shall meet the following requirements unless a Special Use Permit is submitted and approved by the City Council:

a. Minimum Subdivision Size:

5 contiguous acres.

b. Lot Area:

No minimum, except that each building lot shall not contain more than 20% of its area within the 100-year floodplain elevation.

c. Average Lot Width:

The average width of all building lots shall be at least 50 feet. Exception: Lots that abut non-overlay properties shall meet the standard width requirement of the underlying district; or, open space at least 50 feet wide shall be provided.

d. Minimum Road Frontage per Lot:

40 feet. Exception: Road frontage may be reduced to 20 feet for lots with frontage upon cul-de-sac or "eyebrow cul-de-sac" turnarounds.

e. Minimum Yard Areas (Setbacks):

Front: 20 feet. Exception: The front yard setback may be reduced to 5 feet if

dwellings are provided side or rear entry garages. To qualify for the reduced setback on a corner lot, side entry garages must be located to the side adjacent to an abutting lot.

Rear: 20 feet.

Side: 5 feet.

f. Exterior Project Street Frontage Open Space Strip:

50 feet in width (not part of any building lot). Landscape entry features such as fences, walls and trees may be allowed in the open space strip.

g. Maximum Height:

35 feet.

h. Minimum Floor Area:

Each dwelling unit shall have a minimum heated finished living area, excluding a basement, attic, carport or garage, as follows:

One Story: 1800 square feet.

Two Story: 2000 square feet.

i. Sodded Yards:

All grassed areas on dwelling lots shall be sodded.

j. Garages:

Dwellings shall have two-car garages.

k. Street Trees:

Street trees, in accordance with the requirements of the Buffer, Landscape and Tree Ordinance, shall be provided.

l. Underground Utilities:

Utilities shall be located underground.

(Ord. No. 6-2005, 9-6-2005)

ARTICLE IV.

EXCEPTIONS AND MODIFICATIONS

Sec. 106-116. Walls and fences.

(a) Walls and fences shall be permitted in any zoning district and are not subject to setback requirements, except as provided for in this section.

(1) In a residential zoning district, the following provisions shall apply:

a. No wall or fence shall exceed eight feet in height within a side yard or rear yard.

- b. No wall or fence that extends into the front yard shall exceed four feet in height, except that any gate or gatepost within the wall or fence shall not exceed six feet in height.
- c. No wall or fence constructed of woven wire or metal fabric (chain link, hog wire or barbed wire) shall extend into a front yard, except that woven wire or metal fabric fences may extend into a front yard when the property contains a minimum of three acres.
- d. Any wall or fence which extends into the front yard on property containing less than three acres shall be ornamental or decorative and may be constructed of brick, stone, wood, stucco, wrought iron or split rail; provided that no wall or fence shall be constructed of exposed concrete block, tires, junk or other discarded materials.
- e. Any subdivision entrance wall or fence shall not exceed ten feet in height and shall be subject to the approval of the community development director after the submission of a landscape plan and an architectural elevation.

(2) In a non-residential district, the following provisions shall apply:

- a. Any fence or wall to be located in the C-3 Historic District shall be subject to the approval of the community development director pursuant to the provisions of ~~Section~~ § 106-86(d).
- b. No fence or wall shall be allowed in any front yard.

(Code 1979, § 8-4-61; Code 1998, § 106-116; Ord. No. 6-2002, 3-4-2002; Ord. No. 3-2003, 3-3-2003; Ord. No. 7-2004, 6-7-2004)

Sec. 106-117. Substandard lots of record.

Any lot of record existing at the time of the adoption or amendment of this chapter, that has an area or width that is less than is required by this chapter, may be used, subject to the following exceptions and modifications.

- (1) *Adjoining lots.* When two or more adjoining lots of record with continuous frontage are in one ownership at any time after the adoption or amendment of this chapter and such lots, individually, have an area or width that is less than is required by this chapter, then such contiguous lots shall be considered as a single lot or several lots of the minimum width and area required in the zoning district in which they are located.
- (2) *Individual lot not meeting minimum lot size requirements.* Except as set forth in subsection (1) of this section, in any zoning district in which one-family dwellings are permitted, any lot of record existing at the time of the adoption or amendment of this chapter which has an area, width or depth less than that required by this chapter may be used as a building site for a one-family dwelling. In the case of such a lot, when it is not possible to provide the required side yards and at the same time build a minimum width one-family dwelling, the zoning board of appeals is hereby

authorized to grant a variance reducing the side yard requirements for such lot the minimum amount necessary for a reasonable dwelling, but in no case shall each of the side yards be less than five feet in width.

(Code 1979, § 8-4-63; Code 1998, § 106-117; Ord. No. 6-2002, 3-4-2002)

Sec. 106-118. Exceptions to front yard requirements.

(a) The front yard requirements of this chapter shall not apply on any lot where the average depth of the front yards of existing buildings on adjoining lots located wholly or in part within 100 feet on each side of such lot within the same block and zoning district and fronting on the same side of the street is either greater or less than the minimum required front yard depth.

(b) If the average depth of the front yards is greater than the required minimum front yard depth, the depth of the front yard of such lot shall be the average of the front yards of such buildings but need not be greater than 150 percent of the required front yard depth.

(c) If the average depth of the front yards is less than the required minimum front yard depth, the depth of the front yard of such lot may be less than the required front yard depth but shall not be less than the average of the front yards of such buildings.

(Code 1979, § 8-4-64; Code 1998, § 106-118; Ord. No. 6-2002, 3-4-2002)

Sec. 106-119. Temporary buildings.

A temporary modular or mobile building or buildings for use in connection with a construction project of land subdivision development shall be permitted on the land of the project during the construction period. Temporary modular or mobile buildings used in conjunction with a special event and authorized to be located on public property shall be permitted during the event for no more than three days.

(Code 1979, § 8-4-65; Code 1998, § 106-119; Ord. No. 6-2002, 3-4-2002; Ord. No. 16-2004, 12-6-2004)

Secs. 106-120--106-145. Reserved.

ARTICLE V.

OFF-STREET AUTOMOBILE PARKING AND LOADING

Sec. 106-146. Spaces required.

Off-street automobile parking and loading and unloading spaces shall be provided, as specified in this chapter, for uses and structures hereafter established. Any building or use that is subsequently enlarged shall meet the off-street parking and loading and unloading space requirements of this chapter for the addition made.

(Code 1979, § 8-4-71; Code 1998, § 106-146; Ord. No. 6-2002, 3-4-2002)

Sec. 106-147. Plan and design standards.

The following are required plan and design standards for off-street parking:

- (1) *Required area for each parking space.* Each parking space shall not be less than nine feet wide and 19 feet deep or 17 1/2 feet deep with 11/2-foot overhang. The community development director may grant an administrative variance to permit up to 40 percent of the parking spaces to be eight feet wide and 15 feet deep to accommodate compact cars where, in his/her opinion, the intent of the parking ordinance article can be achieved and equal performance obtained by granting a variance. Adequate interior driveways shall connect each parking space with the public right-of-way.
 - (2) *Interior driveways.* Interior driveways when used with 90-degree angle parking shall be at least 22 feet wide; when used with 60 degree angle parking, at least 12 feet wide with one-way traffic; when used with parallel parking or where there is no parking, at least ten feet wide for one-way traffic and at least 20 feet wide for two-way traffic.
 - (3) *Surfacing, drainage and lighting.* All areas intended to be used for off-street parking and driveways shall be properly drained and surfaced with material suitable to control drainage and dust problems. In commercial and multifamily districts, any off-street parking area for five or more vehicles shall be paved with asphalt or concrete material. If the off-street parking facilities are used at night, they shall be properly illuminated for the safety of pedestrians, vehicles and for security. The lighting shall be designed so as not to reflect into or cause unnecessary glare in any residential district and shall provide a minimum luminescence of one footcandle at pavement level. Plans for the surfacing, drainage and lighting of driveways and off-street parking areas for five or more vehicles shall be submitted to the community development director for review and written approval. In any residential district, the parking of any vehicle in the front yard or in front of the principal building line is prohibited except on a hard-surfaced or gravel driveway or in a carport or garage. Not more than 35 percent of this required front yard area shall be used for parking under any circumstance.
 - (4) *Location of required off-street parking spaces on other property.* If the required automobile off-street parking spaces cannot reasonably be provided on the same lot on which the principal use is located, such spaces may be provided on other off-street property lying not more than 400 feet from the main entrance to the principal use. In this situation, the applicant shall submit with his/her application for a building permit or an occupancy permit an instrument duly executed and acknowledged, which accepts as a condition for the issuance of a building permit or an occupancy permit the permanent availability of such off-street parking spaces to serve his/her principal use.
 - (5) *Sharing of required off-street parking spaces.* One-half of the off-street parking spaces required by a use whose peak attendance will be at night or on Sundays may be shared with a use that will be closed at night or on Sundays.
- (Code 1979, § 8-4-72; Code 1998, § 106-147; Ord. No. 1-95, 2-6-1995; Ord. No. 16-96, 8-5-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-148. Minimum number of spaces required.

The following are the minimum number of off-street parking spaces required. For uses not specifically listed, the off-street parking requirements shall be those of the most similar use as determined by the community development director.

- (1) ***Automobile sales and service.*** One space for each 150 square feet of gross floor

area.

- (2) **Churches.** One space for each four seats in the main auditorium.
- (3) **Food stores.** One space per 200 square feet of gross floor area.
- (4) **Funeral parlors.** One space for each three fixed seats and one space for each 25 square feet of floor area available for the accommodation of movable seats in the largest assembly room.
- (5) **Gasoline service station.** Three spaces for each service bay, with a minimum of ten spaces provided.
- (6) **Hospitals, nursing homes and similar institutions.** One space for each two beds.
- (7) **Industrial plants.** One space for each 2,000 square feet of gross floor area.
- (8) **Lodges and clubs.** One space for each 100 square feet of gross floor area.
- (9) **Motels and hotels.** One and one-quarter spaces per unit.
- (10) **Offices.** One space for each 300 square feet of gross floor area.
- (11) **Places of public assembly without fixed seating.** One space for each 25 square feet of floor area available for the accommodation of movable seats in the largest assembly room.
- (12) **Places of public assembly with fixed seating.** One space for each three seats.
- (13) **Recreation centers, private.** One space per five members but not less than 20 spaces except that golf courses shall require a minimum of 20 spaces per nine holes.
- (14) **Recreation centers, public.** A minimum of 20 spaces except that golf courses shall require a minimum of 20 spaces per nine holes.
- (15) **Residences.** Three spaces for each dwelling unit.
- (16) **Restaurants, night clubs, taverns and similar establishments serving food or beverages and providing patron use area.** One space for each 75 square feet of gross floor area.
- (17) **Restaurants, drive-in, without area provided for patron use.** One space per 100 square feet of gross floor area, but not less than ten spaces.
- (18) **Retail business, including general business, commercial or personal service establishments and shopping centers catering to retail trade, but not including offices or food stores.** One space for each 200 square feet of gross floor area.
- (19) **Rooming and boarding houses.** One space for each two bedrooms.

- (20) **Schools, public or private elementary and day care centers.** Two spaces per classroom.
- (21) **Schools, public or private high.** Five spaces per classroom.
- (22) **Schools, college, trade and vocational.** Ten spaces per classroom.
- (23) **Wholesale and warehousing.** One space per 200 square feet of gross floor area devoted to sale or display plus one space per 300 square feet of gross floor area devoted to office, plus one space per 2,000 square feet of gross storage area.
- (24) **Telephone marketing (telemarketing) enterprises.** One space for each 50 square feet of gross floor area.
- (25) **Bus station.** One space for each motor carrier and one space for each 150 square feet of gross floor area.
- (26) **Bus terminal.** One space for each 150 square feet of gross floor area used for ticketing and passengers in addition to the requirement of section 106-150.
(Code 1979, § 8-4-73; Code 1998, § 106-148; Ord. No. 21-96, 10-7-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-149. Plan and design standards for loading and unloading spaces.

(a) The following are the plan and design standards for off-street loading and unloading spaces.

- (1) Off-street loading and unloading spaces shall have access from an alley or, if there is no alley, from a public street.
- (2) The off-street loading and unloading space shall be so located that it causes a minimum of interference with the free movement of vehicles and pedestrians over a street, sidewalk or alley.

(Code 1979, § 8-8-74; Code 1998, § 106-149; Ord. No. 6-2002, 3-4-2002; Ord. No. 16-2004, 12-6-2004)

Sec. 106-150. Minimum size and number of loading and unloading spaces required.

(a) The minimum number and size of off-street loading and unloading spaces required are as follows:

- (1) For the purpose of this Section, an off-street loading and unloading space shall have the minimum dimensions of 12 feet × 40 feet × 14 feet of overhead clearance.
- (2) The minimum required number of such spaces are as follows:

Retail business, office, wholesale, industrial, governmental, and institutional uses, including public assembly places, hospitals and educational institutions are required to have one space for the first 25,000 square feet of total floor area or fractional part thereof. For anything in excess of 25,000 square feet, such uses shall provide loading

spaces according to the following schedule:

Square Feet	No. of Spaces
25,001 - 99,999	2
100,000 - 159,999	3
160,000 - 239,999	4
240,000 - 349,999	5
For each additional 100,000 square feet or fraction thereof, one (1) additional space shall be required.	

(Code 1979, § 8-4-75; Code 1998, § 106-150; Ord. No. 6-2002, 3-4-2002; Ord. No. 16-2004, 12-6-2004)

Sec. 106-151. Administrative variance.

In instances where an applicant shows specified and valid reasons why the requirements of Section § 106-148 or Section § 106-150 cannot reasonably be met, and where a reduction of not more than ten (10) percent in such requirements will not adversely affect the spirit or intent of this article, the Director of Community Development Department may administratively grant such reduction.

(Ord. No. 16-2004, 12-6-2004)

Sec. 106-152. Business vehicle parking.

(a) In commercial zoning districts, delivery/service vehicles and vehicles displaying advertising must be parked within the side or rear yard and may not be parked within the front yard, except vehicles parked temporarily while making a delivery, providing a service, or purchasing goods or services.

(b) In all residential districts, the parking of any business vehicle (other than an automobile, pick-up or panel truck used to provide daily transportation to and from work or a business vehicle parked temporarily while making a delivery or providing a service) and any vehicle with a carrying capacity of more than one and one-half tons is prohibited except when the following provisions apply:

(1) Such vehicle may park within a fully enclosed structure that meets all other criteria of the Zoning district and the City of Norcross Development Regulations, or

(2) Such vehicle may park on the side or to the rear of the primary residential structure on the lot provided that the lot is five (5) acres or larger, but in no case may be located closer than one hundred (100) feet from any property line.

(3) Such vehicle is used for the primary purpose of transporting children to and from state licensed or accredited elementary, middle or high schools provided such vehicle is parked off any public thoroughfare, on an all-weather surface, and in the side or rear yard.

(Ord. No. 16-2004, 12-6-2004)

Secs. 106-153--106-175. Reserved.

ARTICLE VI.

SIGNS

Sec. 106-176. Findings and purpose.

The City of Norcross finds that signs provide an important medium through which persons may convey a variety of non-commercial and commercial messages. However, left completely unregulated, signs can become a threat to public safety as a traffic hazard, a detriment to property values, as well as create an aesthetic nuisance. By enacting this ordinance, the City Council intends to:

- (a) Balance the rights of person to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
- (b) Protect the public health, safety, and welfare of the citizens and others within the City;
- (c) Reduce traffic hazards, pedestrian hazards, and other hazards;
- (d) Promote and maintain the aesthetic qualities of the City;
- (e) Protect property values by minimizing the possible adverse effects and visual blight caused by signs;
- (f) Promote economic development;
- (g) Ensure the fair and consistent enforcement of sign regulations;
- (h) Promote the stated purposes of the City of Norcross Zoning Ordinance, as amended, which are expressly incorporated herein; and
- (i) Promote the stated purposes of the Standard Building Code, as adopted and modified by the City, which are expressly incorporated herein.
(Ord. No. 6-2002, 3-4-2002; Ord. No. 10-2002, 6-3-2002)

Sec. 106-177. Signs prohibited in city.

- (a) The following types of signs are prohibited everywhere within the city:
 - (1) Any sign that, by reason of its shape, position or color, may be confused with an authorized traffic sign or signal.
 - (2) Any sign containing the word "stop," "look," "danger," or other similar word that may mislead and confuse traffic.
 - (3) Any sign with flashing green, red, amber or other lights that may be confused with a traffic signal.
 - (4) Any sign that is attached to a tree or utility pole or is attached to or painted on a rock or other natural object.
 - (5) Any sign located within a public right-of-way unless it is an official street name

sign, traffic sign or signal or other official sign.

- (6) Roof signs except legal temporary signs.
- (7) Any sign placed or erected on a property without the permission of the owner.
- (8) Signs rotating at greater than six revolutions per minute.
- (9) Courtesy benches, trash cans and similar devices on which advertising is displayed.
- (10) Animated signs involving motion or sound.
- (11) Reserved.
- (12) Exterior exposed neon signs including neon used to attract attention such as outlining a building or building feature.
- (13) Exterior exposed neon signs including neon used to attract attention such as outlining a building or building feature. Interior neon signs that are visible from the public right of way such as neon signs located in a window of a building; except that all interior neon signs totaling no more than four square feet in the aggregate shall be permitted.
- (14) Any "on-premises" sign used to identify or describe a business, a commercial establishment or a nonresidential establishment or any commercial product or service offered therein unless such sign contains the street number, the official street name, and the establishment name in English letters and Arabic numbers of a size equivalent to the predominant size of the letters and numbers on the sign. This section is adopted in order to aid in the identification and location of businesses and other commercial establishments in the city, for police, fire, and other emergency responses, and to avoid confusion and delay in response to such emergencies. This section shall apply to any signs which are erected, constructed, crafted or modified after the effective date of this subsection [~~June 7, 1999~~].
- (15) All "on premises" and "off premises" signs used to identify or describe a business, a commercial establishment or a nonresidential establishment or any commercial product or service that use words in a language other than English, where the English translation of such words do not appear on the sign, shall be prohibited unless a sworn affidavit is filed with the community development department to provide the city with the complete translation of any foreign words not translated in English on the sign. The affidavit must be from a person other than the owner of the business, or the commercial establishment or nonresidential establishment who is competent to translate the foreign words. Nothing in this section shall be construed to prohibit the use of foreign words or characters which are proper nouns which have no English translation as long as they do not contain unconstitutionally obscene language or advertise an illegal activity. This section is adopted in order to aid in the identification of businesses and other commercial establishments in the city, for police, fire, and other emergency responses, and to avoid confusion and delay in response to such emergencies and to protect the public health, morals and welfare from the display of unconstitutionally obscene language and the

advertisement of illegal activities. This section shall apply to any signs which are erected, constructed, crafted or modified after the effective date of this subsection.

(16) Portable signs.

(17) Signs which contain words, pictures, or statements which are obscene, as defined by ~~the Official Code of Georgia Annotated Section~~ O.C.G.A. § 16-12-80.

(18) Signs which do not conform to applicable building and electrical codes.

(19) Any sign constructed of non-durable material including, but not limited to, paper, cardboard or flexible plastic that has been displayed for more than 60 days. Nothing herein shall prohibit such a sign from being replaced by an identical sign. This provisions does not apply to Temporary Signs as governed by this Chapter.

(20) Abandoned commercial signs. Commercial signs (including sign structures) shall be deemed abandoned if the business, service or commercial transaction to which it relates has been discontinued for ninety days.

(21) Any sign that is structurally unsound, or is a hazard to traffic or pedestrians.

(22) Dilapidated or neglected signs. A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy.

(23) Signs which interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic or which otherwise pose a hazard to traffic due to structural deficiencies in the structure of such signs.

(24) Signs which advertise any activity, service, or product prohibited by the laws or regulations of the United States or the State of Georgia or by the ordinance or resolutions of the County. This section shall not prohibit signs promoting the legalization of any matter presently prohibited by federal, state, or local law.

(25) Signs which obstruct any fire escape, any means of egress or ventilation or shall prevent free passage from one part of a roof to any other part thereof, as well as signs attached to any fire escape.

(b) The city shall be empowered to remove or cause to be removed at the owner's expense all prohibited signs.

(Code 1979, § 8-4-81; Code 1998, § 106-176; Ord. No. 18-95, § XI, 11-6-1995; Ord. No. 10-98, 6-1-1998; Ord. No. 19-98, 12-7-1998; Ord. No. 07-99, 5-3-1999; Ord. No. 08-99, 6-7-1999; Ord. No. 02-99, 2-1-1999; Ord. No. 6-2002, 3-4-2002; Ord. No. 10-2002, 6-3-2002; Ord. No. 3-2003, 3-3-2003)

Editors Note: Ord. No. 08-99, adopted June 7, 1999, set out provisions relating to signs prohibited in the city. To maintain the numeric sequencing of this Code, these provisions have been included to read as herein set out at the discretion of the editor. See the Code Comparative Table.

Sec. 106-178. Signs permitted in any zoning district.

The following types of signs are permitted in any zoning district of the city and require no building permit:

- (1) Official street name, traffic direction or other official signs.
- (2) In districts in which businesses or institutions are permitted usages, signs are subject to the following specifications and the requirement that a sign permit be obtained from the community development department.
 - a. Business or institution signs for individual establishments, offices, shops, etc., not within a planned office, commercial or industrial center shall be limited to:
 1. Wall signage equal to the width of the face of the building times a factor of two. Unless the building fronts on two or more streets it shall be considered to have only one face. Signage may be placed on the sides of a building but the total signage area shall not be greater than the above formula based on the building face alone.
 2. One shared ground sign per street frontage not to exceed 50 square feet on one side and having not more than two sides for up to 500 feet of road frontage; 100 square feet on side if between 501 and 1,000 feet of road frontage and 150 square feet on one side if more than 1,000 feet of road frontage; provided, however, none shall exceed 6 feet above street level or 10 feet above ground level.
 - b. Business or institution signs for individual establishments, shops, etc., within a planned commercial center shall be limited to:
 1. Wall signage equal to the width of the face of the building times a factor of two. Unless the building fronts on two or more streets it shall be considered to have only one face. Signage may be placed on the sides of a building but the total signage area shall not be greater than the above formula based on the building face alone.
 2. One shared ground sign per street frontage not to exceed 50 square feet on one side for up to 500 feet of road frontage; 100 square feet on one side if between 501 and 1,000 feet of road frontage and 150 square feet on one side if more than 1,000 feet of road frontage; provided, however, none shall exceed 6 feet above street level or 10 feet above ground level.
 - c. Business or institution signs for individual offices, etc., within a planned office or industrial center shall be limited to:
 1. Wall signage equal to the width of the face of the building times a factor of two. Unless the building fronts on two or more streets it shall be considered to have only one face. Signage may be placed on the

sides of a building but the total signage area shall not be greater than the above formula based on the building face alone.

2. One shared ground sign per street frontage not to exceed 50 square feet on one side for up to 500 feet of road frontage; 100 square feet on one side if between 501 and 1,000 feet of road frontage and 150 square feet on one side if more than 1,000 feet of road frontage; provided, however, none shall exceed 6 feet above street level or 10 feet above ground level.
 - d. No sign having more than two sides shall be allowed.
- (3) One church bulletin board not exceeding 50 feet in area, which may be illuminated with indirect lighting only.
- (4) Real estate signs for the purpose of advertising the sale, lease or rental of property shall be limited to:
 - a. One sign not more than six square feet in area advertising the sale, lease or rental of single-family residential property; and
 - b. Real estate signs advertising the sale, lease or rental of property shown on the land use plan or on the official zoning map as other than single-family residential property shall be limited in size to the greater of 20 square feet or one square foot per five feet of road frontage and shall be limited to one sign per road frontage.
- (5) Temporary nonilluminated or indirectly illuminated construction and development signs, located on a property under development and giving the names of persons or firms engaged in the undertaking or giving the name of the project or other information pertinent to the project while it is under construction. The combined area of such signs shall not exceed 180 square feet.
- (6) One nonilluminated or indirectly illuminated sign not exceeding 40 square feet in area containing the name of a subdivision or neighborhood, planned shopping center, industrial park or apartment complex.
- (7) Directional or information signs of a quasi-public nature giving the time and place of meetings of such organizations as a Chamber of Commerce, Rotary or other service club.
- (8) On premises credit card and bank instant teller identification signs up to three square feet per card or six square feet total area.
- (9) On premises directional signs including exit/entrance, shipping/receiving, and do not enter, not to exceed three square feet in area or four feet in height.

(Code 1979, § 8-4-82; Code 1998, § 106-177; Ord. No. 04-1996, 2-5-96; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002; Ord. No. 10-2002, 6-3-2002; Ord. No. 7-2004, 6-7-2004; Ord. No. 6-2005, 9-6-2005)

Sec. 106-179. Billboard or oversized signs.

In a district in which billboard signs are listed as a permitted use, they may be erected after obtaining a sign permit and compliance with all provisions of the building code as adopted from time to time, but no building permit is required, subject to the following conditions:

- (a) Billboard signs shall not exceed 672 square feet of sign area. Billboard signs shall not exceed fourteen (14) feet in height or forty-eight (48) feet in length. The billboard sign structure is limited to forty (40) feet in height, except that on Interstate 85 the billboard sign structure is limited to seventy (70) feet as measured from the ground or the level of the road whichever is greater.
- (b) Billboard signs shall only be located on parcels in the zoning classification known as light manufacturing (M1).
- (c) Billboard signs shall only be located on parcels adjacent to permanently designated state or federal highways.
- (d) No billboard signs shall be located closer than 1000 feet from another billboard sign; except that any billboard sign located on a parcel of land which is directly adjacent to Interstate 85 shall have a separation of at least 500 feet from any other billboard sign located on the same side of Interstate 85.
- (e) No billboard signs shall only be located closer than 2,000 feet in any direction of a public park, residential zoned parcels, public playground, church, school, public recreation area, public forest, scenic area, or cemetery; provided, however, that such sign may be located within 2,000 feet of a public park, residential zoned parcels, public playground, church, school, public recreation area, public forest, scenic area, or cemetery when the sign is separated by buildings or other obstructions so that the sign located within the 2,000 feet is not visible from a public park, residential zoned parcels, public playground, church, school, public recreation area, public forest, scenic area, or cemetery, but in no case shall any such sign be located less than 1,000 feet of a public park, residential zoned parcels, public playground, church, school, public recreation area, public forest, scenic area, or cemetery.

(Code 1979, § 8-4-83; Code 1998, § 106-178; Ord. No. 1-95, § 8-4-1983, 2-6-95; Ord. No. 10-98, 6-1-1998; Ord. No. 6-2002, 3-4-2002; Ord. No. 10-2002, 6-3-2002; Ord. No. 11-2003, 8-4-2003)

Sec. 106-180. Signs in historical district.

In order to provide historical continuity in the geographic area within the city which appears on the U.S. Register of Historic Places and is known as the historical district, all signs located within the historical district shall be governed by the following provisions:

- (1) A historical district sign, including lighting, should be in keeping with the turn-of-the-century architecture generally represented in the historic district. Such sign should identify the name of the business and/or the product or service provided and should be in proportion with and visually loaded to the architectural character of the building, restrained in size and no larger than necessary for adequate identification.

- (2) In reviewing and approving signs within the historical district the Community Development Department and the Mayor and Council may refer to the Historic District Study of 1987 and Town Center Study of 2001 which are incorporated herein by reference.
- (3) In addition to the requirements set forth in ~~sections~~ §§ 106-176, 106-177 and 106-178 of this chapter, a historic district sign permit shall be obtained by the submission of a drawing or sketch of the proposed signage to the community development department for written approval. Such drawing or sketch shall be of sufficient detail and accuracy to permit an informed review.
- (4) Prior to the issuance of a permit, the historical district sign permit application shall be approved by the community development department. Denial of the permit may be appealed to the mayor and council.
- (5) Subject to the grandfather clause provision set forth in subsection (6) of this section, the following signs shall not be allowed within the historical district:
- a. Signs painted directly on exterior walls of a building or structure.
 - b. Roof-mounted signs.
 - c. Outdoor advertising signs (i.e., billboards).
 - d. Neon signs and other internally lighted signs.
 - e. Reader board.
- (6) The lawful use of any sign existing at the time of the enactment or amendment of this section may be continued, even though such sign does not conform with the provisions of this section, except that the nonconforming sign shall not be changed, altered or replaced except in conformance with this section.
- (7) One projecting sign per building face shall be allowed in the C-3 Historic District. Projecting signs shall not exceed nine (9) square feet in area and shall be held away from the building no more than six (6) inches and project no more than a total of three and one-half (3.5) feet or one quarter of the sidewalk, whichever is less. Projecting signs shall have a minimum clearance of eight (8) feet six (6) inches from the bottom of the sign to the sidewalk. All permitting requirements of this section shall apply to projecting signs.

(Code 1979, § 8-4-84; Code 1998, § 106-179; Ord. No. 22-96, 12-2-1996; Ord. No. 03-98, 2-2-1998; Ord. No. 6-2002, 3-4-2002; Ord. No. 11-2003, 8-4-2003)

Sec. 106-181. Temporary signs.

- (a) The following types of signs or advertising devices shall be allowed without permit for the immediate seven days preceding, the day of and the day after the holidays listed below and for the period from Thanksgiving through New Year's or by issue of a special permit allowing use of this type advertising for a period not exceeding 15 consecutive days. No such special permit shall be issued for the same premises at less than six-

month intervals. A fee as established by the city council shall be charged for each such special permit.

- (1) Air or gas-filled devices.
- (2) Balloons or streamers.
- (3) Flags or banners beyond the limits allowed in ~~section~~ § 106-189 of this chapter.
- (4) Searchlights and similar devices.

(b) The holidays referred to in subsection (a) of this section are:

- (1) New Year's Day.
- (2) Valentine's Day.
- (3) St. Patrick's Day.
- (4) Easter.
- (5) Mother's Day.
- (6) Memorial Day.
- (7) Father's Day.
- (8) Independence Day.
- (9) Labor Day.
- (10) Halloween.
- (11) Thanksgiving Day.
- (12) Christmas.

(Code 1979, § 8-4-85; Code 1998, § 106-180; Ord. No. 08-97, § II, 5-5-1997; Ord. No. 6-2002, 3-4-2002)

Sec. 106-182. Sign permits.

The following requirements in this Chapter shall apply to any sign for which a sign permit is required by this Chapter. These requirements shall also be applicable to obtain a historical district sign permit. Except as specifically excluded from the provisions of this Chapter, it shall be unlawful for any person to post, display, substantially change, or erect a sign in the city without first obtaining a sign permit. A change to the copy of a sign or advertising device shall not constitute an alteration.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-183. Sign permit application information.

Applications for sign permits including historical district sign permits required by this Chapter shall be filed by the sign owner or the owner's agent upon official forms with the community development department. The application shall be complete when filed and shall describe and set forth the information requested on the Sign Permit Application and this Chapter including but not limited to the following information:

- (a) The street address of the property upon which the sign is to be located and a plat map of the property which bears an indication of the proposed location of the sign. In the absence of a street address, a method of location acceptable to the Community Development Department shall be used.
- (b) The width of the face of the building or length of road frontage at the proposed location, as applicable.
- (c) The name(s) and address(es) of the owner(s) of the real property upon which the subject sign is to be located.
- (d) Consent of the owner, or the owner's agent, granting permission for the placement or maintenance of the sign, if the applicant is not the owner or the owner's agent.
- (e) Name, address, phone number and business license number of the sign contractor.
- (f) The type of sign to be erected, the area of the sign, the height of the sign, the shape of the sign, and an explanation of how the sign is to be mounted or erected.
- (g) The distance of the sign from the closest adjacent sign in either direction. In the case of a billboard sign, the distances as set forth in section 106-179 must be provided.
- (h) The size of the parcel on which the sign is to be placed.
(Ord. No. 10-2002, 6-3-2002)

Sec. 106-184. Time for consideration of sign permit application.

The city shall process all sign permit applications within thirty (30) business days of the city's actual receipt of a completed sign permit application and a sign permit fee. The sign permit fee shall be established by the Mayor and Council. The Community Development Department Head shall give notice to the applicant of the decision of the city by hand delivery or by mailing a notice by certified mail, return receipt requested to the address on the sign permit application on or before the 30th business day after the city's receipt of the completed application. If mailed, the notice shall be deemed to have been given upon the date of mailing in conformity with this section. If the city fails to act within the thirty (30) day prescribed period, the permit shall be deemed to have been granted.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-185. Denial and revocation of sign permits.

- (a) Procedure. The city shall deny sign permits to applicants that submit applications for signs that do not comply with the provision of this Chapter, incomplete applications, and applications containing any false material statements. Violation of any provision of this Chapter and any other applicable State law or city ordinance shall be grounds for

revoking a permit granted by the city for the erection of a sign. Should it be determined that a sign permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this chapter, the community development department head shall revoke the permit. Should the community development department head deny or revoke a permit, the reasons for the denial or revocation of the permit shall be stated in writing and hand delivered or mailed by certified mail, return receipt requested, to the address on the sign permit application on or before the 30th business day after the city's receipt of the application. Any application denied and later resubmitted shall be deemed to have been submitted on the date of resubmission, instead of the date of the original submission. No permit shall be denied or revoked, except for due cause. "Due cause" shall mean the violation of the provision of this chapter, state or federal law, or the submission of an incomplete application or an application containing false material statements. The applicant has the right to request a hearing before a hearing officer designated by the city. The applicant shall be given ten (10) days to file a request for an appeal to the Zoning Board of Appeals after receipt of the denial or revocation notice from the city. When a timely appeal has been filed, the city shall schedule the appeal before the Zoning Board of Appeals within thirty (30) days. The date may be rescheduled by agreement of the City.

(b) Appeal. In the event an applicant or permittee whose permit has been denied or revoked is dissatisfied with the decision of the Zoning Board of Appeals, the applicant or permittee may appeal the decision by filing a petition for writ of certiorari to the Superior Court of Gwinnett County in the manner provided by law.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-186. Sign permit expiration.

A sign permit shall become null and void if the sign for which the permit was issued has not been completed, erected and installed within six (6) months after the date of issuance of the permit. No refunds will be made for permit fees paid for permits that expired due to the failure to erect a completed permitted sign within the prescribed period. If at a later time an individual desires to erect a sign at the same location, a new application must be processed and another fee paid in accordance with the fee schedule applicable at that time.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-187. Maintenance and appearance of signs.

(a) All signs shall be maintained in good condition, so as to present a neat and orderly appearance. Neglected or dilapidated signs shall be manifested by the following: rust or holes on or in the sign or sign structure, or broken, missing, loose or bent parts, faded or flaking paint, non-operative or partially non-operative illuminating or mechanical devices or missing letters in sign copy. The Community Development Department, after due notice, may have any sign removed which shows gross neglect or becomes dilapidated.

(b) The Community Development Department Head shall give the owner ten (10) days written notice to correct the deficiencies or to remove the sign or signs. If the owner refuses to correct the deficiencies or remove the sign, the Community Development Department Head may have the sign removed at the expense of the owner.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-188. Nonconforming signs.

(a) The lawful use of a permanent sign existing at the time of the adoption of this ordinance may be continued in non-conformance with the requirement of this ordinance, except that the non-conforming sign shall not be enlarged, altered, modified, improved or rebuilt. A non-conforming sign may be repaired to the extent necessary to maintain it in a safe condition and neat and orderly appearance. A change in the advertising message on the sign shall not constitute an alteration or modification of the sign.

(b) No structural repair or change in shape, size or design, shall be permitted except to make a non-conforming sign comply with all requirements of this Chapter or to render the sign structurally sound. Routine maintenance and changing of copy shall be permitted as long as such maintenance or changing of copy does not result in or change the shape, size or design.

(c) A non-conforming sign may not be removed by an act of the owner and later replaced by another non-conforming sign.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-189. Flags.

(a) All flags shall be displayed on purpose-built, professionally fabricated flagpoles, which may be vertical or mast-arm flagpoles. In non-residential districts, flagpoles shall not exceed the allowed height provided for a structure or building in the applicable zoning district or 50 feet. The flagpoles in residential districts shall not exceed 25 feet in height or the height of the primary structure on the lot, whichever is less.

(b) The maximum dimensions of any flag shall be proportional to the flagpole height. The hoist side of the flag shall not exceed 20% of the vertical height of the flagpole. In addition, flags are subject to the following limitations:

<u>Pole Height</u>	<u>Maximum Flag Size (total square feet)</u>
Up to 30 feet	30 square feet
30 to 50 feet	60 square feet
50 feet or greater	150 square feet

(c) Each lot or parcel shall be allowed a maximum of three flag poles.

(d) A maximum of 2 flags shall be allowed per flagpole.

(e) Flags displaying a logo, message, statement, or commercial message and banners not meeting the definition of a flag contained herein shall conform to all applicable ordinances pertaining to signs.

(f) A vertical flagpole must be set back from all property boundaries a distance which is at least equal to the height of the flagpole.

(g) Flags and flagpoles shall be maintained in good repair, and to the extent applicable shall be in compliance with the building code. Flagpoles with broken halyards shall not be used and flags which are torn or frayed shall not be displayed.

(h) On officially designated county, state, or federal holidays, there shall be no maximum flag size or number or other limitations on display.

(i) This section shall not be construed to restrict the right to display eligible flags as banners or non-commercial signage as provided elsewhere in this Article.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-190. Signs exempt from specified provisions of this article.

(a) The following types of signs are exempt from the requirements of this Article unless otherwise expressly prohibited under ~~Section § 106-177~~ of this chapter. However, all of these signs shall abide by the height requirements as specified in this Chapter and all applicable building codes.

1. Non-illuminated freestanding signs or banners having an aggregate sign area per residential or non-residential lot of fifteen (15) square feet or less. However, each such sign may not exceed six (6) square feet in size or greater than four (4) feet above the grade level of the adjacent street to which the sign is located or three (3) feet above ground level, whichever is greater. No sign shall be located closer than ten (10) feet to the back of the curb of a public roadway. Any commercial message on a sign located on any lot in any residential district must be related to the physical premises on that lot. Such a message may be deemed related to the physical premises on the lot if it indicates the provider of services to or regarding the premises. The City Council having previously considered this in connection with the Zoning Ordinance, as amended, to the extent that ~~Section § 106-79 (b)(3)~~ of the Zoning Ordinance conflicts with this Ordinance, ~~Section § 106-79 (b)(3)~~ of the Zoning Ordinance shall control. Should any new zoning district be created that incorporates any residential use, this section shall apply to such new district unless otherwise stated in the ordinance creating the new zoning district.

2. Signs for the sole purpose of displaying street numbers as may be required by other code sections and other signs required by law.

(Ord. No. 10-2002, 6-3-2002)

Sec. 106-191. Illumination of signs.

(a) No sign shall give off light which glares, blinds or has any other such adverse effect on traffic or adjacent properties. The light from an illuminated sign shall be established in such a way that adjacent properties and roadways are not adversely affected and that no direct light is cast upon adjacent properties and roadways. No illuminated sign shall be constructed or maintained within 75 feet of the property line of any single-family residential lot.

(b) No sign shall have blinking, flashing, or fluctuating lights or other illuminating devices which have a changing light intensity, brightness or color.

(c) Colored lights shall not be used at any location or in any manner so as to be

confused with or construed as traffic control devices. Neither direct nor reflected light from primary light sources shall create a hazard to operators of motor vehicles.

(d) Signs located within any residential district may only be indirectly illuminated.
(Ord. No. 10-2002, 6-3-2002)

Secs. 106-192--106-205. Reserved.

ARTICLE VII.

STANDARDS FOR TELECOMMUNICATIONS ANTENNAS AND TOWERS

Sec. 106-206. Definitions.

~~The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.~~ Words and phrases used in this Code shall have the following meanings, unless otherwise specified:

Alternative tower structure means manmade trees, clock towers, bell steeples, light poles, and similar alternative-design mounting structures.

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

FAA means the Federal Aviation Administration.

FCC means the Federal Communications Commission.

Grandfathered towers and antennas has the meaning set forth in section 106-207(d) of this Code.

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

Tower means any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supported lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, and cellular telephone towers.

(Code 1998, § 106-206; Ord. No. 13-96, § 8-4-91, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Cross References: Definitions generally, § 1-2.

Sec. 106-207. Applicability.

(a) *District height limitations.* The requirements set forth in this article shall govern the location of towers that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district in which towers and antennas are permitted.

(b) *Public property.* Antennas or towers located on publicly owned property shall be

exempt from the requirements of this article, provided a license or lease authorizing such antenna or tower has been approved by the mayor and council.

(c) *Amateur radio; receive-only antennas.* This article shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive-only antennas.

(d) *Grandfathered towers and antennas.* Any tower or antenna existing on May 6, 1996, shall not be required to meet the requirements of this chapter, other than the requirements of ~~sections~~ § 106-208(e) and (f) of this chapter. Any such existing towers or antennas that fail to meet the requirements of this article shall be referred to in this article as "grandfathered towers" or "grandfathered antennas." The provisions applicable to nonconforming uses set forth in ~~section~~ § 106-13 of this chapter shall apply to grandfathered towers and grandfathered antennas.

(Code 1998, § 106-207; Ord. No. 13-96, § 8-4-92, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-208. General guidelines and requirements.

(a) *Purpose; goals.* The purpose of this article is to establish guidelines for the siting of towers and antennas. The goals of this article are to:

- (1) Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community;
- (2) Encourage strongly 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) Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and
- (5) Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.

(b) *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complies with district development regulations, including but not limited to setback requirements, lot-coverage requirements, and other such requirements, the dimensions of the entire lot shall control, even though the antennas or towers may be located on leased parcels within such lots.

(c) *Inventory of existing sites.* Each applicant for an administrative approval or a special use permit shall provide to the community development department an inventory of its existing towers, including specific information about the location, height, and design of each tower. The community development department may share such information with other applicants applying for administrative approvals or special use permits under this article or other organizations seeking to locate antennas within the jurisdiction of the

mayor and council.

(d) *Aesthetics; lighting.* The guidelines set forth in this subsection, towers, and the installation of all antennas, governed by this article; provided, however, that the mayor and council may waive these requirements if, in its sole discretion, it determines that the goals of this article are better served thereby.

(1) Towers shall either maintain a galvanized steel finish, or subject to any applicable standards of the FAA, be painted sky blue or gray, so as to reduce visual obtrusiveness.

(2) At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.

(3) If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical 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.

(4) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.

(e) *Federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas are governed by this chapter shall bring such towers and antennas into compliance with such revised standards and regulations.

(f) *Building codes; safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time.

(Code 1998, § 106-208; Ord. No. 13-96, § 8-4-93, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-209. Permitted uses.

New towers shall be allowed only in M1, light industry district, and C2, general business district, by special use permit under this article including the procedures set forth in sections §§ 106-211 and 106-311 of this chapter.

(Code 1998, § 106-209; Ord. No. 13-96, § 8-4-94, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-210. Administrative approvals.

The community development department head may administratively approve the installation of an antenna on any existing tower or structure (such as a building, sign, light pole, watertower, or other freestanding nonresidential structure) whether or not the

structure or tower is grandfathered so long as the additional structure adds no more than 20 feet to the height of the existing tower or structure. This administrative approval process may include any related equipment structures.

(Code 1998, § 106-210; Ord. No. 13-96, § 8-4-95, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-211. Special use permits.

(a) *General.* The following provisions shall govern the issuance of special use permits:

- (1) A special use permit is required for the installation and construction of a tower or antenna in the M1 and C2 zoning districts.
- (2) In granting a special use permit, the mayor and council may impose zoning conditions to the extent the mayor and council concludes such conditions are necessary to buffer or otherwise minimize any adverse effect of the proposed tower on adjoining properties.
- (3) Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed professional engineer.

(b) *Site plan.* Each applicant requesting a special use permit under this article shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by appropriate professional engineers, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information the city determines is necessary to assess compliance with this article.

(c) *Factors considered in granting special use permits.* The mayor and council shall consider the following factors in determining whether to issue a special use permit, although the mayor and council may waive or reduce the burden on the applicant of one or more of these criteria, if, in the sole discretion of the mayor and council, the goals of this article are better served thereby:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage 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) Availability of suitable existing towers and other structures as discussed in subsection (d) of this section.

(d) *Availability of suitable existing towers or other structures.* No new tower shall be

permitted unless the applicant demonstrates to the reasonable satisfaction of the mayor and council that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
 - (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
 - (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
 - (4) 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.
 - (5) The fees or costs required to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed unreasonable.
 - (6) Property owners or owners of existing towers or structures are unwilling to accommodate reasonably the applicant's needs.
 - (7) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (e) *Setbacks and separation.* The following setbacks and separation requirements shall apply to all towers and antennas for which a special use permit is required; provided, however, that the mayor and council may, in its sole discretion, reduce the standard setbacks and separation requirements if the goals of this article would be better served thereby.
- (1) Towers must be set back a distance equal to the height of the tower from any off-site residential structure.
 - (2) Towers, guys, and accessory facilities must satisfy the minimum district yard setback requirements.
 - (3) Towers over 90 feet in height shall not be located within 1,000 feet from any existing tower that is over 90 feet in height.
- (f) *Security fencing.* Towers shall be enclosed by security fencing not less than six feet in height and shall be equipped with an appropriate anticlimbing device; provided, however, that the mayor and council may, in its sole discretion, waive such requirements, as it deems appropriate.
- (g) *Landscaping.* The following guidelines shall govern the landscaping surrounding towers

for which a special use permit is required; provided, however, that the mayor and council may, in its sole discretion, waive such requirements if the goals of this article would be better served thereby.

- (1) Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the compound.
- (2) In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
- (3) Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

(Code 1998, § 106-211; Ord. No. 13-96, § 8-4-96, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Sec. 106-212. Removal of abandoned antennas and towers.

Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the mayor and council notifying the owner of such abandonment. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

(Code 1998, § 106-212; Ord. No. 13-96, § 8-4-97, 5-6-1996; Ord. No. 6-2002, 3-4-2002)

Secs. 106-213--106-240. Reserved.

ARTICLE VIII.

ADMINISTRATION, ENFORCEMENT, PENALTIES AND REMEDIES

Sec. 106-241. Zoning enforcement officer.

It shall be the duty of the community development director or his/her delegated representative, including the city code enforcement officer, and he/she is hereby given the authority, to administer and enforce the provisions of this chapter.

(Code 1979, § 8-4-101; Code 1998, § 106-241; Ord. No. 6-2002, 3-4-2002)

Sec. 106-242. Building permit required.

- (a) No building or other structure shall be erected, moved, added to or structurally altered without a building permit issued by the chief building inspector. No building permit shall be issued except in conformance with the provisions of this chapter.
- (b) All applications for building permits shall be accompanied by plans in duplicate, drawn to scale, showing the actual dimensions of the lot to be built upon, the sizes and the locations on the lot of any existing buildings or structures, the shape, size, height, use and the location on the lot of the building or structure to be erected, moved, added to or structurally altered and such other information as may be necessary to provide for

the enforcement of this chapter.
(Code 1979, § 8-4-102; Code 1998, § 106-242; Ord. No. 6-2002, 3-4-2002)

Sec. 106-243. Certificate of occupancy required.

(a) A certificate of occupancy issued by the chief building inspector is required in advance of the use or occupancy of:

(1) Any lot or a change in the use thereof; and

(2) A building hereafter erected or a change in the use of an existing building.

(b) No certificate of occupancy shall be issued unless the lot or building or structure complies with all the provisions of this chapter.

(c) A record of all certificates of occupancy shall be kept on file in the office of the chief building inspector and a copy shall be furnished, on request, to any person having a proprietary or tenancy interest in the building or land involved.

(Code 1979, § 8-4-103; Code 1998, § 106-243; Ord. No. 6-2002, 3-4-2002)

Sec. 106-244. Penalties for violation.

Any person violating any provision of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined as provided in section 1-11. Each day a violation continues shall constitute a separate offense.

(Code 1979, § 8-4-104; Code 1998, § 106-244; Ord. No. 6-2002, 3-4-2002)

Sec. 106-245. Remedies.

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

(Code 1979, § 8-4-105; Code 1998, § 106-245; Ord. No. 6-2002, 3-4-2002)

Secs. 106-246--106-270. Reserved.

ARTICLE IX.

ZONING BOARD OF APPEALS*

* **Cross References:** Boards, commissions and authorities, § 2-191 et seq.

Sec. 106-271. Created.

A zoning board of appeals is hereby created.

(Code 1979, § 8-4-111; Code 1998, § 106-271; Ord. No. 6-2002, 3-4-2002)

Sec. 106-272. Membership and appointment.

The zoning board of appeals shall consist of five members who reside within the corporate limits of the city. The members shall be recommended by the mayor and appointed by the city council. No member of the zoning board of appeals shall hold any other public office in the city.

(Code 1979, § 8-4-112; Code 1998, § 106-272; Ord. No. 6-2002, 3-4-2002)

Sec. 106-273. Terms of office; vacancies; removal; disqualification.

(a) The term of office of each member of the zoning board of appeals shall be for three years, or thereafter until his/her successor is appointed. However, the terms of the original members of the zoning board of appeals shall be as follows: one shall serve for a term of three years, one for a term of two years and one for a term of one year. Thereafter, each member shall be appointed to serve a term of three years. Members may be reappointed. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

(b) Members shall serve at the pleasure of the city council.

(c) Any member of the zoning board of appeals shall be disqualified to act upon a matter in which the member has an interest.

(Code 1979, § 8-4-113; Code 1998, § 106-273; Ord. No. 6-2002, 3-4-2002)

Sec. 106-274. Officers.

The zoning board of appeals shall elect one of its members as chairman and a second one as vice-chairman. The chairman and vice-chairman shall serve for one year or until reelected or until successors are elected. The zoning board of appeals shall appoint a secretary who may be an employee of the city or of the planning commission.

(Code 1979, § 8-4-114; Code 1998, § 106-274; Ord. No. 6-2002, 3-4-2002)

Sec. 106-275. Rules of procedure; meetings; minutes; records.

(a) The zoning board of appeals shall adopt rules of procedure. Meetings of the zoning board of appeals shall be at the call of the chairman and at such other times as the members of the zoning board of appeals may determine. The chairman or, in his/her absence, the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena.

(b) The zoning board of appeals 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. The zoning board of appeals shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the city clerk and shall be a public record.

(Code 1979, § 8-4-115; Code 1998, § 106-275; Ord. No. 6-2002, 3-4-2002)

Sec. 106-276. Powers.

(a) The zoning board of appeals shall have the following powers to:

- (1) Hear and decide appeals when it is alleged there is error in any order, requirement, decision or determination made by the community development director in the enforcement of this chapter.
- (2) Hear and decide requests for the special exceptions to this chapter upon which the zoning board of appeals is required to pass.
- (3) Authorize, upon appeal in specific cases, such variances from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of this chapter will, in an individual case, result in unnecessary hardship, so that the spirit of this chapter shall be observed, public safety and welfare secured and substantial justice done. Such variances may be granted in such individual cases of unnecessary hardship upon a finding by the zoning board of appeals that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular property in question because of its size, shape or topography;
 - b. The application of this chapter to this particular piece of property would create an undue hardship;
 - c. Such conditions are peculiar to the particular piece of property involved;
 - d. Such conditions are not the result of any actions of the property owner;
 - e. Relief, if granted, would not cause substantial detriment to the public good nor impair the purposes or intent of this chapter; and
 - f. No variance may be granted for use of land or building or structure that is prohibited by this chapter; and
 - g. The following limitations shall apply to the exercise of the powers granted to the board of appeals:
 1. Economic considerations may be taken into consideration as a hardship but shall not, of themselves, be the sole criteria upon which the board of appeals may grant a variance.
 2. No relief may be granted or action taken under the terms of this section unless such relief can be granted without substantial detriment to the public. No relief that substantially changes the intent and purpose of the land use plan and the zoning map or this chapter may be granted.
 3. For purposes of this section, "hardship" shall mean the proposed use of the property and associated structures are not allowed by this chapter or its amendments and no other reasonable alternate use exists for the property. The request for a variance must be based upon the criteria that a physical condition, unique to the particular land, structure or building demands such a variance. If such unique condition exists, a variance may be granted.

- (b) In exercising the above powers, the zoning board of appeals may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirements, decisions or determination from which the appeal is taken and, to that end, shall have all the powers of the community development director from whom the appeal is taken and may issue or direct the issuance of a building or occupancy permit.
- (c) Notwithstanding the foregoing provisions, the community development director is delegated the power to grant administrative variances without the necessity of zoning board of appeals action in the following instances:
- (1) Front yard variance, not to exceed ten feet;
 - (2) Side yard variance, not to exceed five feet;
 - (3) Height, not to exceed ten feet;
 - (4) Rear yard variance, not to exceed ten feet; and
 - (5) Parking space variance, not to exceed ten percent of gross number required.
- (Code 1979, § 8-4-116; Code 1998, § 106-276; Ord. No. 6-2002, 3-4-2002)

Sec. 106-277. Appeals to the zoning board of appeals.

- (a) Appeals to the zoning board of appeals may be taken by any person aggrieved by any official of the city affected by any decision of the community development director. Such appeal shall be taken within 15 days of filing with the community development director and with the zoning board of appeals a notice of appeal specifying the grounds thereof. The community development director shall forthwith transmit to the zoning board of appeals all the papers constituting the record upon which the action appealed from was taken.
- (b) An appeal stays all legal proceedings in furtherance of the action appealed from unless the community development director certifies to the zoning board of appeals that, by reason of facts stated in the certificate, a stay would, in his/her opinion, cause imminent peril to life and property. In such a case, proceedings shall not be stayed otherwise than by the zoning board of appeals or by a restraining order that may be granted by a court of record on application, on notice to the community development director, and on due cause shown.
- (c) Any person may request a variance under this chapter provided at the time of the request such person is the record title holder of the property for which the variance is being requested.
- (Code 1979, § 8-4-117; Code 1998, § 106-277; Ord. No. 6-2002, 3-4-2002)

Sec. 106-278. Required public hearings.

- (a) Upon receipt of an application for variance or special exception, the zoning board of appeals shall hold a public hearing. At least 15 but not more than 45 days prior to such hearing the board shall cause to be published in a newspaper of general circulation within the corporate boundaries a notice of the hearing. Such notice shall contain the

time, place, date, the location of the property, and the purpose of the hearing.

- (b) There will further be erected on the property in a conspicuous location a sign stating the time, place, date and purpose of the hearing. Such sign must be erected not less than 15 days prior to the date of the hearing.

(Code 1979, § 8-4-118; Code 1998, § 106-278; Ord. No. 6-2002, 3-4-2002)

Sec. 106-279. Reapplication to the zoning board of appeals.

If an application for a special exception or variance is denied by the zoning board of appeals, a reapplication may not be considered until the expiration of 12 months following the date of denial.

(Code 1979, § 8-4-119; Code 1998, § 106-279; Ord. No. 6-2002, 3-4-2002)

Sec. 106-280. Appeals from decisions of the zoning board of appeals.

Any person aggrieved by any decision of the zoning board of appeals may take an appeal to the superior court. Such an appeal to the superior court shall be the same as an appeal to the superior court from any decision made by the probate court except, however, that the appeal may be filed within 30 days from the date of the decision of the zoning board of appeals. Upon failure to file the appeal within 30 days, the decision of the zoning board of appeals shall be final.

(Code 1979, § 8-4-120; Code 1998, § 106-280; Ord. No. 6-2002, 3-4-2002)

Secs. 106-281--106-305. Reserved.

ARTICLE X.

AMENDMENTS

Sec. 106-306. Procedure for zoning amendments.

- (a) Any petition to amend this chapter, including the zoning map, shall be submitted to the planning and zoning board and may only be initiated by:

(1) The city council.

(2) The planning and zoning board.

(3) Any person provided at the time of the petition the individual, firm, corporation, or agency is the record title holder of the property involved in the petition for amendment.

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

- (b) Upon receiving a petition pursuant to subsection (a) of this section, a sign identifying the change must be erected prior to the date of the hearing by the planning and zoning board. The sign shall be erected on the property in question at least ten days prior to

the hearing date, in a conspicuous location and shall state the time, place, date, and purpose of the hearing. The sign shall show the present zoning classification and the proposed zoning classification.

- (c) Upon receiving the planning and zoning board's recommendation on the proposed amendment, the mayor and council shall hold a public hearing on the proposed amendment. A sign shall be erected as in subsection (b) of this section except that it shall be erected not less than 15 days prior to the date of the hearing by the mayor and council. The community development director will publish in a newspaper of general circulation within the corporate boundaries of the city a notice of the hearing by the mayor and council, at least 15 days but not more than 45 days prior to such hearing. The notice shall state the time, place, date, location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

(Code 1979, § 8-4-131; Code 1998, § 106-306; Ord. No. 6-2002, 3-4-2002)

Sec. 106-307. Procedure for public hearing.

- (a) All individuals present at a public hearing shall be allowed to voice their opinions on the issue unless there is a spokesperson representing a particular individual. The presiding official shall have the right to limit individual expression to two minutes or ten minutes in the case of a spokesperson.
- (b) Applications shall be considered in the order of filing unless such would work a hardship to the applicant and such consideration is approved by the presiding officer.
- (c) All public hearings shall be conducted in accordance with the Georgia Open Meetings Law (O.C.G.A. § 50-14-1 et seq.).
- (d) As part of the public hearing, the council shall consider the following:
- (1) Existing uses and zoning of nearby property;
 - (2) The extent to which property values are diminished by the particular zoning restrictions;
 - (3) The extent to which the destruction of property values of the applicants promotes the health, safety, morals or general welfare of the public;
 - (4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
 - (5) The suitability of the subject property for the zoned purposes;
 - (6) The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property; and
 - (7) The extent to which the rezoning meets the goals and land use objectives of the land use plan.
- (e) It is declared the intention of the mayor and council that this section shall constitute

policies, procedures and standards required under O.C.G.A. § 36-66-5 and copies of same shall be made available to the public by the community development director. (Code 1979, § 8-4-132; Code 1998, § 106-307; Ord. No. 6-2002, 3-4-2002)

Sec. 106-308. Action by the city council.

(a) Following its public hearing the city council may:

- (1) Adopt the proposed amendment as presented;
- (2) Adopt the proposed amendment as revised or supplemented by conditions of approval established by the city council. The revisions may include, if the proposed amendment is for the rezoning of property, rezoning to the proposed zoning district with conditions or rezoning to any other less intense zoning district with or without conditions. When the zoning is conditioned on a site plan and the site plan dimensions (i.e. set-backs, road frontage) vary from those required under other sections of this Article the dimensions in the site plan shall apply.

(3) Deny the proposed amendment in whole or in part; or

(4) Table the proposal.

(Code 1998, § 106-308; Ord. No. 19-98, 12-7-1998; Ord. No. 16-2004, 12-6-2004)

Sec. 106-309. Reconsideration.

If the matter before the council is one for rezoning and same is not approved by the council, then the parcel that was the subject of rezoning may not again be considered for rezoning until the expiration of 12 months following the defeat of the rezoning by the council.

(Code 1979, § 8-4-133; Code 1998, § 106-309; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002)

Sec. 106-310. Use plans required.

(a) An application for an amendment to create or extend any zoning district shall be accompanied by a sketch plan at scale and such other plans, elevations or additional information as the community development director may require showing the proposed development.

(b) If the requested zoning amendment is made, no building or other permits shall be granted except for uses or structures that conform essentially with the sketch plan and other documents submitted with the application for an amendment.

(c) Any change to the plan that alters the stated intent must be approved by the planning and zoning board.

(Code 1979, § 8-4-134; Code 1998, § 106-310; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002)

Sec. 106-311. Failure to implement plans.

- (a) If a development permit has not been approved within 12 months of the date of the enactment of an amendment to this chapter requested by a property owner and in accordance with the proposed development plans and other documents submitted by a property owner, and if no land subdivision is involved and the required building (or occupancy permits where no structure is involved) have not been issued within 12 months of the date of the enactment of an amendment to this chapter requested by a property owner and in accordance with the development plans and other documents submitted by a property owner, then the community development director shall not issue any building or occupancy permits.
- (b) The planning and zoning board shall review the situation in the above case in which development permits have not been approved or building or occupancy permits have not been issued within the 12-month period and report its findings to the mayor and council.
- (c) Unless there are circumstances that clearly justify the delay in obtaining the abovementioned development permits or the required building or occupancy permits, the planning and zoning board shall promptly recommend to the council that this chapter be amended to change the zoning district classification of the land to its prior or other appropriate zoning district classification.
- (d) When circumstances clearly justify a delay in obtaining development permits or the required building or occupancy permits, the planning and zoning board may recommend to city council that it allow the current classification of the property to stand. If council allows the property to retain its current classification, said classification shall be subject to further review of the planning and zoning board at that board's discretion.

(Code 1979, § 8-4-135; Code 1998, § 106-311; Ord. No. 21-96, 10-7-1996; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002)

Sec. 106-312. Special use permit procedure.

Application for and issuance of special use permits shall be in compliance with this chapter including the procedures and standards outlined for the rezoning of property and the procedures and standards outlined for special use permits.

(Code 1998, § 106-312; Ord. No. 13-96, § 8-4-136, 5-6-1996; Ord. No. 19-98, 12-7-1998; Ord. No. 6-2002, 3-4-2002)

Secs. 106-313--106-335. Reserved.

ARTICLE XI.

LEGAL STATUS PROVISIONS

Sec. 106-336. Conflict with other laws.

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

of this chapter, the provisions of such statutes or covenants shall govern.
(Code 1979, § 8-4-141; Code 1998, § 106-336; Ord. No. 6-2002, 3-4-2002)

Sec. 106-337. Severability.

In the event any article, section, subsection, sentence, or word of this chapter be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this chapter as a whole or of any part thereof that is not specifically declared to be invalid or unconstitutional. The remaining portions of this Chapter shall remain in full force and effect as if such portion so declared and adjudged invalid or unconstitutional were not originally part of this Chapter, even if the surviving parts of the Chapter result in greater restrictions after any invalid or unconstitutional provisions are stricken. The City Council declares that it would have enacted the remaining parts of this Chapter if it had known that such portion thereof would be declared or adjudged invalid or unconstitutional.

(Code 1979, § 8-4-142; Code 1998, § 106-337; Ord. No. 6-2002, 3-4-2002; Ord. No. 10-2002, 6-3-2002)

Sec. 106-338. Repeal of conflicting resolutions.

All resolutions and parts of resolutions in conflict with this chapter are hereby repealed.
(Code 1979, § 8-4-143; Code 1998, § 106-338; Ord. No. 6-2002, 3-4-2002)

Sec. 106-339. Effective date.

This chapter shall take effect and shall be in force from and after the date of its adoption, the public welfare demanding it.

(Code 1979, § 8-4-144; Code 1998, § 106-339; Ord. No. 6-2002, 3-4-2002)