



where possibilities grow

3921 CHURCH STREET ♦ CLARKSTON, GEORGIA 30021
(404) 296-6489 ♦ WWW.CLARKSTONGA.GOV

Mayor Beverly H. Burks

Councilmembers:

Debra Johnson-Vice Mayor

Awet Eyasu

Yterenickia Bell

Laura Hopkins

Jamie Carroll

Susan Hood

Shawanna N. Qawiy, City Manager

CITY COUNCIL WORK SESSION AGENDA

Tuesday, March 28, 2023 - 7:00PM
IN-PERSON & VIRTUAL

1. CALL TO ORDER

2. ROLL CALL

3. PUBLIC COMMENTS

Any member of the public may address questions or comments to the City Council referencing only agenda items after the Mayor and Council have had the opportunity to discuss the agenda item. Each attendee will be allowed 3 minutes for comments.

4. PRESENTATION/ ADMINISTRATIVE BUSINESS

5. OLD BUSINESS

- A. To discuss allocating ARPA funds for government services for a Code Compliance Officer.
- B. To approve amending Chapters 9.5 of the City Code regarding service stations and Chapter 11 of the Code regarding businesses; to limit hours of operation for convenience stores; to allow convenience stores that maintain video surveillance systems to acquire a permit for expanded hours of operation; and other purposes.

6. NEW BUSINESS

- A. To discuss extending previously adopted Resolution No. 2022-024 imposing a temporary moratorium on development of mini-warehouses and self-storage facilities.
- B. To discuss extending previously adopted Resolution No. 2022-025 imposing a temporary moratorium on development of automobile service centers and automobile service stations (Filling Stations).
- C. To discuss extending a previously adopted Resolution No. 2022-026 imposing a temporary moratorium on development of small box variety stores.
- D. To discuss a resolution authorizing the execution of a lease supplement under the Georgia Municipal Association Direct Leasing Program for the lease/purchase of various city vehicles and equipment for \$138,230.
- E. To discuss a resolution declaring a surplus vehicle for the City of Clarkston Public Works Department.
- F. To discuss amending the Clarkston Zoning Ordinance and maps.

7. EXECUTIVE SESSION

- A. To discuss a personnel matter.

8. ADJOURNMENT

PUBLIC PARTICIPATION IN PERSON & BY VIDEO CONFERENCE

The City of Clarkston, Georgia will conduct the City Council Work Session at 7:00 p.m. on Tuesday, March 28, 2023. The public may participate in the meeting by using the following information below:

<https://us02web.zoom.us/j/87926910734?pwd=aGNEYUZrV1JyNUFNSWw1dIVRd2JLUT09>

Dial by your location

+1 646 558 8656 US (New York)
+1 301 715 8592 US (Washington DC)
+1 312 626 6799 US (Chicago)
+1 669 900 9128 US (San Jose)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

Meeting ID: 879 2691 0734

Find your local number:

<https://us02web.zoom.us/j/87926910734>

CITY OF CLARKSTON

ITEM NO: 5A

CLARKSTON CITY COUNCIL WORK SESSION

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Discussion

MEETING DATE: March 28, 2023

SUBJECT: To discuss allocating ARPA funds for the recommended government services for a Code Compliance Officer.

DEPARTMENT:
Administration

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENTS: ☒ YES ☐ NO
Pages:

INFORMATION CONTACT:
Shawanna Qawiy, City Manager
PHONE NUMBER: 404-296-6489

PURPOSE: To discuss allocating ARPA funds for the recommended government services for a Code Compliance Officer.

NEED/ IMPACT:

To discuss the requests for ARPA allocations for the government services for a Code Compliance Officer.

RECOMMENDATION: N/A

CITY OF CLARKSTON

ITEM NO: 5B

CLARKSTON CITY COUNCIL WORK SESSION

HEARING TYPE:

Work Session

BUSINESS AGENDA / MINUTES

MEETING DATE: March 28, 2023

ACTION TYPE:

Discussion

SUBJECT: To discuss amending Chapters 9.5 of the City Code Regarding Service Stations and Chapter 11 of the Code regarding Businesses; To Limit Hours of Operation for Convenience Stores; To Allow Convenience Stores that Maintain Video Surveillance (VSS) to Acquire a Permit for Expanded Hours or Operation; and Other Purposes

DEPARTMENT:

Administration

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENTS: ☒ YES ☐ NO

Pages:

INFORMATION CONTACT:

Councilperson Yterenickia Bell

PHONE NUMBER: 404-296-6489

PURPOSE: To discuss the regulations set forth in this ordinance to protect the public health, safety and welfare of residents, visitors and employees of convenience stores.

NEED/IMPACT: Section 11-173. Convenience stores with VSS may operate 24 hours per day.

RECOMMENDATION: N/A.

ORDINANCE NO. _____

AN ORDINANCE BY THE CITY OF CLARKSTON TO AMEND CHAPTER 9.5 OF THE CITY CODE REGARDING SERVICE STATIONS AND CHAPTER 11 OF THE CODE REGARDING BUSINESSES; TO LIMIT HOURS OF OPERATION FOR CONVENIENCE STORES; TO ALLOW CONVENIENCE STORES THAT MAINTAIN VIDEO SURVEILLANCE SYSTEMS TO ACQUIRE A PERMIT FOR EXPANDED HOURS OF OPERATION; AND FOR OTHER PURPOSES.

WHEREAS, the Clarkston City Council is charged by the City Charter with the duty and power to protect public safety and to regulate businesses operating within the City; and

WHEREAS, the City Council finds that a significant number of crimes, particularly violent crimes, have been and continue to be committed at convenience stores; and

WHEREAS, the Council specifically finds that convenience stores provide a important resource for the public to obtain necessary items and that some residents would benefit from being able to purchase these items at any time day or night; and

WHEREAS, the City Council intends to protect the public health, safety and welfare of residents, visitors and employees of convenience stores, as well as facilitate residents' ability to obtain necessary items, by enacting the regulations set forth in this ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE CLARKSTON CITY COUNCIL AS FOLLOWS:

SECTION 1. City Code Section 9.5-55 is hereby deleted and replaced with the following language:

“9.5-55. Hours of Operation.

Service stations regulated by this chapter must be closed to the public between the hours of Midnight and 6:00 a.m. each night unless the business holds a valid late night convenience store permit pursuant to Article IX of Chapter 11 of the City Code.”

SECTION 2. Chapter 11 of the City Code is hereby amended to add new Article IX regulating convenience stores. Article IX of Chapter 11 shall read as follows:

“ARTICLE IX. CONVENIENCE STORES.

Section 11-171. Definitions.

As used in this Article, the following terms shall have the following assigned meanings:

Convenience store means any retail establishment that has a human attendant present at all times that the store is open, that offers for sale products such as prepackaged food and/or beverage products, household items, and/or other similar goods including, but not limited to, alcoholic beverages, tobacco products, gasoline and pharmaceutical items that do not require a doctor’s prescription, within a facility having a gross floor area not greater than two thousand seven hundred (2,700) square feet.

Video Surveillance System (VSS) means a digital surveillance system that captures and records video on a continuous basis. To qualify as a VSS that complies with this Article, the system shall consist of at least four (4) cameras that capture images at a minimum resolution of 4MP (1440p) and a minimum of 24 frames per second (24 FPS) that are arranged to record video of, at a minimum, the store’s entrance/exit from inside and outside, as well as the cash register, at all times. To comply with this Article, the VSS must record 24 hours per day and must preserve all captured images for at least 24 hours on a rolling basis in a manner that allows the captured video to be shared with law enforcement in the event that a crime occurs at the store.

Section 11-172. Hours of operation; late night permit.

- (a) Businesses meeting the definition of a “convenience store” pursuant to Section 11-171 but not the definition of a “service station” under Article 9.5 of the Code shall have their hours of operation regulated by Section 11-13 unless they obtain a late night permit pursuant to this section.
- (b) Late night permits for convenience stores shall be issued in accordance with the following criteria:
 - i.) There shall be no fee associated with late night convenience store permits (other than the fee associated with obtaining an annual business license);

- ii.) Such permits shall be issued on an annual basis and be renewable year to year; and
- iii.) In order to issue or renew a late night permit, the city manager or his/her designee must determine that the convenience store applicant is in full compliance with all regulations set forth in Section 11-173 by an on-site inspection; and
- iv.) A late night convenience store permit may be suspended or revoked at any time, upon notice and due process pursuant to Article I of this chapter, if it is determined that the business has failed to comply with the requirements of Section 11-173. Such permits may also be revoked by the city manager upon conviction of the business or its operator in municipal court of a violation of the city code including, but not limited to, noise violations, allowing littering, allowing loitering or allowing gambling on their premises. A late night permit application or renewal application may also be denied on these same grounds.

Section 11-173. Convenience stores with VSS may obtain a permit to operate 24 hours per day; right to inspect business location and VSS system.

- a) A convenience store may apply for and obtain a late night permit that allows the store to be open to the public 24 hours per day by demonstrating the following to the satisfaction of the city manager:
 - i.) the store has in place and maintains an active VSS system compliant with the specifications set forth in the definition provided in Section 11-171 of this Article at all times; and
 - ii.) the store posts a sign on its front door conspicuously stating that the store is under video surveillance and stating the phone number to reach the Clarkston Police Department.
- b) A convenience store that holds a permit to operate late night shall allow the city manager or his/her designee to access its facility upon request in order to inspect and confirm that the VSS system complies with the applicable regulations and is active and operational.”

SECTION 3. Any provision of the City Code in conflict with this ordinance is hereby repealed to the extent necessary to give effect to this ordinance.

SECTION 4. This ordinance shall become effective immediately upon its adoption.

SECTION 5. The various sections and clauses of this ordinance are intended to be severable. In the event that any section or clause of this ordinance is deemed to be invalid by a court of competent jurisdiction, the Clarkston City Council hereby declares that it would have adopted this ordinance absent that clause and intends for the remainder of this ordinance to continue in full force and effect.

SO ORDAINED this ____ day of _____, 2023.

ATTEST:

**CITY COUNCIL OF THE
CITY OF CLARKSTON, GEORGIA**

Tomika R. Mitchell, City Clerk

Mayor Beverly H. Burks

Approved as to Form

Stephen G. Quinn, City Attorney

CITY OF CLARKSTON

ITEM NO: 6A

CLARKSTON CITY COUNCIL MEETING

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Discussion

MEETING DATE: March 28, 2023

SUBJECT: To discuss extending the Moratorium on Storage Companies.

DEPARTMENT: CITY ADMINISTRATION

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☐ YES ☐ NO
Pages:

INFORMATION CONTACT: Yterenickia Bell,
Councilmember

PHONE NUMBER: 404-296-6489

PURPOSE: To discuss extending the Moratorium on Storage Companies.

NEED/ IMPACT: To update the expiration date listed in the resolutions on the original moratoriums on Storage Companies.

RECOMMENDATION:

N/A

RESOLUTION NO. 2022-024

**BY THE CLARKSTON CITY COUNCIL TO IMPOSE A TEMPORARY
MORATORIUM ON DEVELOPMENT OF MINI-WAREHOUSES AND SELF-
STORAGE FACILITIES IN ORDER TO PRESERVE THE STATUS QUO PENDING
ZONING ACTION TO REVISE PERMITTED USES IN THE LIGHT INDUSTRIAL (I)
DISTRICT.**

WHEREAS, Clarkston and the surrounding unincorporated area currently have an over-abundance of “mini-warehouse and self-storage” facilities, including three such facilities within Clarkston; and

WHEREAS, the City Council is concerned that such uses have a negative impact on the natural environment and the aesthetics of the City; and

WHEREAS, the City Council finds that “mini-warehouse and self-storage” facilities are contrary to the intent of the Light Industrial District to encourage and enable light manufacturing uses; and

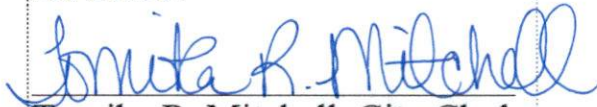
WHEREAS, the City Council is hereby initiating the zoning decision process to amend the list of permitted uses in the Light Industrial District and finds that it is in the public interest to preserve the status quo during such process.

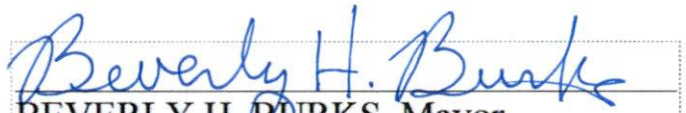
NOW, THEREFORE, BE IT RESOLVED by the Clarkston City Council that a moratorium is hereby declared to prohibit the acceptance of any application or granting of any permit for the development of new “mini-warehouse” or “self-storage” facilities in the City; and

BE IT FURTHER RESOLVED that this moratorium shall take effect immediately and will expire on February 4, 2023, unless repealed sooner by act of the City Council.

SO RESOLVED, this 4th day of August, 2022.

ATTEST:


Tomika R. Mitchell, City Clerk


BEVERLY H. BURKS, Mayor

CITY OF CLARKSTON

ITEM NO: 6B

CLARKSTON CITY COUNCIL MEETING

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Discussion

MEETING DATE: March 28, 2023

SUBJECT: To discuss extending the Moratorium on Gas Stations.

DEPARTMENT: CITY ADMINISTRATION

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☐ YES ☐ NO
Pages:

INFORMATION CONTACT: Yterenickia Bell,
Councilmember

PHONE NUMBER: 404-296-6489

PURPOSE: To discuss extending the Moratorium on Gas Stations.

NEED/ IMPACT: To update the expiration date listed in the resolutions on the original moratoriums on Gas Stations.

RECOMMENDATION:
N/A

RESOLUTION NO. 2022-025

**BY THE CLARKSTON CITY COUNCIL TO IMPOSE A TEMPORARY
MORATORIUM ON DEVELOPMENT OF AUTOMOBILE SERVICE CENTERS AND
AUTOMOBILE SERVICE STATIONS (FILLING STATIONS) IN ORDER TO
PRESERVE THE STATUS QUO PENDING ZONING ACTION TO REVISE
PERMITTED USES IN THE CITY'S ZONING CODE.**

WHEREAS, Clarkston and the surrounding unincorporated area currently have an over-abundance of business selling fuel for vehicles, including seven such facilities within Clarkston; and

WHEREAS, the City Council is concerned that such uses have a negative impact on the natural environment and the aesthetics of the City; and

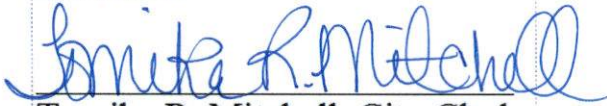
WHEREAS, the City Council is hereby initiating the zoning decision process to amend the list of permitted uses in the Zoning Ordinance and finds that it is in the public interest to preserve the status quo during such process.

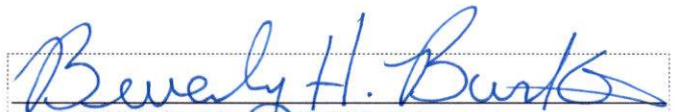
NOW, THEREFORE, BE IT RESOLVED by the Clarkston City Council that a moratorium is hereby declared to prohibit the acceptance of any application or granting of any permit for the development of new "automobile service center" or "automobile service station (filling station)" uses in the City; and

BE IT FURTHER RESOLVED that this moratorium shall take effect immediately and will expire on February 4, 2023, unless repealed sooner by act of the City Council.

SO RESOLVED, this 4th day of August, 2022.

ATTEST:


Tomika R. Mitchell, City Clerk


BEVERLY H. BURKS, Mayor

CITY OF CLARKSTON

ITEM NO: 6C

CLARKSTON CITY COUNCIL MEETING

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Discussion

MEETING DATE: March 28, 2023

SUBJECT: To discuss extending the Moratorium on Small Box Variety Stores.

DEPARTMENT: CITY ADMINISTRATION

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☐ YES ☐ NO
Pages:

INFORMATION CONTACT: Yterenickia Bell,
Councilmember

PHONE NUMBER: 404-296-6489

PURPOSE: To discuss extending the Moratorium on Small Box Variety Stores.

NEED/ IMPACT: To update the expiration date listed in the resolutions on the original moratoriums on Small Box Variety Stores.

RECOMMENDATION:

N/A

RESOLUTION NO. 2022-026

**BY THE CLARKSTON CITY COUNCIL TO IMPOSE A TEMPORARY
MORATORIUM ON DEVELOPMENT OF SMALL BOX VARIETY STORES IN
ORDER TO PRESERVE THE STATUS QUO PENDING ZONING ACTION TO
REVISE PERMITTED USES IN THE CITY'S ZONING CODE.**

WHEREAS, Clarkston and the surrounding unincorporated area currently have an overabundance of small box variety stores (as defined below), including three such stores within Clarkston; and

WHEREAS, the City Council is concerned that such uses have been found by numerous studies (including the City of New Orleans' "Small Box Retail Diversity Study" dated December 18, 2018, which is hereby adopted by reference) to have a negative impact on public health and welfare because they rarely if ever offer healthy fresh food and they tend to drive out retailers that do offer healthy food options; and

WHEREAS, the availability of fresh healthy food at locations within Clarkston is especially important because many Clarkston residents do not own a motor vehicle and walk to purchase food products; and

WHEREAS, the City Council desires to protect the public health and welfare, as well as the aesthetics of the City, by temporarily prohibiting small box variety stores while it studies this issue further; and

WHEREAS, the City Council is hereby initiating the zoning decision process to amend the list of permitted uses in the Zoning Ordinance and finds that it is in the public interest to preserve the status quo during such process.

NOW, THEREFORE, BE IT RESOLVED by the Clarkston City Council that a moratorium is hereby declared to prohibit the acceptance of any application or granting of any permit for the development of new "small box variety stores," which are defined for purposes of this resolution as follows:

Small box variety store means a retail store sized between 7,500 and 16,000 square feet which sells at retail an assortment of physical goods, products, or merchandise directly to the consumer, including any combination of food or beverages for off-premises consumption, household products, personal grooming and health products, and other consumer goods. Small box variety stores do not include retail stores that:

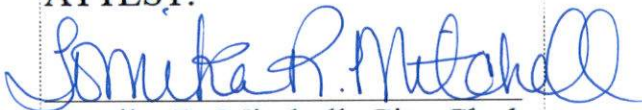
- (1) dedicate at least 15% of shelf space to fresh or fresh frozen food;
- (2) dedicate less than 2% of shelf space to food of any kind; or
- (3) contain a prescription pharmacy.

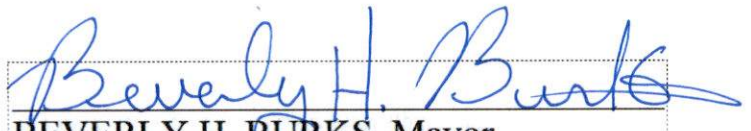
Fresh or fresh frozen food means food for human consumption that is unprocessed, or otherwise in its raw state; food that was quickly frozen while still fresh. This includes unprocessed meat and seafood.

BE IT FURTHER RESOLVED that this moratorium shall take effect immediately and will expire on February 4, 2023, unless repealed sooner by act of the City Council.

SO RESOLVED, this 4th day of August, 2022.

ATTEST:


Tomika R. Mitchell, City Clerk


BEVERLY H. BURKS, Mayor

CITY OF CLARKSTON
CLARKSTON CITY COUNCIL MEETING

ITEM NO: 6D

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

MEETING DATE: March 28, 2023

ACTION TYPE:
Discussion

SUBJECT: To discuss adopting a resolution authorizing, among other things, to have the City Manager Execute a Lease Supplement under the GMA Direct Leasing Program for the Lease/Purchase of Various City Vehicles & Equipment in 2023 in the Principal Amount of \$138,230.00

DEPARTMENT: Administration

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☒ YES ☐ NO
Pages: 13

INFORMATION CONTACT: Shawanna Qawiy
City Manager
PHONE NUMBER: 404-296-6489 ext. 417

PURPOSE: To consider adopting the attached Resolution Authorizing, Among Other Things, the City Manager to Execute a Lease Supplement Under the GMA Direct Leasing Program for the Lease/Purchase of a two Ford Pickup Trucks for Public Works and one Dodge Durango and related police equipment in the Principal Amount of \$138,230.00.

NEED/ IMPACT: The City of Clarkston 2023 approved budget includes appropriations for the issuance of lease/purchase agreement to purchase 3 new vehicles for the Public Works and Police Departments. The Public Works Department had ordered a new pickup in early 2022 that was originally included in the FY2022 budget that was not delivered to the City until February 2023 due to supply chain issues. Accounting guidelines and rules require that the City record this purchase in FY2023 instead of FY2022, therefore we have included this item in this lease purchase agreement to mitigate the impact of this purchase on our FY2023 budget.

Vendor	Description	Department	Unit Price
Allan Vigil Ford	2023 Ford F150	Public Works	\$ 38,522.00
Allan Vigil Ford	2023 Ford F150 Crew Cab	Public Works	\$ 48,560.00
Akins Chrysler Dodge			\$
Jeep Ram	2023 Dodge Durango Pursuit	Police	43,870.00
HG2 Emergency	Police Equipment for Dodge		\$
Lighting	Durango	Police	7,278.00
			\$ 138,230.00

Staff has obtained a quote from Truist Bank for the issuance of a lease supplement through the GMA Direct Leasing Program to fund the purchase of the above referenced equipment in the

amount of \$138,230.00 with an anticipated closing prior to April 6, 2023. The interest rate charged on the principal balance will be 4.21% annually amortized over 5 years. Accordingly, the lease payments will be made in quarterly payments of \$7,700.61 over the next 5 years. Total interest payments to Truist Bank over the life of the lease will be \$15,782.24.

RECOMMENDATIONS: Staff recommends the City Council adopt the attached Resolution to Execute the Lease Supplement Agreement.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF CLARKSTON, GEORGIA
AUTHORIZING THE EXECUTION OF A LEASE SUPPLEMENT UNDER
THE GEORGIA MUNICIPAL ASSOCIATION (GMA) DIRECT LEASING
PROGRAM FOR THE LEASE/PURCHASE OF VARIOUS CITY VEHICLES
& EQUIPMENT IN 2023 IN THE PRINCIPAL AMOUNT OF \$138,230.

* * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSTON, GEORGIA:

Section 1. The City Council hereby approves the execution of a lease supplement under the Georgia Municipal Association Direct Leasing Program for the lease/purchase of various city vehicles and equipment in 2023 in the principal amount of \$138,230. A copy of said lease supplement is attached to this resolution as “Exhibit A” and is incorporated herein for all purposes.

PASSED, APPROVED, AND RESOLVED this _____ day of _____, 2023.

CITY COUNCIL
CITY OF CLARKSTON, GEORGIA

Beverly H. Burks, Mayor

ATTEST:

Tomika R. Mitchell, City Clerk

“Exhibit A”



President
Julie Smith
Mayor, Tifton

First Vice President
Randall Walker
Mayor, Perry

Second Vice President
Fred Perriman
Mayor, Madison

Third Vice President
Bianca Motley Broom
Mayor, College Park

Immediate Past President
Vince Williams
Mayor, Union City

CEO & Executive Director
Larry H. Hanson

March 9, 2023

Mr. Dan Defnall
Finance Officer
City of Clarkston
1055 Rowland St
Clarkston, Georgia 30021

RE: Direct Installment Program

Dear Mr. Defnall:

Please find enclosed the proposed lease supplement between your city and the Georgia Municipal Association. GMA will file all necessary forms including the state UCC-1 and federal 8038. **Please keep in mind the payment schedule (Schedule B) may change slightly depending on the closing date.**

Please return the documents and invoice to GMA by April 5, 2023 to guarantee the 4.21% interest rate. You may wish to send the documents by overnight courier to assure prompt delivery.

PLEASE PAY CAREFUL ATTENTION TO SIGNATURES AND SEALS. OUR LENDERS WILL NOT PROCESS INCOMPLETE PAPERWORK. IF YOU ARE UNSURE ABOUT A DATE FIELD, LEAVE IT BLANK.

If you have any questions, please contact me at (678) 686-6274.

Sincerely,

A handwritten signature in black ink, appearing to read 'Philip Potter', with a stylized flourish at the end.

Philip Potter
Financial Services Manager

/PP
Enclosures

DOCUMENT NOTES

LEASE SUPPLEMENT

NOTE: ON ALL PROPERTIES REQUIRING TITLE, A COPY OF THE MV - 1 APPLICATION LISTING GMA AS LIENHOLDER MUST ACCOMPANY LEASE DOCUMENTS.

Exhibit E - Lease Supplement: Please complete requested information. Please also sign on the Lessee position, which is marked with the City's name. The City Clerk should attest this document.

Exhibit E - Schedule A: Please insert appropriate information as requested (i.e., add serial number, amount, or model number).

Exhibit E- Schedule B: No action is required for this schedule.

Exhibit E- Schedule C: Please date, sign, and have the City Clerk attest this document.

Exhibit E- Schedule D: IRS Form 8038: Please add the city's Tax I.D. number and sign at the bottom. GMA will complete this document at closing.

Exhibit E- Schedule F: Resolution/Ordinance for Supplemental Lease: Please add necessary information, date, and sign this document. The Resolution/Ordinance must be adopted at a regular council meeting at which the Mayor may designate the appropriate city officials to enter into subsequent leases for the appropriate amount. The City Clerk should sign and seal at the bottom of the page.

Please return the enclosed document and all attachments (i.e., clips, etc.) to:

Georgia Municipal Association
Attention: Financial Services Program Manager
P.O. Box 105377
Atlanta, Georgia 30348

IF YOU HAVE ANY QUESTIONS OR SHOULD NEED ANY ASSISTANCE, PLEASE DO NOT HESITATE TO CALL THE FINANCIAL SERVICES PROGRAM MANAGER AT (888) 488-4462. LEASE DOCUMENTS MUST BE EXECUTED COMPLETELY AND CORRECTLY BEFORE ANY CHECKS WILL BE ISSUED BY THE SERVICING BANK.

Note: GMA's Lienholder Code is 10288896

EXHIBIT "E"
LEASE SUPPLEMENT

THIS LEASE SUPPLEMENT (this "Lease Supplement") by and between GEORGIA MUNICIPAL ASSOCIATION, INC., a Georgia non-profit corporation ("Lessor") and the municipal corporation of the State of Georgia signing below ("Lessee"), is made and entered into the date of its execution by the Lessor.

RECITALS:

Lessor and Lessee have entered into a Master Lease (the "Master Lease") dated June 8, 2012, which provides for Lessor to lease to Lessee certain property (the "Property") to be specified in Lease Supplements to be executed and delivered by Lessor and Lessee from time to time; and

Lessor and Lessee are entering into this Lease Supplement pursuant to the Master Lease to specify the terms for the lease of certain Property.

LESSOR AND LESSEE HEREBY AGREE AS FOLLOWS:

1. Definitions. Unless a different meaning or intent is required by this Lease Supplement, the capitalized terms used in this Lease Supplement shall have the meanings set forth in the Master Lease.
2. Property. The Property described on the Property Schedule incorporated as Schedule A to this Lease Supplement is specified as the Property that initially is the subject hereof.
3. Lease Payments. The Rental Schedule, incorporated as Schedule B to this Lease Supplement describes the initial amounts and payment dates of the Rentals for the Lease, and the Purchase Price for the Property. The Termination Payment may become due and payable upon the circumstances described in Section 4.2 of the Master Lease.
4. Term of Lease. The Starting Term of the Lease of the Property shall begin on the date hereof (the "Starting Date") and end on December 31 of the same year. The Lease will be renewed for successive calendar year Renewal Terms (the "Renewal Terms"), and an Ending Term (the "Ending Term") commencing January 1 of the last calendar year appearing on the Rental Schedule, and ending on the date of the final payment shown on the Rental Schedule (the "Ending Date"), unless Lessee gives a Nonrenewal Notice or there occurs an Event of Nonappropriation, as provided in the Master Lease. The "Lease Term" is the period from the Starting Date to the Ending Date, subject to the earlier expiration or termination of the Lease as provided in the Master Lease.
5. Agreements, Representations and Warranties. Lessee represents, warrants and agrees as follows:
 - (a) Lessee's representations, warranties and agreements contained in the Master Lease are true, accurate, complete and effective as of the date hereof;
 - (b) *(this clause (b) applies only if this Lease is designated as a Bank-Qualified Lease below)* in order to enable Lessor to offer the interest rate contained in this Lease, Lessee represents and warrants that it has not issued, nor does it (taken together with the entities with which it must be aggregate pursuant to Section 265(b)(3)(E) of the Code) reasonably expect to issue (taking into account the Leases) more than \$10 million of tax-exempt obligations (other than private activity bonds) for the calendar year during which the Lease becomes effective; as provided in Code Section 265(b)(3)(B)(II), Lessee specifically designates the Lease as a "qualified tax-exempt obligation" as provided by Code Section 265(b)(3);
 - (c) Lessee will take no action that will directly or indirectly affects the deductibility of that portion of Lessor's interest expense allocable to this Lease;
 - (d) Lessee has made an available appropriation of and included in its current operating budget all Rentals for the Starting Term and the Termination Payment applicable to this Lease;
 - (e) Unless Property funds are escrowed, Lessee has received, tested, and finally accepted the Property;

- (f) The portion of the Rentals representing principal, when taken together with the principal portion outstanding under any other contract entered into by Lessee pursuant to the authority of O.C.G.A. § 36-60-13, together with the amount of debt outstanding incurred by Lessee pursuant to Article IX, Section V, Paragraph I of the Constitution of Georgia of 1983, as amended, does not exceed 10% of the assessed value of all taxable property within the jurisdictional limits of Lessee;
 - (g) The Property that is the subject hereof has not been the subject of a referendum that failed to receive the approval of the voters of Lessee within the calendar year in which this Lease is entered into for any of the four immediately preceding calendar years;
 - (h) If the Property subject to this Lease is real property: and unless the Property has been approved in the most recent referendum calling for the levy of a special county 1% sales and use tax pursuant to O.C.G.A. Tit. 48, Chapt. 8, Art. 3, Pt. 1, neither of the following has occurred:
 - (i) the average annual payments on the aggregate of all outstanding contracts entered into by Lessee for real property pursuant to the authority of O.C.G.A. § 36-60-13, including this Lease, do not exceed 7.5% of the governmental fund revenues of Lessee for the last calendar year preceding the date of delivery of this Lease (provided, however, that there may be added to such governmental fund revenues any special county 1% sales and use tax proceeds collected pursuant to O.C.G.A. § 48-8-111 legally available to pay amounts on this Lease or such other contracts); and
 - (ii) the outstanding principal balance on the aggregate of all outstanding contracts entered into by Lessee for real property pursuant to the authority of O.C.G.A. § 36-60-13, including this Lease does not exceed \$25,000,000.00
 - (i) If the property subject to this Lease is real property, Lessee held a public hearing with respect to this Lease prior to the delivery of this Lease, notice of which hearing was published at least once in each of the two weeks preceding the week of the hearing in a newspaper of general circulation in the jurisdiction of Lessee.
 - (j) No Event of Default or Event of Nonappropriation has occurred with respect to any Lease entered into under the Master Lease.
6. Non-Arbitrage Certificate. The Property that is subject to the Lease has not been and is not expected to be sold or otherwise disposed of in whole or in part prior to the Ending Date. Monies appropriated for the payment of amounts under the Lease will be paid from Lessee's general fund and will not be pledged for the Lease or be otherwise separately identified or accounted for (unless the Lease is to be paid from sales tax receipts). Lessee has not been notified of any listing of it by the Internal Revenue Service as an issuer that may not certify its obligations. No proceeds or "gross proceeds" of the Lease are expected to be invested prior to an allocation for governmental use, unless an Escrow Agreement has been entered into in connection with this Lease. The proceeds of the Lease will not be used in a manner and no other action will be taken or omitted that would cause the Lease to be an "arbitrage bond" under Section 148 or a "private activity bond" under Section 141 of the Internal Revenue Code of 1986, as amended and the regulations promulgated under that Section.
7. Quitclaim. At the outset of this Lease, the Lessee does hereby assign, transfer, convey and quitclaim to Georgia Municipal Association, Inc. ("Lessor") such ownership interests as it may possess, if any, in and to the "Property," as is necessary to permit the Property to be leased by Lessor to Lessee pursuant to the terms of this Lease Supplement and the Master Lease in accordance with their terms. Pursuant to Section 2.2 of the Master Lease, Lessor further transfers title to Lessee to the extent provided therein, and Lessee accepts such transfer in accordance with such Section 2.2. This quitclaim is given in consideration of the advance by or on behalf of the Lessor of the purchase price of the Property and the undertaking of the Lessor represented by this Lease Supplement.
8. Active Municipality. The Lessee certifies that it does, and expects to continue (a) providing at least three of the following services, either directly or by contract: law enforcement; fire protection (which may be furnished by a volunteer fire force) and fire safety; road and street construction or maintenance; solid waste management; water supply or distribution or both; waste-water treatment; storm-water collection and disposal; electric or gas utility services; enforcement of building, housing, plumbing, and electrical codes and other similar codes; planning and zoning; recreational facilities; (b) holding at least six regular, monthly or bimonthly, officially recorded public meetings each year; and (c) qualifying for and holds a regular municipal election as provided by law.

9. Effect of Lease Supplement. This Lease Supplement is intended as a separate Lease of the items of Property described in this Lease Supplement pursuant to the Master Lease. The terms, conditions and provisions of the Master Lease are hereby incorporated in this Lease Supplement to the same extent as if fully set forth in this Lease Supplement in this place, except to the extent expressly amended or modified by this Lease Supplement. The owner of Lessor's interest in this Lease shall have all rights, powers and remedies of Lessor with respect to this Lease under the Master Lease. This Lease Supplement may be executed in multiple counterparts, each of which shall constitute an original. This Lease Supplement shall be effective only upon the due completion and execution of the Schedules listed below and the delivery thereof to the Servicer.

10. Bank-Qualified or Non-Bank-Qualified.

☐ The Lease under this Lease Supplement is a Non-Bank-Qualified Lease;

OR: (Check 1 box)

☒ The Lease under this Lease Supplement is a Bank-Qualified Lease and Lessee has designated the Lease under the Lease Supplement as a "qualified tax-exempt obligation" under Section 265(b)(3) of the Code. The Lessee and its subordinate entities, and the entities that issue obligations on behalf of Lessee have not issued other tax-exempt obligations (other than private activity bonds, except Qualified 501(c)(3) Bonds) in the current calendar year, and Lessee does not expect that it and such other entities will issue such tax-exempt obligations such that all of such obligations, taken together with the Lease Amount under the Lease Supplement, would exceed \$10,000,000 in such calendar year. The only tax-exempt obligations issued or expected to be issued in the current calendar year by such parties are as follows (type title, date and amount):

	TITLE	DATE	AMOUNT
(1)	_____	_____	_____
(2)	_____	_____	_____

11. Payments Direction. Lessee authorizes and directs the Servicer under this Lease Supplement to pay the vendors of the Property as indicated below:

<u>NAME AND ADDRESS OF VENDOR</u>	<u>INVOICE #</u> (attach invoices)	<u>AMOUNT</u>
City of Clarkston 1055 Rowland Street Clarkston, GA 30021 Attn: Mr. Dan Defnall (404) 296-6489	Enclosed	\$138,230.00

(Should Lessee have previously paid vendor, or require another means of payment to the Vendor, it should attach a request for an alternate payment method with a full explanation and, if applicable, proof of payment to the vendor.)

12. Assignee and Servicer. Lessor has assigned its rights and interests in the Lease to Magnolia Bank, which shall serve as Servicer for the Lease, and Lessee shall make payments to such Servicer.

13. Schedules. Lessee hereby delivers to Lessor and its assigns the completed, executed and effective Schedules C, D, and F, described below.

This Lease Supplement is dated: _____.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Lease Supplement to be duly executed.

LESSEE:
(SEAL)

City of Clarkston

Signed By: _____

City Manager or Mayor

Print Name: _____

Attested By: _____

City Clerk

Print Name: _____

Date: _____

LESSOR:
(SEAL)

GEORGIA MUNICIPAL ASSOCIATION, INC.

Signed By: _____

Executive Director

Attested By: _____

Financial Services Program Manager

Date of Execution: _____

Schedules Hereto:

- A. Property Schedule**
- B. Rental Schedule**
- C. Appropriation Certificate Form**
- D. Form 8038G or 8038GC**
- E. Form UCC-1 (If included)**
- F. Ordinance/Resolution for Lease Supplement**
- G. Assignment and Transfer of Lease Supplement
(Schedule G will be completed by GMA)**

SCHEDULE A

PROPERTY SCHEDULE

<u>DESCRIPTION OF PROPERTY</u>	<u>IDENTIFICATION OR VIN NUMBER</u>	<u>AMOUNT FINANCED</u>
Various Vehicles & Equipment		\$138,230.00

Annual Interest Rate:	4.21%
Years:	5
Payments Per Year:	4
Amount:	\$138,230.00

Payment Number	Payment	Principal	Interest	Balance
1	\$7,700.61	\$6,245.74	\$1,454.87	\$131,984.26
2	\$7,700.61	\$6,311.48	\$1,389.13	\$125,672.78
3	\$7,700.61	\$6,377.91	\$1,322.71	\$119,294.87
4	\$7,700.61	\$6,445.03	\$1,255.58	\$112,849.84
5	\$7,700.61	\$6,512.87	\$1,187.74	\$106,336.97
6	\$7,700.61	\$6,581.42	\$1,119.20	\$99,755.56
7	\$7,700.61	\$6,650.69	\$1,049.93	\$93,104.87
8	\$7,700.61	\$6,720.68	\$979.93	\$86,384.19
9	\$7,700.61	\$6,791.42	\$909.19	\$79,592.77
10	\$7,700.61	\$6,862.90	\$837.71	\$72,729.87
11	\$7,700.61	\$6,935.13	\$765.48	\$65,794.74
12	\$7,700.61	\$7,008.12	\$692.49	\$58,786.61
13	\$7,700.61	\$7,081.88	\$618.73	\$51,704.73
14	\$7,700.61	\$7,156.42	\$544.19	\$44,548.31
15	\$7,700.61	\$7,231.74	\$468.87	\$37,316.57
16	\$7,700.61	\$7,307.86	\$392.76	\$30,008.71
17	\$7,700.61	\$7,384.77	\$315.84	\$22,623.94
18	\$7,700.61	\$7,462.50	\$238.12	\$15,161.45
19	\$7,700.61	\$7,541.04	\$159.57	\$7,620.41
20	\$7,700.61	\$7,620.41	\$80.20	\$0.00

SCHEDULE C

APPROPRIATION CERTIFICATE

Re: Master Lease dated June, 8, 2012 and Lease Supplement (the "Lease Supplement") dated _____, between Lessee and Georgia Municipal Association, Inc.

The undersigned officers of the City of Clarkston (the "Lessee") hereby certify that all Rentals and the Termination Payment under the referenced Lease Supplement, for the current fiscal year are within such Lessee's operating budget or budgets for such year and an appropriation of funds for such year has been made for such purpose and is available therefore.

Dated: _____

City of Clarkston

Signed by: _____

Print Name: _____

Title: _____

Attested By: _____

Print Name: _____

Title: _____

(SEAL)

INSTRUCTIONS:

1. To be given at the time of signing a Lease Supplement and within 30 days of the adoption of each annual budget.
2. Complete a separate certificate for each Lease Supplement in effect.

SCHEDULE D
Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)

► See separate instructions.

Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here ☐

1 Issuer's name City of Clarkston		2 Issuer's employer identification number (EIN) 58-6003756
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) 1055 Rowland St	Room/suite	5 Report number (For IRS Use Only) 3
6 City, town, or post office, state, and ZIP code Clarkston, GA 30021		7 Date of issue
8 Name of issue City of Clarkston / GMA Essential Equipment Lease-Purchase		9 CUSIP number None
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) Mr. Dan Defnall, Finance Officer		10b Telephone number of officer or other employee shown on 10a (404) 296-6489

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11	
12 Health and hospital	12	
13 Transportation	13	
14 Public safety	14	\$138,230
15 Environment (including sewage bonds)	15	
16 Housing	16	
17 Utilities	17	
18 Other. Describe ► <u>Various Vehicles & Equipment</u>	18	
19 If obligations are TANs or RANs, check only box 19a ► ☐		
If obligations are BANs, check only box 19b ► ☐		
20 If obligations are in the form of a lease or installment sale, check box ► ☒		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$ 138,230	\$ N/A	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22	
23 Issue price of entire issue (enter amount from line 21, column (b))	23	\$138,230
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	0 00
25 Proceeds used for credit enhancement	25	
26 Proceeds allocated to reasonably required reserve or replacement fund	26	
27 Proceeds used to currently refund prior issues	27	
28 Proceeds used to advance refund prior issues	28	
29 Total (add lines 24 through 28)	29	0 00
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	\$138,230

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded ►	years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded ►	years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY) ►	
34 Enter the date(s) the refunded bonds were issued ► (MM/DD/YYYY)	

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 9-2011)

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37 | | |
- 35** Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)
- 36a** Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)
- b** Enter the final maturity date of the GIC ▶ _____
- c** Enter the name of the GIC provider ▶ _____
- 37** Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units
- 38a** If this issue is a loan made from the proceeds of another tax-exempt issue, check box ☐ and enter the following information:
- b** Enter the date of the master pool obligation ▶ _____
- c** Enter the EIN of the issuer of the master pool obligation ▶ _____
- d** Enter the name of the issuer of the master pool obligation ▶ _____
- 39** If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ☒
- 40** If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ☐
- 41a** If the issuer has identified a hedge, check here ☐ and enter the following information:
- b** Name of hedge provider ▶ _____
- c** Type of hedge ▶ _____
- d** Term of hedge ▶ _____
- 42** If the issuer has superintegrated the hedge, check box ☐
- 43** If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box ☐
- 44** If the issuer has established written procedures to monitor the requirements of section 148, check box ☐
- 45a** If some portion of the proceeds was used to reimburse expenditures, check here ☐ and enter the amount of reimbursement ▶ _____
- b** Enter the date the official intent was adopted ▶ _____

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.

▶ _____ Date _____ ▶ _____
Signature of issuer's authorized representative Type or print name and title

Paid Preparer Use Only

Print/Type preparer's name	Preparer's signature	Date	Check ☐ if self-employed	PTIN
Firm's name ▶ _____			Firm's EIN ▶ _____	
Firm's address ▶ _____			Phone no. _____	

SCHEDULE F

ORDINANCE/RESOLUTION FOR SUPPLEMENTAL LEASES

A RESOLUTION OR ORDINANCE TO AUTHORIZE AND
DIRECT AN OFFICER OF THE CITY
TO EXECUTE ONE OR MORE LEASE SUPPLEMENTS FOR A LEASE
OR LEASES UNDER THE GMA DIRECT LEASING PROGRAM; TO DESIGNATE
SUCH LEASES AS QUALIFIED TAX-EXEMPT OBLIGATIONS;
TO PROVIDE AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

WHEREAS, the City has entered into a Master Lease (the "Master Lease") dated as of June, 8, 2012, with Georgia Municipal Association, Inc. for the leasing from time to time of certain equipment, machinery or other personal property pursuant to Supplemental Leases;

NOW THEREFORE, BE IT RESOLVED OR ORDAINED AS FOLLOWS BY THE GOVERNING BODY OF THE CITY:

1. The _____ of the City is hereby authorized and directed to execute and deliver a Lease Supplement pursuant to the Master Lease to put into effect one or more leases for Various Vehicles & Equipment (the "Leased Property"); said officer of the City is authorized and directed in the name and on behalf of the City to execute and deliver (i) one or more Lease Supplements for items of the Leased Property in substantially the form attached to the Master Lease, with such changes and additions as may be approved by said officer, and (ii) such other documents as may be deemed by such officer to be necessary or desirable to effect the purposes hereof or of the Master Lease, and such execution shall constitute conclusive evidence that the executed document has been authorized and approved hereby; the aforesaid officer is further authorized to do all things necessary or appropriate to effectuate the purposes hereof.

2. ☐ An appropriation in the City's current operating budget has previously been made, which shall be sufficient to pay the "Rentals" and the "Termination Payment" during the "Starting Term" under such Lease Supplements; or

(check box if applicable)

☐ An appropriation from unappropriated and unreserved funds in the City's current operating budget is hereby made for the "Rentals" and the "Termination Payment" during the "Starting Term" under such Lease Supplements, and the budget of the City is hereby amended to reflect such appropriation to the extent necessary.

3. The lease or leases contemplated by the said Lease Supplements are hereby designated "Qualified Tax-Exempt Obligations" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended, and said officer shall be authorized to confirm such designation by execution of appropriate documents in connection therewith.

4. This authorization shall be effective immediately.

CLERK'S CERTIFICATE

The undersigned hereby certifies that he or she is the Clerk of the City of Clarkston, Georgia (the "City"), and that the foregoing is a true copy of the ☐ Resolution or, ☐ Ordinance [Check One] adopted by the governing body of the City at a meeting duly held on the _____, 20____, at which a quorum was present and acting throughout, and that the same has not been rescinded or modified and is now in full force and effect. Given under the seal of the City, this _____, 20____.

(SEAL)

City Clerk

CITY OF CLARKSTON

CLARKSTON CITY COUNCIL MEETING

ITEM NO: 6E

HEARING TYPE:
Work Session

BUSINESS AGENDA / MINUTES

MEETING DATE: March 28, 2023

ACTION TYPE:
Discussion

SUBJECT: To discuss a resolution declaring property surplus for the City of Clarkston

DEPARTMENT: Public Works

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENT: ☒ YES ☐ NO
Pages: 1

INFORMATION CONTACT: Shawanna Qawiy

PHONE NUMBER: 404-296-6489

PURPOSE: To discuss a resolution declaring old and obsolete equipment as Surplus Property that can be sold and disposed of in compliance with O.C.G.A. 36-37-6(a).

NEED/ IMPACT: The City of Clarkston Public Works Department requests that the following vehicles be declared as obsolete and surplus equipment to be auctioned for sale.

2004 Ford Truck f150 VIN# 2FTRF17W04CA42799

This vehicle was acquired in January 2004 and has been in service for 19 years and has mileage of 165,738 miles.

RECOMMENDATIONS:

Staff recommends that the Council vote to declare the above-mentioned vehicle as surplus property.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF CLARKSTON, GEORGIA DECLARING
PROPERTY SURPLUS FOR THE CITY OF CLARKSTON

* * * * *

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF CLARKSTON, GEORGIA:

WHEREAS, the below described Public Works vehicle is no longer necessary, useful or suitable for municipal purposes for the City of Clarkston:

2004 Ford Truck F150 VIN#2FTRF17W04CA42799

NOW, THEREFORE BE IT RESOLVED that the above-mentioned vehicle be declared surplus property and the City Manager is hereby directed to sell said surplus equipment via public sale in compliance with O.C.G.A. 36-37-6(a).

PASSED, APPROVED, AND RESOLVED this _____ day of _____, 2023.

CITY COUNCIL
CITY OF CLARKSTON, GEORGIA

Beverly H. Burks, Mayor

Attest:

Tomika R. Mitchell, City Clerk

Approved as to Form:

Stephen Quinn, City Attorney

CITY OF CLARKSTON

ITEM NO: 6F

CLARKSTON CITY COUNCIL WORK SESSION

HEARING TYPE:
Work session

BUSINESS AGENDA / MINUTES

ACTION TYPE:
Discussion

MEETING DATE: March 28, 2023

SUBJECT: To discuss amending the Clarkston Zoning Ordinance and maps.

DEPARTMENT: Planning Economic
and Development

PUBLIC HEARING: ☐ YES ☒ NO

ATTACHMENTS: ☒ YES ☐ NO
Pages:

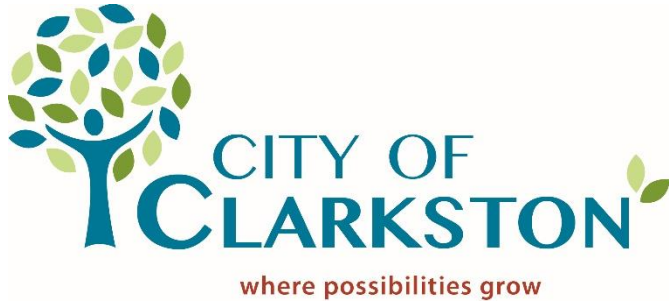
INFORMATION CONTACT: **Shawanna Qawiy,**
City Manager
PHONE NUMBER: 404-296-6489

PURPOSE: To discuss amending the Clarkston Zoning Ordinance and maps.

NEED/ IMPACT: The zoning ordinance establishes zoning districts that specify permitted uses, building standards and regulations that apply to different types of properties. Amendments to the zoning ordinance and maps are to increase the ease, impact, purpose, and intent of the local laws and regulate land use and development within the city. The impact of the amendments will include the nature and scope of the changes and the views and concerns of the community.

RECOMMENDATION:

Planning and Zoning Board : The Planning and Zoning Board recommended to deny the amendments to the Clarkston Zoning Ordinance and maps.



PLANNING & ZONING BOARD MEETING MINUTES

March 21, 2023, 7:00 PM

ZOOM

Join Zoom Meeting

<https://us02web.zoom.us/j/87129352968?pwd=MWkzMjVhRkFk2UHpqNFoxQW5LSUpRQT09>

or by telephone at (301) 715-8592.

Zoom Meeting Details:

Meeting ID: 871 2935 2968

MEETING MINUTES

A. CALL TO ORDER: The meeting was called to order at 7:04 PM.

B. ROLL CALL: Chair Charles McFarland, Vice Chair Felicia Weinert, Lisa Williams, Herbert Clark. Absent: Birendra Dhakal.

C. APPROVAL OF DECEMBER 2022 MEETING MINUTES. Charles McFarland called for a motion to approve the December 2022 meeting minutes. Felicia Weinert made the motion to approve, Lisa Williams seconded, and the motion passed 4/0/0.

D. NEW BUSINESS

- 1. PUBLIC HEARING:** To consider amendments to the Clarkston Zoning Ordinance and maps.
Chairman McFarland read the public hearing policy for the meeting and turned the meeting over to the City Manager (CM) Shawanna Qawiy. CM Qawiy stated the public hearing policy for the public and gave an overview of the purpose of the zoning rewrite and introduced the consultant team, POND and Company representative Rosie Mafe.

Rosie Mafe gave a presentation of the history of the zoning rewrite and the purpose of the public hearing.

After the presentation, board member Lisa Williams asked a question for clarification related to the definition of “live-work-unit” and the limited single family residential housing/neighborhoods in the city.

CM Qawiy announced the speakers for the public hearing. The speakers with their summarized comments are listed.

William Johnston- Smaller lot sizes (comments emailed) the Clemsil Overlay is too strict.

Rich Pasenaw- Smaller lot sizes.

Susie Grimley- comment emailed.

Martha Brock- recommends PZ board not approve the zoning rewrite.
Adrianna Berlin- preserve single family residential neighborhoods.
Anonymous comment mailed (parking of recreational vehicles on/off street
Ira Jenkins- no duplexes, triplexes, or quadraplexes in single family neighborhoods
Georgette Gafford- comment related to item 2 on the agenda that is deferred.
Amy Medford- more affordable housing, approve the zoning rewrite. No Clemsil Overlay.
Jamie Carroll-duplexes in NR-1, 2, 3; rent out basements, ADUs can create. another source of revenue for a homeowner.
George French- affordable housing does not mean build duplexes, triplexes, and/or Quadraplexes.
Susan Hood – smaller lots does not mean affordable. 8000 people per square mile, 428 single family homes in Clarkston, with over 14, 000 residents,
Debra Johnson- supports Clemsil Overlay. No duplexes.
Joshua Deaton- more options for homeowners, increase the number of chickens in yard to 6.
Awet Eyasu- increased growth in Clarkston; adding more does not mean affordable, approves increased height in town center.
Mark Perkins-supports the zoning rewrite changes and the balance.
Mark Osbourne/ Mrs. Osbourne- Clarkston most dense community in North America and state of Georgia. Keep it simple, there are many advantages to single family homes. Mrs. Osbourne disagrees with duplexes, triplexes. and quadruplexes in single family neighborhoods.

After a dedicated session of public comments during the public hearing, Chair McFarland closed the public comments and hearing.

Chair McFarland asked the Planning and Zoning Board members if they had any additional questions or comments.

Vice Chair Felicia Weinert made a comment on not being in control of development costs. Referencing cottage homes starting at \$100K.

Lisa Williams posed a question to POND (Rosie Mafe) related to setback averaging in historically preserved district. Using the reference of 3 lots with one vacant lot in the middle the consultant explained that it is the average of the front/side setbacks of the constructed lots to create a minimum (front/side) for the future construction of the vacant lot.

Lisa Williams made comments related to the (city) not having affordable housing programs, that are needed. The zoning rewrite does not help homeowners. The rewrite should include a plan for homeowners.

PZ Board member Herbert Clark commented on how Clarkston is represented by 63 countries and does not understand why there aren't any affordable housing options for the city.

Chairman McFarland commented on how the rewrite reflects negatively on homeowners/ homeownership. He stated that he lives in the NR-3 district surrounded by apartments and that the current changes may also affect the current homeowners and developers. will increase development costs.

With no further comments or discussions or comments Chairman McFarland asked for a motion. Herbert Clark made the motion to table the zoning rewrite for 30 days. No member seconded the motion did not carry.

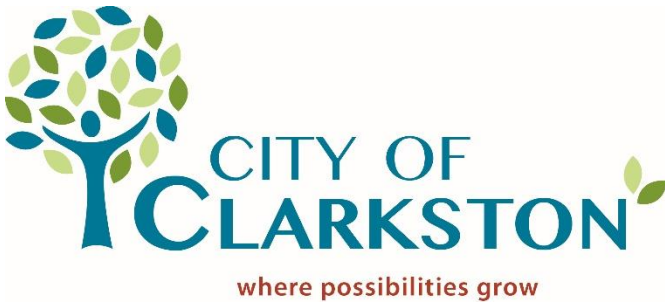
Another discussion took place amongst the Planning and Zoning Board members on a motion. With a steady deliberation on the type of motion, Lisa Williams made the motion to deny the zoning rewrite, Felicia Weinert seconded, and the motion passed 4/0/0.

2. **PUBLIC HEARING:** The Mayor and City Council will consider amending the zoning map to rezone the properties located at 572 Woodland Avenue (18 047 32 007), 582 Woodland Avenue (18 047 32 002), 586 Woodland Avenue (18 047 32 006), 590 Woodland Avenue (18 047 32 005), 596 Woodland Avenue (18 047 32 004), 600 Woodland Avenue (18 047 32 009), 606 Woodland Avenue (18 047 32 008) and 616 Woodland Avenue (18 047 34 001) Scottdale, GA 30079 (within the City of Clarkston) from NR-CD Neighborhood Residential Community Development District to TC Town Center. **DEFERRED UNTIL APRIL 18, 2023**

There was no discussion on this item. It has been deferred until the next Planning. Zoning Board meeting on April 18, 2023.

E. OTHER BUSINESS : None

F. ADJOURNMENT: Chairman McFarland called for a motion to close (adjourn) the meeting. Felicia Weinert made the motion to adjourn, seconded by Lisa Williams. The motion passed 4/0/0. The meeting adjourned at 8:31PM.



PLANNING & ZONING BOARD MEETING

March 21, 2023, 7:00 PM
ZOOM

AGENDA

A. CALL TO ORDER

B. ROLL CALL

C. APPROVAL OF DECEMBER 2022 MEETING MINUTES.

PUBLIC HEARING:

Any member of the public may address the Planning and Zoning Board, during the time allotted for public hearing. Each attendee will be allowed 3 minutes. If your public comment contains a series of questions, please provide those questions to staff in writing on the Public Comment Card (Staff) prior to the meeting. This will facilitate follow-up by the Board or Staff. The Planning and Zoning Board desires to allow an opportunity for public comment; however, the business of the Board must proceed in an orderly and timely manner.

D. OLD BUSINESS

E. NEW BUSINESS

1. **PUBLIC HEARING:** To consider amendments to the Clarkston Zoning Ordinance and maps.
2. **PUBLIC HEARING:** The Mayor and City Council will consider amending the zoning map to rezone the properties located at 572 Woodland Avenue (18 047 32 007), 582 Woodland Avenue (18 047 32 002), 586 Woodland Avenue (18 047 32 006), 590 Woodland Avenue (18 047 32 005), 596 Woodland Avenue (18 047 32 004), 600 Woodland Avenue (18 047 32 009), 606 Woodland Avenue (18 047 32 008) and 616 Woodland Avenue (18 047 34 001) Scottdale, GA 30079 (within the City of Clarkston) from NR-CD Neighborhood Residential Community Development District to TC Town Center. **DEFERRED UNTIL APRIL 18, 2023**

F. OTHER BUSINESS

G. ADJOURNMENT

Join Zoom Meeting

<https://us02web.zoom.us/j/87129352968?pwd=MWkzMTVhRkFk2UHpqNFoxQW5LSUpRQT09>

or by telephone at (301) 715-8592.

Zoom Meeting Details:

Meeting ID: 871 2935 2968

UPDATED: March 13, 2023

How to review the proposed City of Clarkston Zoning Ordinance:

This document is a 'red-lined' version of the existing Clarkston Zoning Ordinance. Everything that is red, blue, or green and underlined, has been edited by the project team. Graphics and tables that are highlighted in yellow are new. You will see the specific changes in a column on the right side of your screen, for example:

On the project website, there is also a *Summary of Changes* document that serves as a guide for your review, listing all of the major changes in the Clarkston Zoning Ordinance, article-by-article.

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APPENDIX A ZONING¹

ARTICLE I. GENERAL

DIVISION 1. TITLE, APPLICABILITY AND PURPOSE

Sec. 100. Title.

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

Sec. 101. Applicability.

These regulations shall apply to all present and future land development located within the incorporated area of Clarkston, Georgia. The requirements contained herein are declared to be minimum requirements necessary to carry out the purpose of this article. This article shall regulate the height, number of stories, and the size of buildings and other structures; the percentage of lot that may be occupied; the size of yards and other open spaces; the density and distribution of dwelling units; the location and use of buildings and other structures; the use, condition of use, or occupancy of land by trade, industry, housing, recreation, transportation, agriculture, or for any other purpose; creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the method of administration, enforcement and amendment; creating a planning and zoning board and defining the powers and duties thereof; providing penalties and resolutions; and for other purposes.

Sec. 102. Purpose.

The purpose of the Clarkston zoning ordinance shall be to:

- (a) To protect existing development in the city.
- (b) To improve the property within the city through redevelopment, where appropriate.
- (c) To prevent damage to improved property by natural disaster.
- (d) To prevent overcrowding of schools and other public facilities.
- (e) To achieve such timing, density, and distribution of population, land development and use as will prevent overloading public infrastructure systems for providing water supply, sewage disposal, drainage, sanitation, police and fire protection, and other public services, will protect the traffic movement

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

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

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

capabilities of streets within the city and prevent traffic hazards, and will facilitate the efficient and adequate provision of public services and facilities.

- (f) To achieve such density, design, and distribution of housing as will protect and enhance residential property values and facilitate the provision of adequate housing for every citizen.
- (g) To secure such accessibility, design and density of land development and use as will reduce fire hazards and fire losses.
- (h) To promote the health, safety, morals, convenience, order, prosperity, and welfare of the present and future inhabitants of the city.
- (i) To encourage greater efficiency and economy of land development through natural resource conservation.
- (j) To preserve the city's natural beauty and encourage architecturally pleasing development.
- (k) To improve the quality of life through protection of the city's total environment including the prevention of air, visual, water and noise pollution.
- (l) To implement the vision, goals, and policies of the comprehensive plan.

Sec. 103. Relationship to Comprehensive Plan

The comprehensive plan, consisting of its future land use map and related policies, as may be amended from time to time, is hereby established as the official policy of the city concerning designated future land uses, and as a guide to decisions regarding the appropriate manner in which property may be zoned in the incorporated areas of the city. A copy of the comprehensive plan, as may be amended from time to time, shall be maintained at city hall and be available for inspection by the public.

- (a) *Relationship between the comprehensive plan and zoning.* The comprehensive plan does not change the existing zoning districts in the city and does not itself permit or prohibit any existing or future land uses. Instead, the comprehensive plan establishes broad planning policy for current and future land uses and will be consulted as a guideline for making decisions about applications to amend the official zoning map and text of the zoning ordinance.
- (b) *Consistency with comprehensive plan character areas.* Any applicant seeking to rezone property to a classification that is inconsistent with the adopted comprehensive plan must first obtain approval of an amendment to the comprehensive plan from the mayor and city council, following the procedures in this zoning ordinance.
- (c) *Amendments to the comprehensive plan.* The Comprehensive Plan shall be reviewed and updated or amended (as appropriate) according to a schedule approved by the mayor and city council, and as required by the DCA in compliance with the Rules of DCA, Chapter 110-12-1, Minimum Standards and Procedures for Local Comprehensive Planning.

Sec. 104. Duties to administer, interpret, and enforce the zoning ordinance.

- (a) Unless otherwise specified in any article, chapter, or section of this zoning ordinance, it shall be the duty of the city manager to administer, interpret, and enforce this zoning ordinance.
- (b) Unless otherwise specified, where this zoning ordinance refers to "the manager" or "the city manager," it shall mean the city manager or their designee.
- (c) The city manager shall also enforce all adopted codes relating to ADA Compliance, as adopted by the State.
- (d) It shall be the duty of the county fire marshal to enforce all State, County, and City fire codes.

Sec. 105. Official zoning map.

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

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

Sec. 106. Replacement of official zoning map.

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

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

Sec. 107. General use regulations.

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

Sec. 108. Development projects under construction.

Nothing in this article shall require any change in the development or proposed use of properties which are legally under construction or for which a complete application for a building permit has been received and/or approved by the city upon the date of adoption of this ordinance, so long as actual construction is commenced within one (1) year of the effective date of adoption of this ordinance and carried out diligently.

Sec. 109. Unsafe buildings.

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

DIVISION 2. LEGAL STATUS PROVISIONS

Sec. 110. Conflict with other laws.

Whenever the regulations of this ordinance require more restrictive standards those of any other ordinance, statute or covenants, the requirements of this ordinance shall govern. Whenever the provisions of any other ordinance, statute, or covenants require more restrictive standards than those of this ordinance, the provisions of such other ordinance, statute, or covenants shall govern.

Sec. 111. Severability clause.

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

Sec. 112. Repeal of conflicting ordinances.

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

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

Sec. 113. Effective date.

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

ARTICLE II. ADMINISTRATION²

DIVISION 1. GENERAL

Sec. 201. Applications

This division establishes procedures that apply to all application submittals and procedures for public hearings required by this zoning ordinance. Prior to the processing of any application for an amendment to the official zoning map, commonly referred to as a rezoning, variance, future land use map amendment, conditional use permit, or modification to conditions of zoning, the applicant shall be required to file documentation and follow certain procedures as set forth in this division. Additional regulations that apply to specific application types may be found in subsequent sections of this chapter.

Sec. 202. Zoning of annexed property.

- (a) Upon annexation of property, the mayor and city council shall assign the annexed property a zoning designation. Based on the DeKalb County zoning of the annexation property, the mayor and city council

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

will assign the corresponding city zoning designation listed in subsection (b) unless mayor and city council determines that a different zoning designation is more appropriate based on the criteria set forth in Sec. 210.

(b) DeKalb County to City of Clarkston zoning conversion table.

City of Clarkston Zoning District	DeKalb County Zoning District
NR-1	RE
NR-1	RLG
NR-1	R-100
NR-1	R-78
NR-1	R-85
NR-2	R-75
NR-2	R-60
NR-2	MHP
NR-2	RNC
NR-3	RSM
NR-3	MR-1
NR-3	MR-2
NR-3	HR-1
NR-3	HR-2
NR-3	HR-3
NR-CD	MU-1
NR-CD	MU-2
NR-CD	MU-3
NR-CD	MU-4
NR-CD	MU-5
RC	OIT
NC-1	C-I
NC-1	OI
I	OD
NC-2	C-2
NC-2	NS
I	M
I	M-2

Sec. 203. Application requirements.

Applications seeking approval of a rezoning, future land use map amendment, variance, or conditional use permit, or planned unit development shall include the following:

- (a) *Pre-application meeting.* Prior to the submittal of an application, the applicant shall meet with the city manager for a preliminary conference on the location, scope, and nature of the proposed development. A written report on the pre-application meeting shall be prepared and transmitted to the applicant and to the mayor and city council.
- (b) A legal description of the tract(s) that are the subject of the application.

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- (c) The owner of the property that is the subject of an application shall certify by notarized signature that they are the applicant or have given authority to the applicant to file the application. When properties have more than one (1) owner, the notarized signature of all property owners shall be required.
 - (d) An application fee established by the city.
 - (e) A written analysis of the impact of the proposed application with respect to the applicable criteria established in this article.
 - (f) A boundary survey completed by a certified surveyor depicting the following:
 - (1) Existing shape and dimensions of each lot that is the subject of the application, including the size, measurement and location of any existing buildings or structures on the lot(s).
 - (2) Existing location of utilities.
 - (3) Streams, creeks, lakes, and ponds.
 - (4) Easements and rights of way.
 - (g) A site plan at a readable scale (1" = 100' minimum). The site plan shall contain the required number of sets (specified on each application) and shall demonstrate compliance with all regulations and calculations required by this zoning ordinance. Unless waived by the city manager as inapplicable in the case of minor building permits, site plans shall include but not be limited to the following information:
 - (1) A correct scale and north arrow.
 - (2) The present zoning classification and future land use category of the subject and all adjacent parcels.
 - (3) The name and address of the owner(s) of the subject and all adjacent parcels.
 - (3) Proposed land use and building footprints with door locations.
 - (4) The gross square footage of proposed buildings.
 - (5) Required yard setbacks appropriately dimensioned.
 - (6) Densities.
 - (7) The location of required off-street parking and loading spaces including total number of spaces; and space and driveway dimensions.
 - (8) Internal circulation including the proposed location of all driveways and entry/exit points for vehicular traffic, using arrows to depict direction of movement.
 - (9) Building height.
 - (10) Sidewalks.
 - (11) Utilities, grading, drainage, amenities, and similar details including their respective measurements.
 - (12) Any applicable buffer boundaries such as: including streams or other planted buffers as required by zoning district.
 - (13) *Landscape and tree plan*. This plan shall demonstrate compliance with all regulations and calculations required by the zoning ordinance related to landscaping and trees and shall include but not be limited to the following information:
 - (i) Landscaping, including tree species, the number of all plantings, and landscaping that is replacing what is being removed.
 - (ii) The location and extent of required buffers and screened areas, depicting extent of natural vegetation and type and location of additional vegetation if required.

(iii) Open space.

(14) *Architectural design.* The architectural design elements showing compliance with all regulations and calculations required by the zoning ordinance which shall include but not be limited to the following information:

- (i) Scaled elevation drawings of proposed structures.
- (ii) Information on building materials, features, exterior finishes, windows, doors, colors, and items affecting exterior appearance, such as signs, HVAC equipment, and similar details including their respective measurements.

(h) Applications seeking approval of a rezoning, conditional use permit, or planned unit development that meet any of the following criteria shall be required to include a traffic impact study (TIS) before the application can be considered complete. The report shall include but not be limited to the following information:

- (1) The proposed development has at least thirty (30) dwelling units, fifteen thousand (15,000) square feet of office space, and/or ten thousand (10,000) square feet of commercial space.
- (2) The proposed development is a public or private school with a capacity of at least one hundred (100) students.
- (3) The proposed development is expected to generate forty (40) or more new vehicle trips during an AM or PM peak hour or three hundred (300) or more new vehicle trips in an average day.

Trip generation shall be calculated based on the most current edition of the Institute of Transportation Engineers (ITE) Trip Generation Manual. Trip estimates developed to identify the need for a TIS should not include trip reductions below ITE rates.

(i) Applications seeking approval of a rezoning, conditional use permit, or planned unit development that meet any of the following criteria shall be required to include an economic impact study before the application can be considered complete:

- (1) Large scale commercial development with over thirty thousand (30,000) square feet gross floor area.

The economic impact study shall include an analysis of job creation, employment opportunities for residents, tax generation, and other fiscal impacts on the city.

(j) Applications seeking approval of a rezoning, conditional use permit, or planned unit development that includes any industrial uses or structures shall be required to include an environmental impact report before the application can be considered complete. The report shall include but not be limited to the following information:

- (1) Impacts on noise levels of the surrounding area.
- (2) Impacts on air quality of the surrounding area.
- (3) Impacts on water quality/resources including surface water, groundwater, floodplains, and wetlands.
- (4) Impacts on vegetation, fish, and wildlife species and habitats.
- (5) Impacts of thermal and explosive hazards on the surrounding area.
- (6) Impacts of hazardous wastes on the surrounding area.
- (7) Uses and quantities of any agents listed on the Federal Environmental Protection Agency Lists of Hazardous Wastes.

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- (8) Strategies to mitigate or avoid impacts listed in this section as applicable.

Sec. 204. Application submittal and completeness.

- (a) No application shall be deemed accepted and filed until all required fees have been paid, all required forms have been submitted and all required materials, including any study that may be required at the discretion of the city manager, have been submitted. The date an application is complete and hence accepted and filed shall be noted on the application form by the city manager. Any subsequent deadlines tied to date of application shall begin to run as of said date.

Sec. 205. Common procedures

- (a) *City manager review.* Upon receipt of an application for a rezoning, future land use map amendment, variance, conditional use permit, planned unit development, or upon notice from two (2) or more mayor and city council members of a proposed text amendment, and within thirty (30) days of receipt of the formal application and all required information, the city manager shall review the application (or proposed text amendment) and prepare a written analysis of the application (or proposed text amendment), which shall be provided to the planning and zoning board as well as the mayor and city council.
- (b) *Planning and zoning board review.*
- (1) All applications for rezoning, future land use map amendment, variance, conditional use permit, planned unit development, and all proposed amendments to the text of the zoning ordinance shall be submitted to the planning and zoning board for review. Such review shall be conducted based upon the standards set forth in the appropriate section of this zoning ordinance, depending on the type(s) of the applications. When a complete application is received, the planning and zoning board shall consider the application at its next regularly scheduled meeting, unless deferred pursuant to this section. Such meeting shall include a public hearing and follow procedures required in Sec. 206 of this article.
 - (2) The city clerk shall cause notice of the time, place, and purpose of the public hearing and a copy of the city manager's report on the application to be published on the city's website at least fifteen (15) days prior to the public hearing.
 - (3) Upon motion, the planning and zoning board may defer any application which it deems to be incomplete. The fact that a required community open house meeting has not yet been held shall cause the application to be deemed incomplete and necessitate a deferral. A complete application may be deferred on only one occasion.
 - (4) The planning and zoning board shall make a recommendation to the mayor and city council with respect to its findings. The recommendations shall be a part of the permanent record of the application and shall be reported at any meeting of the mayor and city council which considers the application. In addition, the city clerk shall cause the planning and zoning board's recommendation to be posted on the city's website from the time that it is available until a final decision on the application is made by the mayor and city council.
 - (5) Failure to act.
 - i. Failure by the planning and zoning board to act upon any application shall not cause delay of process unless such failure is due to incomplete data or information in an application. Should the planning and zoning board fail to act upon any complete application, it shall pass to the mayor and city council with a notation thereon that the planning and zoning board has reviewed but failed to act upon the application.

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- ii. If the planning and zoning board fails to submit a report within thirty (30) days of its first meeting after it has considered an application that is complete in all respects, it shall be deemed to have recommended approval of the proposed amendment. However, the planning and zoning board and the applicant for an amendment may jointly agree to postpone action for a thirty-day period.
 - (6) The mayor and city council shall hear the application at its next meeting which complies with O.C.G.A. § 36-66-1 et seq., as it now exists and may be amended hereafter.
 - (7) Provisions for application withdrawal shall be as established in Sec. 206.
 - (d) *Mayor and city council.*
 - (1) *Public hearing procedures.* Before the mayor and city council shall approve or deny any rezoning, future land use map amendment, variance, conditional use permit, planned unit development, or text amendment they shall hold a public hearing thereon, to be conducted pursuant to procedures outlined in this zoning ordinance and those provided in O.C.G.A. § 36-66-1 et seq., as it now exists and may be amended hereafter.
 - i. The notice of such hearing shall be published at least fifteen (15) but not more than forty-five (45) days prior to the hearing on the proposed action, such publication to be in the legal organ for DeKalb County, Georgia. The notice shall state the time, place, and purpose of the hearing.
 - ii. Said public hearing may be continued to the next regular mayor and city council meeting date and for additional consecutive regular meeting dates, or such other date as directed by the mayor and city council, without further legal notice as good planning requirements dictate and the mayor and city council deem necessary, provided that the date on the sign advertising the hearing be changed to reflect the continued hearing date.
 - iii. If the requested zoning action is for the rezoning of property and is initiated by a party (applicant) other than the city, then:
 - (a) The applicant shall erect on the subject property, not less than fifteen (15) days prior to the hearing, a sign(s) giving the time, place, and purpose of the mayor and city council public hearing. Applicant shall provide photographic evidence of the sign placement to the city manager. City staff shall be responsible for providing the signs to the applicant and ensuring that such sign(s) stays where placed and in legible condition until a final decision is made on the zoning matter by the mayor and city council.
 - (b) The notice to the legal organ as required above shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification for the property.
 - (c) The applicant shall also cause written notice of the time, place, and purpose of the mayor and city council public hearing to be given by certified mail, with mailings placed in the mail with sufficient postage affixed at least fourteen (14) days prior to the hearing. Such letters shall be addressed and mailed to property owners (as ownership and address appears on the tax records of DeKalb County) of all property within three hundred (300) feet of the property that is the subject of the application. When property owners have provided the city manager with an email address for such purpose, the applicant shall also give notice of the public hearing via email to those property owners as an additional courtesy. Applicant must provide the city manager with documentation of the required certified mailing.

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- (d) The city clerk shall cause notice of the time, place, and purpose of the public hearing and a copy of the city manager's staff report on the application to be published on the city's website at least fifteen (15) days prior to the public hearing.

(2) *Final action.*

- i. The mayor and city council shall approve, approve with conditions, or deny the request. Such final zoning action may occur at the time of the public hearing or at the next regularly scheduled mayor and city council meeting.
- ii. The mayor and city council shall not be bound by but shall consider the recommendations of the planning and zoning board in its deliberations on the application.

(3) Provisions for application withdrawal shall be as established in Sec. 207.

Sec. 206. Procedure for public hearings

Whenever the mayor and city council conducts a public hearing in connection with a zoning decision or quasi-judicial action, as required by O.C.G.A. Section 36-66-4, as it now exists and may be amended hereafter, the following procedures shall be observed:

- (a) *Speaker registration.* The applicant for will automatically be registered to speak in support of the application. Any other person wishing to speak, either in support or opposition to the application, shall register with the city clerk. Registration may be accomplished through the city website between 9:00 a.m. and 4:00 p.m. on the day of the hearing, or in person at city hall beginning one (1) hour prior to the start of the meeting during which the public hearing will be held ending five (5) minutes prior to the start of the meeting. The speaker's registration shall indicate whether the person registering to speak wishes to speak in support or opposition to the application. The city clerk shall create and maintain a list of proponents and opponents registered to speak at a public hearing and the order in which they registered.
- (b) *Total time allotted for public hearing.* Before the public hearing is opened for public comments, the mayor (or presiding officer) shall announce a total time allotted for the public hearing. The total time allotted shall be no less than twenty (20) minutes (ten (10) minutes per side) and no longer than one (1) hour (thirty (30) minutes per side). At all public hearings, the proponents and opponents of the application shall collectively be allotted equal time to present their views to the mayor and city council.
- (c) *Time allotted to each registered speaker.* The total time per side allotted for the public hearing (per Sec. 206(b)) shall be equally divided among registered speakers. Except for the applicant, each speaker shall initially be limited to a maximum of three (3) minutes to speak. In the event that all registered speakers on one side of an application have had an opportunity to speak and a portion of the total time for that side (proponents or opponents) remains unused, registered speakers will have an opportunity to speak again within the total time allotted for their side, restarting at the beginning of the registration list.
- (d) *Order of public comment at hearing.*
 - (1) *Proponents.* The mayor and city council shall first hear from the proponents of the application. The applicant will have the first opportunity to speak. Then individuals that registered to speak in support of the application shall have the opportunity to speak, in the order that they registered.
 - (2) *Opponents.* After the proponents' comments are complete, the opponents shall have the opportunity to speak. Individuals that registered to speak in opposition to the application shall have the opportunity to speak, in the order that they registered.
- (e) *Public hearing not an opportunity for dialogue.* The public hearing is strictly for proponents and opponents to express their opinions regarding the application to the mayor and city council. Speakers

shall not direct questions to the applicant, mayor and city council members or city staff during the public hearing. Mayor and city council members may wish to question the applicant and/or proponent and/or opponent of the application as part of the council's consideration of the application. However, any such dialogue will be conducted outside of the public hearing portion of the meeting.

Table 1.1 Review and Approval Review and Approval Authority			
	City Manager	Planning & Zoning Board	City Council
Rezoning	R	R	D-PH
Future Land Use Map Amendment	R	R	D-PH
Text Amendment to Zoning Ordinance	R	R	D-PH
Administrative Variance	R-D		
Planned Unit Developments	R	R	D-PH
Variance	R	R	D-PH
Conditional Use Permit	R	R	D-PH
Temporary Use Approval	R-D		
Key R: Review and Recommendation PH: Public Hearing D: Final Decision			

Sec. 207. Withdrawal from and reapplication for rezoning, future land use map amendment, variance, conditional use permit, or planned unit development.

- (a) Once an application for a rezoning, future land use map amendment, variance, conditional use permit, or planned unit development has been made, the applicant may withdraw the application without prejudice only until the legal advertisement of the public hearing is published by the legal organ. An application may not be withdrawn by an applicant or property owner under any circumstance after the legal advertisement of the public hearing has been placed. All applications, having been advertised, shall be considered by the planning and zoning board and mayor and city council as appropriate and shall receive final action.
- (b) No application or reapplication for the same type of application rezoning, future land use map amendment, variance, conditional use permit, or planned unit development affecting the same land or any portion thereof shall be acted upon within twelve (12) months from the date of denial of the last application by the mayor and city council, unless such twelve (12) month period is waived by the city council and in no case may such an application or reapplication be reconsidered in less than six (6) months from the date of last action by the city council. Administrative variances shall not be subject to this time lapse requirement.

Sec. 208. Conditional approvals.

In approving a rezoning, future land use map amendment, variance, conditional use permit, or planned unit development the mayor and city council may impose special conditions which they deem necessary to make the requested action acceptable and consistent with the purposes of the district(s) involved and to further the goals and objectives of the comprehensive plan.

Sec. 209. Zoning and sign fees.

The zoning and sign fees designated by the mayor and city council shall be established by separate ordinance or resolution, to be updated as necessary.

If the work to improve the subject property or use of property that is the subject of an application or permit is commenced prior to the application being approved, the fee charged for said application or permit shall be double the amount otherwise charged pursuant to the applicable fee schedule.

Sec. 210. Construction and use consistency with application, plans, and permit.

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

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

DIVISION 2. ZONING MAP AMENDMENTS

Sec. 211. Initiation of amendments.

Rezoning applications can be initiated by one of the following:

- (a) The mayor and city council may initiate amendments to the official zoning map. The requirements for applications in Sec. 203 and 212(b) shall not apply to amendments initiated by the mayor and city council.
- (b) Any person, firm, corporation, or agency may initiate applications to amend the official zoning map, provided that said person, firm, corporation or agency is the owner or the authorized agent of the owner of all of the property involved.

Sec. 212. Procedures for rezoning applications.

The official zoning map may be amended by the mayor and city council. Rezoning applications shall be filed with the city manager. Amendments to the official zoning map shall meet the following procedures and criteria:

- (a) Procedures and application requirements for rezoning applications shall comply with Sec. 204 and Sec. 205 of this article.
- (b) *Community open house meetings.*
 - (1) *Applicability.* Filing of any of the following applications shall trigger the requirement for the applicant to hold a community open house meeting:
 - (i) An application seeking rezoning of more than five thousand (5,000) square feet of property;
 - (ii) An application seeking approval of a planned unit developments;
 - (2) *Requirements for meeting.* The purpose of the meeting is for the applicant and interested community members to have dialogue about the proposed project. Community open house meetings, when required, shall be held as close as reasonably possible to the subject property within the city. The required meeting shall take place prior to the applicant submitting their

application to the city manager. Any cost associated with holding a community open house meeting shall be paid by the applicant.

- (3) *Notice of meeting.* To properly notify interested neighbors of the community open house meeting, the applicant required to hold a community open house meeting shall mail a letter to every property owner within three hundred (300) feet of the subject property providing notice of the time, place, and purpose of the community open house meeting.
 - (4) *Post-meeting reporting.* The applicant required to hold a community open house meeting shall provide, with their application to the planning and development director, the following:
 - (i) A written summary of the community open house meeting.
 - (ii) A list of all meeting attendees.
 - (iii) A summary of the concerns and issues expressed during the meeting.
 - (iv) A summary of the applicant's responses to the concerns and issues expressed.
 - (v) A copy of the mailing list of all property owners within three hundred (300) feet of the subject property, including name, street address, and parcel identification number.
 - (vi) A copy of the form letter mailed to the property owners within three hundred (300) feet of the subject property informing them of the community open house meeting.
 - (5) Applicants that comply with all requirements of the community open house meeting under this subsection, regardless of how many participants attend the scheduled meeting, are deemed to have met the community open house meeting requirement of this subsection.
- (c) *Review.* With respect to each application for a rezoning the planning and zoning board and mayor and city council shall investigate and make a recommendation based on the following criteria:
- (1) The effect upon the health, safety, or general welfare of the public compared to any hardship imposed upon the individual property owner seeking rezoning should rezoning be denied.
 - (2) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
 - (3) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
 - (4) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
 - (5) Whether the zoning proposal will result in a use that may cause an excessive or burdensome use of existing transportation facilities and other infrastructure, such as schools, water, and sewer.
 - (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.
 - (7) Whether the zoning proposal is compatible with the principles of the city's comprehensive plan.
 - (8) Whether the zoning proposal is compatible with the most current adopted version of the future land use map of the comprehensive plan.

DIVISION 3. FUTURE LAND USE AMENDMENTS

Sec. 213. Initiation of Amendments

Initiation of amendments. Future land use map amendments may be initiated by one of the following:

- (a) The mayor and city council may initiate amendments to the future land use map. The requirements for applications in section 202 shall not apply to amendments initiated by the mayor and city council.
- (b) Any person, firm, corporation or agency may initiate applications to amend the future land use map, provided that said person, firm, corporation or agency is the owner or the authorized agent of the owner of all of the property involved.

Sec. 214. Procedures for future land use amendments

The future land use map of the comprehensive plan may be amended by the mayor and city council. Future land use map amendment applications shall be filed with the planning and development director. Amendments to the future land use map shall meet the following procedures and criteria:

- (a) Procedures and application requirements for future land use map amendment applications shall comply with Sec. 204 and Sec. 205 of this article.
- (b) *Review.* With respect to each application for a future land use map amendment, Planning and Zoning Board and City Council shall investigate and make a recommendation based on the following criteria:
 - (1) Whether the future land use map amendment proposal is compatible with the surrounding future land uses as identified in the future land use map.
 - (2) Whether the future land use map amendment proposal can be adequately served by existing transportation facilities and other infrastructure, such as schools, water and sewer.
 - (3) Whether the future land use map amendment proposal negatively impacts natural and historic resources identified by the city.
 - (4) Whether the future land use map amendment proposal is in the best interest of the city and the public good and whether the proposal protects the health and welfare of its citizens.
 - (5) Whether the property to be affected by the future land use map amendment proposal has a reasonable economic use as currently designated on the future land use map.
 - (6) Whether the future land use map proposal meets the policies and intent established in the comprehensive plan.
- (c) *Re-submittal of land use amendment application.* An application for an amendment affecting the same property shall not be submitted more often than once every six (6) months; however, this provision shall not apply to those properties affected by an amendment filed by the mayor and city council.

DIVISION 4. VARIANCES AND ADMINISTRATIVE VARIANCES

Sec. 215. Variance procedures.

The mayor and city council may authorize variances from the terms of this zoning ordinance upon proper application and in specific cases. Applications should be submitted and reviewed by the designated planning and development director for technical review and recommendation in the form of a written staff report. Variance applications shall meet the following procedures and criteria:

- (a) Procedures and application requirements for variance applications shall comply with Sec. 204 and Sec. 205 of this article.

(b) *Mayor and city council decision.*

- (1) Final action shall be made no later than sixty (60) days following filing of a complete application, unless extended by agreement of the applicant.
- (2) The mayor and city council may require accompanying written requirements as part of a "variance decision," thereby approving the variance as "conditional."
- (3) Appeals of a "variance decision" of the mayor and city council by an aggrieved party shall be available by writ of certiorari to the DeKalb County superior court.
- (c) The existence of a nonconforming use of neighboring land, buildings, or structures in the same or in other districts shall not constitute a reason for a variance.
- (d) *Review.* With respect to each application for a variance, the review commissions shall investigate and make a recommendation based on the following criteria. A variance may be granted in an individual case of unnecessary hardship upon a finding by the city council that all of the following conditions exist:
 - (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
 - (2) Such conditions are peculiar to the particular piece of property involved.
 - (3) Such conditions are not the result of the actions of the applicant.
 - (4) A literal interpretation of the provisions of this ordinance would create an unnecessary hardship.
 - (5) The variance requested will not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.
 - (6) The variance is not a request to permit a structure or use of land not authorized in the applicable district.

Sec. 216. Administrative variances.

The city manager or his/her designee shall have the option to grant variances from the development and design standards of this ordinance, where the intent of the ordinance can be achieved, and equal performance obtained by granting a variance.

- (a) *Review.* With respect to each application for an administrative variance, the city manager shall review and make a decision based on the following criteria.
 - (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography.
 - (2) Such conditions are peculiar to the particular piece of property involved.
 - (3) Such conditions are not the result of the actions of the applicant.
 - (4) A literal interpretation of the provisions of this ordinance would create an unnecessary hardship.
 - (5) The variance requested will not cause substantial detriment to the public good nor impair the purposes or intent of this zoning ordinance.
 - (6) The variance is not a request to permit a structure or use of land not authorized in the applicable district.
- (b) The authority to grant such variances shall be limited to variance from the following requirements:
 - (1) Front yard or yard adjacent to public street—Reduction not to exceed ten percent of that required.
 - (2) Side yard—Reduction not to exceed three (3) feet of that required.

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- (3) Rear yard— Reduction not to exceed five (5) feet of that required.
 - (4) Height of building— Reduction not to exceed five (5) feet of that required.
 - (5) Fenestration— Reduction not to exceed twenty (20) percent deducted from the of that required.
 - (6) Landscape zone— Reduction not to exceed two (2) feet of that required.
 - (7) Sidewalk zone— Reduction not to exceed two (2) feet of that required.
 - (c) Procedures for applications
 - (1) The planning and zoning director shall review and decide upon each complete application pursuant to the standards referred to in Sec. 216(a). A written decision on each such application shall be issued no later than 30 days from the date a complete application was filed unless an extension is agreed to by the applicant and planning and development director.
 - (2) The application for an administrative variance shall state the specific regulation from which exception is sought and the reasons the exception is needed. The application shall contain such information as the planning and zoning director deems necessary to evaluate the request.
 - (3) Appeals from a final decision on an administrative variance by an aggrieved party shall follow the appeals procedure of section 220 and 221.

DIVISION 4. PLANNED UNIT DEVELOPMENTS

Sec. 217. Planned unit development.

- (a) Procedures and application requirements for planned unit development applications shall comply with Sec. 204 and Sec. 205 of this article.
- (b) Additional application requirements:
 - (1) A preliminary outline of proposed protective covenants, including provisions for the organization and continued financing of a property owners' association except in commercial planned unit developments.
 - (2) Any statistical tabulations required to show that the proposed development meets the specific requirements of the proposed planned unit development.
 - (3) *Review.* With respect to each application for a planned unit development, Planning and Zoning Board and City Council shall investigate and make a recommendation based on the following criteria:
 - (i) Whether the proposed development is suitable in view of the use and development of adjacent and nearby property.
 - (ii) Whether the proposed development adversely affects the existing use or usability of adjacent or nearby property.
 - (iii) Whether the proposed development results in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
 - (iv) Other existing or changing conditions which, because of their impact on the public health, safety, morality and general welfare of the community give supporting grounds for either the approval or denial of the proposed development.
- (c) *Preliminary and final land subdivision plats.* If the proposed planned unit development is to be subdivided, then the application for approval of the planned unit development shall include all

information required for the preliminary approval of a subdivision under chapter 17, subdivision regulations, of the City Code.

- (1) The applicant may request approval of the preliminary plat concurrently with their application for the planned unit development. Final approval of the planned unit development by the mayor and city council authorizes the applicant to prepare a final land subdivision plat when applicable.
 - (2) A final land subdivision plat shall be prepared by the developer after approval of the preliminary plat.
 - (3) If the final land subdivision plat meets the requirements of subdivision regulations of the city, it shall be approved by the planning and zoning board and the mayor and city council and recorded in accordance with land subdivision regulation procedures.
 - (4) No site development shall be undertaken by the applicant and no permits shall be issued to him/her until the preliminary land subdivision plat has been officially approved by the planning and zoning board and the mayor and city council in accordance with the Clarkston land subdivision regulations (chapter 17 of the City Code).
- (d) *Modification of approved planned unit developments:* The director or his/her designee shall have sole authority to approve minor changes to approved planned unit developments. For the purposes of this section, a minor change in the approved planned unit development means a slight alteration to a planned unit development or change in layout that does not result in the visible intrusion of any building, structure, driveway, walkway, parking lot, plaza, wall or similar built element into any open space, yard, landscaped buffer, undeveloped space, or any similar space, when any such space is shown on the final "conditional" plan as being next to and visible from a property line or street.

Sec. 218. Ownership control.

- (a) All of the land in a planned unit development shall be owned initially by an individual, by a corporation or by some other legal entity until development of the project is complete.
- (b) After the development is complete, as a precondition to obtaining certificate(s) of occupancy for building(s) in the planned unit development, the developer shall either:
- (c) Record a final subdivision plat that creates a separate lot for each dwelling place and subjects each lot in the development to private deed covenants that assure the continuance of the planned unit development as originally approved and developed and require maintenance of the common areas, if applicable, by the owners of the subdivided lots; or
- (d) Record a condominium declaration pursuant to the Georgia Condominium Act.

DIVISION 5. CONDITIONAL USE PERMITS

Sec. 219. Conditional use permit.

- (a) Procedures and application requirements for conditional use permit applications shall comply with Sec. 204 and Sec. 205 of this article.
- (b) Certain uses of property, designated as conditional uses by Article IV of this Zoning Ordinance, are declared to possess characteristics that may be incompatible with other uses in the district within which they are proposed for location. A conditional use permit allows mayor and city council to give special consideration to these uses. No conditional use shall be constructed, erected, enlarged, performed, or otherwise undertaken without first obtaining a conditional use permit.

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- (c) Conditional use permit applications shall be authorized only for those uses specifically listed in the applicable zoning district regulations, as permitted by conditional use permit, and in compliance with any applicable supplemental regulations.
 - (d) *Review.* With respect to each application for a conditional use permit, the review commissions shall investigate and make a recommendation based on the following criteria:
 - (1) Whether the conditional use would be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity or diminish and impair property values within the surrounding neighborhood;
 - (2) Whether the proposed conditional use would increase local or state expenditures in relation to cost of servicing or maintaining neighboring properties;
 - (3) Whether the establishment of the conditional use would impede the normal and orderly development of surrounding property for uses predominant in the area; and
 - (4) Whether the location and character of the proposed conditional use would be consistent with a desirable pattern of development for the locality in general.
 - (e) Once a conditional use has been approved by the mayor and council, said conditional use and any conditions shall run with the land upon which the conditional use was approved, except under the following conditions which would allow the revocation of a conditional use permit:
 - (1) The conditional permit will expire when the approved use ceases for 6 months or more.
 - (2) The conditional permit will expire if the approved use has not begun six months after the approval date.

DIVISION 6. APPEALS

Sec. 220. Powers of the mayor and city council with respect to zoning appeals.

All appeals are subject to applicable procedures in Sec. 205, *Common Procedures*. The mayor and city council shall have the following powers with respect to zoning appeals:

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

Sec. 221. Appeals from final decisions of the mayor and city council.

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

DIVISION 7. ENFORCEMENT, VIOLATIONS, PENALTIES

Sec. 222. Penalties for violation.

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

Sec. 223. Remedies.

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

DIVISION 8. NONCONFORMING USES

Sec. 224. Nonconforming uses.

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

Sec. 225. General rule.

To avoid undue hardship, the lawful use of any building, structure or land use at the time of enactment of this zoning ordinance may be continued even though such use does not conform with the provisions of this zoning ordinance except that the nonconforming building or land use shall not be:

- (a) Changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.
- (b) Reestablished after discontinuance of six (6) months or more. When a nonconforming use of a building, structure or land use is discontinued for a continuous period of six (6) months, the building, structure or land shall not thereafter be used except in conformity with the existing zoning regulations of the district in which the building, structure or land is located. The provisions of this subparagraph shall operate to prohibit resumption of the nonconforming use after the specified time has elapsed, regardless of any reservation of an intent not to abandon the right to use the building, structure or land use not in conformance with the provisions of this zoning ordinance.

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- (c) *Major repairs, rehabilitation or alterations.* A nonconforming building or structure that is repaired, rebuilt, or altered after damage exceeding fifty (50) percent of its replacement cost at the time of destruction for all uses shall be brought into conformity with the provisions of this zoning ordinance. As an exception to this requirement, single-family detached uses shall be permitted after any damage to be repaired or rebuilt to the equivalent of its pre-damaged condition. Authorized reconstruction shall begin within one (1) year after damage is incurred.
 - (d) *Enlargement or alteration.* Enlarging, extending, altering or moving a building or structure that would increase its nonconformity shall not be allowed, except that a nonconforming use may be extended into an additional area of a building or structure that existed at the time of passage or amendment of this zoning ordinance. No such nonconforming use shall be extended to occupy any land outside such building or structure.

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

Sec. 226. Nonconforming lots of record.

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

- (a) *Adjoining lots.* When two (2) or more adjoining and vacant lots with continuous frontage are in a common ownership at the time of application to develop one or more such lots, and such lots have a frontage or lot area less than is required by the district in which they are located, such lots shall be replatted so as to create one (1) or more lots which conform to the minimum frontage requirements of the district. This shall not apply to lots within a development approved prior to the effective date of this ordinance.
- (b) Lots not meeting minimum lot size requirements. When a lot has an area or frontage which does not conform to the requirements of the district in which it is located but was a lot of record at the effective date of this zoning ordinance, such lot may be used for any use allowed in the zoning district in which it is located provided that all other requirements of this zoning ordinance are met. In no case shall any substandard lot in a residential district be subdivided.
- (c) In the case of such a lot, when it is not possible to comply with the required side yard setbacks and still construct a viable dwelling on the property, the mayor and city council are hereby authorized to grant a variance reducing the side yard requirements for such lot, only to the minimum extent necessary for a reasonable dwelling. However, in no case shall any side yard setback requirement be reduced to less than five (5) feet in width

ARTICLE III. ZONING DISTRICT REGULATIONS

DIVISION 1. GENERALLY

Sec. 301. Establishment of zoning districts.

The city establishes the following zoning districts listed in Table 3.1, which apply to property as illustrated on the official zoning map.

Table 3.1 Zoning Districts Established	
RESIDENTIAL	
NR-1	Low-Density Neighborhood Residential District
NR-2	Medium-Density Neighborhood Residential District
NR-3	High-Density Neighborhood Residential District
MIXED-USE	
NR-CD	Neighborhood Residential-Community Development District
RC	Residential Commercial District
COMMERCIAL	
NC-1	Low-Density Neighborhood Commercial District
NC-2	Moderate-Density Neighborhood Commercial District
TC	Town Center District
I	Light Industrial District
R-OS	Railroad Open Space District

Sec. 302. Conversion of previous zoning district designations.

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

Sec. 303. Future land use areas and associated zoning districts.

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

Comprehensive Plan Future Land Use Designation	Compatible Zoning Districts
Mixed-Use	NR-CD, RC, NC-1, TC
Traditional Neighborhood Development	NR-1, NR-2, NR-3, NR-CD
Single Family Home Areas	NR-1, NR-2, NR-3
Industrial	I

Parks/Open Space	R-OS, NR-CD, RC, NC-1, TC, NR-1, NR-2, NR-3, NR-CD, NR-1, NR-2, NR-3, I
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Sec. 304. Additional Regulations

Additional regulations for a variety of development and building types can be found in Article IV (Use Regulations), Article V (Site Design Standards), and Article VI (Parking).

DIVISION 2. RESIDENTIAL DISTRICTS

Sec. 305. Dimensional Standards

Dimensional requirements for residential zoning districts are established in Table 3.2, Residential Zoning Districts Dimensional Requirements.

Table 3.2 Residential Zoning District Dimensional Requirements			
	NR-1	NR-2	NR-3
Primary Structure			
Maximum FAR	0.4	0.4	0.4
Minimum Unit Size	1000 s.f.	900 s.f.	800 s.f.
Maximum Lot Coverage	50%	50%	50%
Maximum Building Height	35'	35'	45'
Minimum Lot Size	8,000 - 10,000 s.f.	7,500 s.f.	5,000 s.f.
Minimum Lot Width	75'	60'	50'
Minimum Front Setback (SF detached)	30'	25'	15'
Minimum Front Setback (duplex/triplex)	N/A	15'	5'
Minimum Front Setback (townhome)	N/A	15'	5'
Minimum Side Setback	10'	7'	5'
Minimum Rear Setback (SF detached)	25'	20'	20'
Minimum Rear Setback (duplex/triplex)	N/A	15'	15'
Accessory Structure			
Maximum Height*	25'	25'	25'
Minimum Side Setback	10'	7'	5'
Minimum Rear Setback	10'	7'	5'
*Accessory structure cannot be taller than the primary structure			

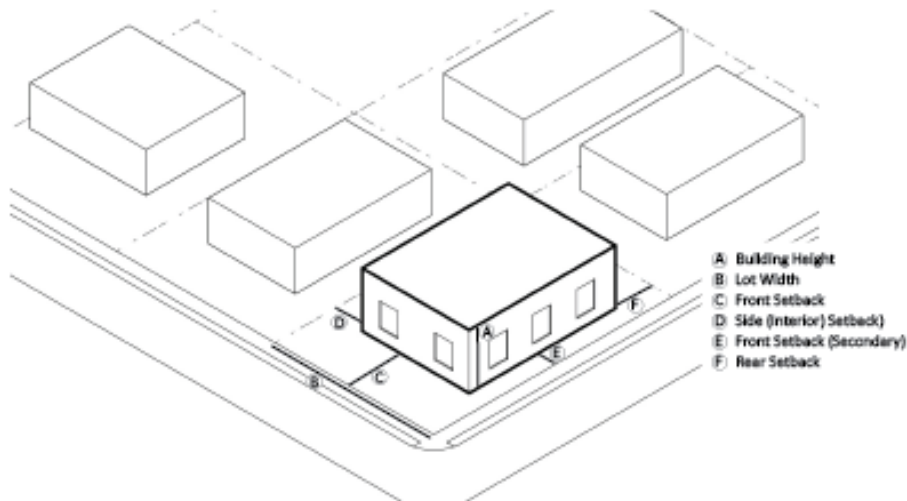


Figure 3.1 Residential Standards

Sec. 306. NR-1, low-density neighborhood residential district.

- (a) *Purpose and intent:* The NR-1 zoning district is intended primarily for single-family detached residences requiring greater amounts of open space.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.2.
- (d) Site and building standards shall be as provided in Article V.

Sec. 307. NR-2, medium-density neighborhood residential district.

- (a) *Purpose and intent:* The NR-2 zoning district is intended for single-family detached, townhomes, and attached residences on smaller lots where large amounts of open space are not required and/or desired.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.2.

Sec. 308. NR-3, high-density neighborhood residential district.

- (a) *Purpose and intent:* The NR-3 zoning district is intended for single-family and multi-family residences at a greater density on smaller lots in order to provide for a variety of housing types, including townhomes, cluster homes and condominiums. This district may also serve as a transitional zone between light commercial/office uses and districts reserved for lower density single-family uses.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.

- (c) Dimensional requirements shall be as provided in Table 3.2.
- (d) Site and building standards shall be as provided in Article V.

DIVISION 3. NON-RESIDENTIAL DISTRICTS

Sec. 309. Dimensional Requirements

Dimensional requirements for non-residential zoning districts are established in Table 3.3, Non-Residential Zoning Districts Dimensional Requirements.

Table 3.3 Non-Residential Zoning District Dimensional Requirements					
	NC-1	NC-2	TC	I	R-OS
Primary Structure					
Maximum FAR	1	1	5	2	N/A
Minimum Unit Size	700 s.f.	700 s.f.	700 s.f.	N/A	N/A
Maximum Lot Coverage	80%	80%	80%	70%	N/A
Minimum Open Space	20%	20%	20%	N/A	N/A
Maximum Building Height	3 stories/45'	3 stories/50'	5 stories/75'	50'	N/A
Minimum Lot Size	6000 s.f.	8,500 s.f.	N/A	N/A	N/A
Minimum Lot Width	50'	75'	N/A	N/A	N/A
Minimum Front Setback	10'	10'	0'*	35'	N/A
Maximum Front Setback	N/A	N/A	12'*	N/A	N/A
Minimum Side Setback	0'	0'	0'	15'	N/A
Minimum Rear Setback	10'	10'	10'	20'	N/A
*See Sec. 311					

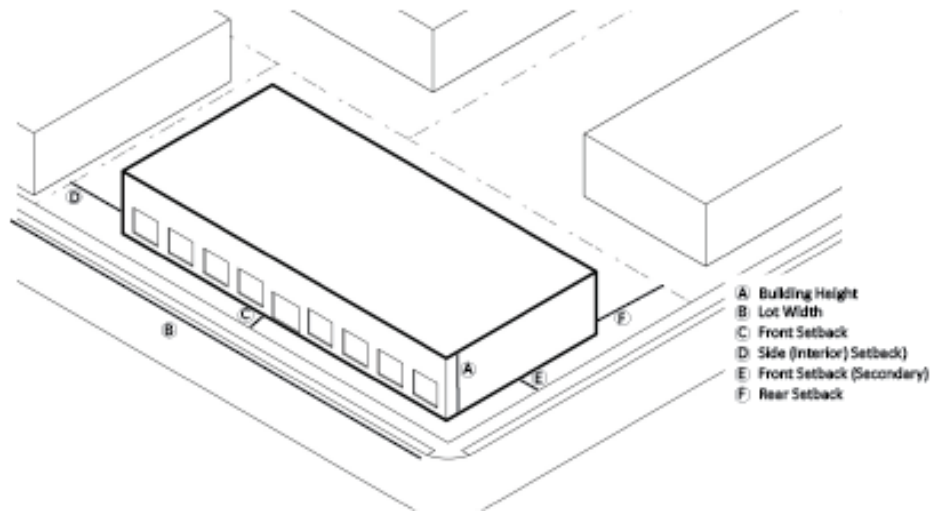


Figure 3.2 Non-Residential Standards

Sec. 309. NC-1, low-density neighborhood commercial district.

- (a) *Purpose and intent:* The NC-1 zoning district is intended to provide suitable areas for limited retail and personal services serving residents in the immediate vicinity. Uses located within this district supply those goods and services which require frequent purchasing with a minimum of customer travel. The scope at which properties are developed within the NC-1 district should reflect their relatively small market areas. This zoning district may serve as a step down from more intense commercial uses to residential uses.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.3.
- (d) Site and building standards shall be as provided in Article V.

Sec. 310. NC-2, moderate-density neighborhood commercial district.

- (a) *Purpose and intent:* The NC-2 zoning district is intended to provide suitable areas for the provision of retail and personal services oriented towards those neighborhoods making up the adjacent community. The regulations which apply within this district are designed to encourage the formation of compatible and economically healthy business and service uses which benefit from close proximity to each other.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.3.
- (d) Site and building standards shall be as provided in Article V.

Sec. 311. I, light industrial district.

- (a) *Purpose and intent:* The I zoning district is intended to provide suitable areas for business distribution/service facilities, transportation terminals and manufacturing/assembly processes which do not emit noise, vibration, smoke, gas, fumes, or odors from an enclosed building. These districts should have access to arterial roadways and utilities and discourage uses which are incompatible with light manufacturing. When located on the perimeter of an industrial node, I-zoned properties should provide for uses that are low in intensity and scale to ensure compatibility with adjacent properties.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.3.
- (d) Site and building standards shall be as provided in Article V.

Sec. 312. Railroad open space district.

- (a) Purpose and intent. The R-OS zoning district is intended to be preserved as open space with no structures, improvements, or signs being erected in the railroad right of way.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.3.
- (d) Site and building standards shall be as provided in Article V.

DIVISION 4. MIXED USE DISTRICTS

Sec. 313. Dimensional Requirements

Dimensional requirements for mixed use zoning districts are established in Table 3.4, Mixed-Use Zoning Districts Dimensional Requirements. Table 3.4 Mixed-Use Zoning District Dimensional Requirements

Table 3.4 Mixed-Use Zoning District Dimensional Requirements		
	NR-CD	RC
Primary Structure		
Maximum FAR	2	1
Minimum Unit Size	700 s.f.	800 s.f.
Maximum Lot Coverage	80%	50%
Minimum Open Space	20%	20%
Maximum Building Height	50'	35'
Minimum Lot Size	Single-Family Use: 5,000 sq. ft. Multi-Family Use: N/A Non-Residential Use: N/A	7,200 s.f.
Minimum Lot Width	Single-Family Use: 60' Multi-Family Use: 75' Non-Residential Use: 75'	50'
Minimum Front Setback	Single-Family Use: 10' Multi-Family Use: 10' Non-Residential Use: 30'	15'
Minimum Side Setback	Single-Family Use: 15' between units Multi-Family Use: 10' Non-Residential Use: 15'	7'
Minimum Rear Setback	25'	20'
Accessory Structure		
Maximum Height	25'	25'
Minimum Side Setback	5'	5'
Minimum Rear Setback	5'	5'

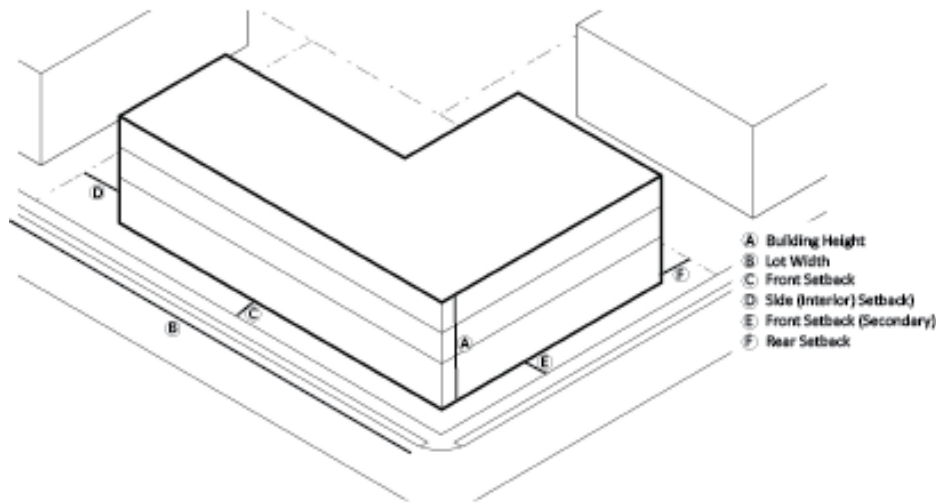


Figure 3.3 Mixed-Use Standards

Sec. 314. NR-CD, neighborhood residential-community development district.

- (a) *Purpose and intent:* The NR-CD zoning district is primarily intended for multi-family housing developments. However, the district allows for a mix of housing types, including single-family attached, townhomes, and detached structures, as well as some limited institutional and personal service uses that would be convenient to nearby residents.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.4.
- (d) Site and building standards shall be as provided in Article V.

Sec. 315. RC, residential/commercial district.

- (a) *Purpose and intent:* The RC zoning district is intended to allow converted residential structures with commercial uses to coexist with residential uses. Commercial uses will be limited in order to maintain the current balance and aesthetic in the surrounding area. Residences converted to office uses are acceptable when kept at current scale.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.4.
- (d) Site and building standards shall be as provided in Article V.

Sec. 316. TC, town center district.

- (a) *Purpose and intent:*
 - (1) Promote development of a compact, pedestrian-oriented town center consisting of a high-intensity employment center, vibrant and dynamic mixed-use areas;
 - (2) Promote a diverse mix of residential, business, commercial, office, institutional, cultural and entertainment activities for workers, visitors, and residents;
 - (3) Encourage bicycle and pedestrian-oriented development at densities and intensities that will help to support transit usage and town center businesses;
 - (4) Promote the health and well-being of residents by encouraging physical activity, alternative transportation, and greater social interaction;
 - (5) Create a place that represents a unique, attractive, and memorable destination for visitors and residents; and
 - (6) Enhance the community's character through the promotion of high-quality urban design.
- (b) Permitted and conditional uses shall be as provided in Table 4.1 of this zoning ordinance. In cases where a use is permitted but there are supplemental use regulations for that use specified in Article IV of this chapter, such regulations shall also apply.
- (c) Dimensional requirements shall be as provided in Table 3.3. Unless otherwise stated in this section.
 - (1) The maximum front building setback may not exceed the average front yard depth of the nearest two (2) lots on either side of the subject lot or twelve (12) feet, whichever is less.
 - (i) If one or more of the lots required to be included in the averaging calculation are vacant, such vacant lots will be deemed to have a yard depth of zero (0) feet
 - (ii) Lots fronting a different street than the subject lot or separated from the subject lot by a street or alley may not be used in determining the average.
 - (iii) When the subject lot is a corner lot, the average setback will be determined on the basis of the two (2) adjacent lots that front on the same street as the subject lot.
 - (iv) When the subject lot abuts a corner lot fronting on the same street, the average setback will be determined on the basis of the abutting corner lot and the nearest two lots that front on the same street as the subject lot.
 - (2) A building may be set back farther than the maximum setback in order to accommodate an outdoor eating area. In order to preserve the continuity of the street wall, the building may be set back no more than twelve (12) feet from the front or street side property line.
- (d) Site and building standards shall be as provided in Article V.

DIVISION 5. PLANNED UNIT DEVELOPMENT

Sec. 317. Planned Unit Development

- (a) Planned unit development is defined as two (2) or more buildings to be constructed on a tract or several tracts of land. Planned unit developments are not a zoning district and must comply with the underlying zoning district unless otherwise stated in this zoning ordinance.

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- (b) *Purpose and intent.* Planned unit developments encourage the best possible site plans and building arrangements under a unified plan of development rather than on a lot-by-lot basis. The developer benefits from better land utilization, economy in the provision of roads and utilities and flexibility in design. The city gains the advantages of variety in building types, compatibility of uses and optimum community development. Review of the development plan by the city provides an opportunity to assure that the development will be in harmony with the character of the neighborhood in which the development is located. The purpose of the planned unit development shall be to:
- (1) Provide for unified approaches to the development of land;
 - (2) Provide for a simplified process of enabling development which would otherwise require numerous applications for variances from the provisions of the zoning code;
 - (3) Provide for the development of stable environments that are compatible with surrounding areas of the community; and
 - (4) Assure the provision of park and recreation land and facilities for the use of the occupants of the development.

DIVISION 6. OVERLAY DISTRICT

Sec. 318. Clemsil Overlay District

- (a) *Boundaries:* The boundaries of the Clemsil Overlay District shall be established by the official zoning map amendment, and is adopted contemporaneously with the adoption of this section and which is incorporated by reference as if fully set forth herein and made a part of this Chapter. The zoning map amendment shall be maintained by the planning and development director.
- (b) In general, the Clesmil Overlay District consists of properties with their primary frontage on the following streets:
 - (1) Smith Street
 - (2) Lincoln Street
 - (3) Tribble Street
 - (4) Clark Street
 - (5) Lester Street
 - (6) Vaughan Street
 - (7) See Clemsil Map
- (c) To the extent that the official zoning map is unclear as to whether a particular parcel is located within the Clemsil Overlay District, the City manager shall determine whether such property is located within the boundaries of the Clesmil Overlay District based upon the official zoning map.
- (d) *Primary uses and structures:* All properties located within the Clemsil Overlay District shall be governed by all of the requirements of the underlying zoning district regulations. Where the requirements of the underlying zoning district and the requirements of this section are in conflict, the requirements of this section shall control.
- (e) In addition, the following primary uses of land and structures shall also be authorized within the overlay district:
 - (1) *Accessory uses and structures.* The following accessory uses shall be authorized in the Clemsil Overlay District

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- (i) Accessory uses and structures incidental to any authorized use.
 - (ii) Parking lots which are accessory to any authorized use.
 - (iii) Open Space and Parks
- (f) *Architectural guidelines for Residential:* Architectural design of all residential buildings and accessory structures within the Clemsil Overlay shall comply with the following guidelines:
 - (1) Each building elevation shall be constructed of wood, vinyl siding, brick (3- sided- front, and sides), stone, cinder blocks, cement fiberboard siding, or any combination thereof.
 - (2) Roofing materials for pitched or hip roofs shall consist of tile, slate, stone, wood shake or architectural-style shingles.
 - (3) Porch/Stoop
 - (4) Shutters (optional)
 - (5) Exterior painting shall be of neutral colors
- (g) *Primary uses and structures:* The following primary uses of land and structures shall be authorized in the Clemsil Overlay District;
 - (1) All uses authorized in the NR-3 zoning district on all property located within the Clemsil Overlay District unless otherwise prohibited in this section. Cottage housing developments are permitted in clusters of no more than two (2) homes on a parcel.
 - (2) Detached single-family residences/ cottage housing development at a maximum density of two (2) units per parcel with a minimum lot size of 2,500 square feet per lot.
 - (3) Minimum residential unit size 750 sq. ft.
 - (4) Building coverage (Max a % of lot area) 75%
- (h) *Prohibited primary uses and structures.* The following primary uses of land and structures shall be prohibited within the Clemsil Overlay District.
 - (1) Multi-family residential dwellings (duplexes and triplexes)
 - (2) Townhomes
 - (3) Parking lots as a primary use.
 - (4) Boarding/rooming house.
 - (5) Places of assembly, including religious institutions.
 - (6) Bed and breakfast
 - (7) Hotel or motels
 - (8) Daycare facilities
 - (9) Personal care homes
 - (10) Transitional housing facility
 - (11) Industrial and office buildings
- (i) Special administrative permit approved by the planning and development director:

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- (1) Home occupation involving no customer contact and no employee other than the person residing on the premises.
- (j) Miscellaneous building standards for Clemsil Overlay Districts:
 - (1) Corner lots shall not be required to have an additional 15 feet of street frontage.
 - (2) Cottage and one story ranch.
 - (3) Setback minimum requirements;
 - (i) Front: 10'
 - (ii) Rear: 15'
 - (iii) Side: 7'
 - (4) Minimum lot size shall be 2, 500 sq. ft.
- (k) No lot shall be developed to exceed the maximum allowable coverage by buildings, structures, driveways or parking areas, or any other impervious surface specified as follows:
 - (1) Attached Single-Family Residential – 75%
 - (2) Measurement of building height shall be fifteen feet (15'.)
 - (i) Rear and side fences are optional.
 - (ii) Fences along public right of way shall be four (4) feet maximum. Fence height shall be measured from ground level. If ground level is lower than the level of the adjoining street pavement, then a fence may be higher so that it may be four (4) feet above the level of the pavement. The level of ground shall not be altered in such a way to provided additional fence height.
 - (iii) Fences can be made of wood, brick, stone, wrought iron, or landscaped.
- (l) Parking: Minimum of two (2) parking spaces per dwelling unit.
- (m) Landscaping requirements.
 - (1) Landscape strips:
 - (i) A continuous landscaped strips shall be constructed along public rights-of-way except at points of ingress or egress. Street trees shall be between the curb and sidewalk.
 - (ii) The landscape strip in the front yard shall be planted with a row of street trees of at least three and one-half (3.5) inches in caliper, and planted not less than thirty (30) feet on center. Trees of the following types shall be used:
 - a. Crape myrtle (*Lagerstroemia indica*) cultivars, with a standard trunk, but only under electric power lines.
 - b. All serviceberry (*Amelanchier*) species, but only under electric power lines.
 - c. All dogwood (*Cornus*) species.
 - d. October Glory red maple (*Acer rubrum* 'October Glory').
 - e. Red Sunset maple (*Acer rubrum* 'Red Sunset').
 - f. All oak (*Quercus*) species.
 - g. Japanese zelkova (*Zelkova serrata*).

- h. Ginkgo (*Ginkgo biloba*), but only male cultivars.
 - i. Trident maple (*Acer buergerianum*).
 - j. Allee lacebark elm (*Ulmus parvifolia* 'Emer II').
 - k. Other varieties are subject to the review and approval of the city arborist or the director of planning and development or their designee.
- (n) *Plans required:* The approval process for development within the Clemsil Overlay shall meet the requirements of Sec. 205.

ARTICLE IV. USE REGULATIONS

DIVISION 1. GENERAL PROVISIONS

Sec. 401. General provisions.

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

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

Sec. 402. ADA compliance.

In addition to the regulations of this zoning ordinance, the Americans with Disabilities Act (ADA) Accessibility Guidelines for buildings and facilities outlined in IBC Chapter 11 shall also apply.

Sec. 403. Use Table

Table 4.1 indicates the permitted uses within the city zoning districts. Additional use restrictions or conditions may apply to permitted or conditional uses as set forth in the supplemental standards found in this Article.

- (a) The uses listed in table 4.1 shall be permitted only within the zoning districts identified, and no use shall be established and no structure associated with such use shall be erected, structurally altered or enlarged unless the use is permitted as:
 - (1) A permitted use (P);
 - (2) A conditional use (C) subject to the conditional use permit application procedures specified in article II of this chapter;
 - (3) An administratively approved use (AP)

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- (4) An accessory use (Pa) as regulated by this article IV of this chapter. Table 4.1 does not list all accessory uses but clarifies uses acceptable as accessory, though not typically considered primary uses for the zoning classification;
 - (5) Uses lawfully established prior to the effective date of the ordinance from which this chapter is derived.
 - (b) Any use not listed in Table 4.1 or interpreted to be allowed by the city manager pursuant to subsection d in this section is prohibited.
 - (c) If there is a conflict between table 4.1 and the text of this chapter, the text shall prevail.
 - (d) Interpretation of unlisted uses:
 - (1) Where a particular use is not specifically listed in table 4.1, the city manager shall have the authority to permit the use if the use is similar to uses permitted by this article. The city manager shall give due consideration to the purpose and intent statements contained in this zoning ordinance concerning the base zoning districts involved, the character of the uses specifically identified and the character of the uses in question.

Table 4.1 Use Table											
	NR-1	NR-2	NR-3	NC-1	NC-2	TC	I	R-OS	NR-CD	RC	Supplemental Standards
Residential											
Apartment childcare or tutoring			P	P	P	P			P		Sec. 404
Assisted Living									P	P	
Boarding or Rooming House, except halfway houses									C	C	
Dwelling, Accessory	P	P	P						P	P	Sec. 414
Dwelling, Duplex	P	P	P						P		
Dwelling, Multi-family			P	P	P	P			P	P	
Dwelling, Single-family detached	P	P	P						P	P	
Dwelling, Townhome		P	P						P		
Dwelling, Triplex			P						P		
Home Occupation	P	P	P								Sec. 408
Live work unit		P	P	P		P				P	
Non-commercial horticulture and agriculture	P	P	P								Sec. 409
Non-commercial poultry	P	P	P								Sec. 410
Personal Care Home									C	C	
Planned Unit Developments											
Cottage Housing Developments		P*	P*						P*	P*	
Planned Commercial Development				P*	P*	P*			P*	P*	
Planned Mixed-Use Development				P*	P*	P*			P*		
Planned Residential Development	P*	P*	P*							P*	
Commercial and Retail											
Adult entertainment or establishment							C				
Antique shop				P	P	P				P	
Apparel store				P	P	P					
Art store/gallery				P	P	P			P	P	
Banks and financial institutions				P	P	P				P	
Bed and breakfast inns			C			P				C	Sec. 406
Book and video store (non-adult oriented)				P	P	P				P	
Bottle shop/package store					C	P	P				
Bowling Alleys						P	P		C		
Camera shop				P	P	P			P		
Car washes					C		C				
Child day care, adult day care											Sec. 407
Dry cleaner (except drive thru)				P	P						
Eating and drinking establishment, excluding drive-thru/drive-in establishments				P	P	P	P		P	P	

Electronics and appliance store						P					
Entertainment venues (non-adult oriented)							P				
Florist				P	P	P			P	P	
Fortune tellers, psychics							P				
Funeral home (no on-site crematory services)				P			P				
Furniture and home furnishings						P					
Greenhouses and horticultural nurseries				P	P				P	P	
Grocery store						P					
Hookah/Vape Store											
Hospital							P				
Hotel						C					
Jewelry store				P	P	P			P	P	
Laundry, self-service				C	C		C				
Massage establishment						C	C				
Microbrewery				P	P	P	P		C		
Movie Theater (non-adult oriented)						P	P				
Non-automotive repair services (cameras, jewelry, shoes)				P	P	P	P				
Parking structure				Pa	Pa	Pa	Pa	Pa	Pa		
Personal service establishment (barber shop, hair salon, nail salon)				P	P	P			P	P	
Pet boarding/breeding kennel							P				
Pet grooming and supply shop				P	P	P					
Pharmacy or Drug store				P	P						
Recycling collection				Pa	Pa	Pa	Pa			Pa	
Recycling collection/drop off centers									Pa		
Research and experimental testing laboratories							C				
Retail, 2,500 - 5,000 s.f.					P	P			P	C	
Retail, 2,500 s.f. or less				P	P				P	P	
Retail, over 5,000 s.f.						P	P				
Shoe store				P	P	P					
Sporting goods store				P	P	P					
Tattoo parlor and piercing studio					P	P	P				
Title loan businesses, pawn shops							C				
Toy store				P	P	P					
Office, Institutional, and Cultural											
Library, Public	P	P	P	P	P	P	P	P	P	P	
Pre-schools and similar establishments				P	P	P			P	P	
Office (Professional)				P	P	P	P			P	
Office (Medical)				P	P	P	P			P	

Office (Veterinary without boarding)				P	P	P	P			P	
Parks/Green Space	P	P	P	P	P	P	P	P	P	P	
Places of assembly, including religious institutions	C	C	C	C	C		P		C	C	Sec. 412
Tutoring Establishments			P	P	P	P			P	P	
Industrial and Manufacturing											
Automobile, truck, motorcycle and heavy equipment sales/service/rental/parts/repair establishments					C		P				
Automobile service stations and automotive service centers, including paint and body repair					C		P				Sec. 405
Building and equipment supply/repair services (no outdoor storage)							P				
Commercial dry cleaning plants							C				
Communications towers (cellular)							C				
Crematories							C				
Manufacturing and assembly, provided no gas, fumes or odors are emitted as a result of the activity							P				
Mini-warehouses and self-storage facilities							C				
Outdoor storage, commercial											
Trade shops (locksmith, gunsmith, sheet metal, upholstery, furniture, appliance, electrical, carpentry)							P				
Wholesaling and warehousing (entirely indoors)							P				
Temporary Uses											
Farmer's market				AP	AP	AP	AP	AP	AP	AP	Sec. 415
Festival				AP	AP	AP	AP	AP	AP	AP	Sec. 415
Food truck				AP	AP	AP	AP	AP	AP	AP	Sec. 415
Seasonal activities and sales				AP	AP	AP	AP	AP	AP	AP	Sec. 415
Storage of construction equipment				AP	AP	AP	AP	AP	AP	AP	Sec. 415
Tent sale/sale of goods from temporary location				AP	AP	AP	AP	AP	AP	AP	Sec. 415
*when approved by City Council											

DIVISION 2. SUPPLEMENTAL USE STANDARDS

Sec. 404. Apartment childcare or tutoring.

- (e) A unit or units of a multi-family residential building (including apartment, duplex and triplex units) may be used for childcare and/or tutoring services as a primary use of the unit(s), subject to the following conditions:
 - (1) Only a bona fide non-profit 501(c)(3) corporation may operate a unit for childcare/tutoring as a primary use;
 - (2) The non-profit organization operating a childcare/tutoring use shall not charge any fee nor accept any remuneration for such service;
 - (3) Before commencing the use, the non-profit shall obtain a free permit from the city to operate a childcare/tutoring use as a primary use in a multi-family unit by submitting proof of 501(c)(3) status and designating the unit(s) where such use will take place; and
 - (4) All apartment childcare/tutoring shall be conducted in compliance with applicable state and county regulations for such programs: including any requirements for adult-to-child ratio, qualifications for caregivers/tutors and any applicable fire and/or life safety regulations.
- (f) Within apartment developments, no more than one (1) unit per thirty (30) units may be devoted to apartment/tutoring as a primary use. In apartment developments containing less than thirty (30) total units, one (1) unit may be devoted to such use.
- (g) The city manager shall develop and publish reasonable regulations requiring apartment childcare/tutoring to provide appropriate insurance, obtain certificate of occupancy, demonstrate compliance with applicable state laws and regulations, submit to annual inspections by state or county regulators and inform the owner(s) of the property where such use is located when such a use is established.
- (h) The City of Clarkston disclaims any responsibility to monitor multi-family childcare/tutoring uses on an ongoing basis in any way.

Sec. 405. Automobile service stations and automotive repair centers (excluding paint and body)

- (a) All gasoline pumps, tanks and other service facilities shall be set back at least twenty (20) feet from all property lines unless otherwise approved by the DeKalb County Fire Marshal.
- (b) Canopies over fuel islands shall not encroach within fifteen (15) feet of any property line.
- (c) Automobile repair shall be allowed in conjunction with such use provided all such activities shall take place within an enclosed building.
- (d) No outside storage or engine/body dismantling is allowed.
- (e) For vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating condition; and including the commercial salvaging of any goods, articles or merchandise. Such engines, motor vehicles, trailers, or parts thereof may remain in an inoperable condition for a maximum of thirty (30) days.

SEC. 406. Bed and Breakfast Inns

- (a) The facility is operated by the resident-owner.

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

Sec. 407. Child day care, adult day care and personal care uses.

- (a) Day care nurseries, adult day care centers, kindergartens, child care learning centers, family child care learning homes and nursing, convalescent, or rest homes not used primarily for the treatment of contagious diseases, alcoholism, drug addiction, or mental illness shall meet all applicable state requirements, be licensed by the state where required and shall receive all necessary county board of health and fire marshal approvals prior to issuance of a permit for construction and/or operation.
- (b) Day nurseries and kindergartens shall meet the following additional criteria:
 - (1) The lot on which such uses are established shall have access on a major or minor thoroughfare.
 - (2) There shall not be less than thirty (30) square feet of indoor play area for each child at maximum enrollment, and not less than one hundred (100) square feet per child of outdoor play area at maximum enrollment.
 - (3) The outdoor play area shall be enclosed by a fence not less than four (4) feet in height.

Sec. 408. Home occupations.

- (a) It is the intent and purpose of this section to provide for certain types of restricted occupational uses within residential zoning districts. Such uses are restricted to those which:
 - (1) Are incidental to the use of the premises as a residence;
 - (2) Are compatible with residential uses; and
 - (3) Do not detract from the residential character of the neighborhood.
- (b) In all residential zoning districts, any building used for residential occupancy may conduct a home occupation use provided that:
 - (1) The primary use of the unit is a dwelling;
 - (2) The following standards are complied with in full at all times:
 - i. Such use shall be conducted entirely within the dwelling unit;
 - ii. At least one resident of the dwelling unit shall be present and engaged in the home occupation at all times that the home occupation is open for business;
 - iii. No more than three total persons (including residents) may be employed by the home occupation at any given time³
 - iv. No mechanical or electrical equipment is to be utilized except that which is necessarily, customarily, or ordinarily used for household or leisure purposes;
 - v. No equipment that interferes with radio and/or television reception shall be allowed.
 - vi. No toxic, explosive, flammable, combustible, corrosive, radioactive, or other restricted materials shall be used or stored on the premises;
 - vii. There shall be no outside operations, storage, or display of materials or products;

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- ix. No accessory buildings shall be used in connection with the home occupation.
 - x. No alteration of the residential appearance of the premises occurs, including the creation of a separate entrance to the dwelling or utilization of an existing entrance exclusively for the business;
 - xi. There shall be no exterior evidence of the home occupation, except for the sign permitted by this section;
 - xii. No commodity shall be stocked or sold on the premises to the general public;
 - xiii. No process shall be used which is hazardous to public health, safety, or welfare;
 - xiv. Visitors, customers, or deliveries shall not exceed that normally and reasonably occurring for a residence and shall, under no circumstance, exceed more than eight (8) business visitors/customers per day and not more than two (2) manufacturer or wholesaler direct deliveries of products or materials per week;
 - xv. No on-street parking associated with the business shall be permitted;
 - xvi. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation; and
 - xvii. The home occupation shall be restricted to fifty (50) percent of the dwelling's floor space and shall not exceed four hundred and fifty (450) square feet of total floor area. Said home occupation use shall be clearly secondary to the use of the dwelling for dwelling purposes.
- (c) In all non-residential zoning districts, any building used for residential occupancy may conduct business provided that:
- (1) The home occupation shall not involve more than three (3) employees on site who do not live in the dwelling unit;
 - (2) A home occupation may include professional and medical offices that are properly licensed and insured when required. office of a licensed/certified health service practitioner, including a surgeon, dentist dental surgeon, osteopathic physician, psychologist, or other medical practitioner licensed by the state, who receives and treats patients on the premises;
 - (3) A home occupation may include the office of a person engaged in a profession, including a lawyer, an accountant, an auditor, an engineer, an architect, a real estate agent, or another profession similar in character, who receives and consults with clients on the premises;
- (d) A home occupation may have a single sign indicating the name of the business mounted as a wall sign on the dwelling, secured to the primary residential use, and having an area of no more than two (2) square feet.
- (e) Adult day care centers, day care nurseries, child care learning centers, family child care learning homes, tutoring and academic instruction are expressly permitted as home occupations by this zoning code.

Sec. 409. Non-commercial horticulture and agriculture

- (a) Horticulture and agriculture activities may be conducted in the front, rear, or side yard of the lot.

Sec. 410. Non-commercial poultry

- (b) *Number permitted*, the maximum number of poultry allowed per lot shall be determined by the total area of the lot whereupon the poultry are kept, in accordance with the following:
- (1) Less than 0.5 acres: a maximum of three (3) poultry are allowed.

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- (2) 0.5 acres to 1.0 acre: a maximum of five (5) poultry are allowed.
 - (3) 1.1 acres to 2.0 acres: a maximum of eight (8) poultry are allowed.
 - (4) 2.1 acres to 3.0 acres: a maximum of ten (10) poultry are allowed.
 - (5) 3.1 acres or greater: a maximum of twelve (12) poultry are allowed.
- (c) Enclosure and location of poultry
- (1) Every poultry or livestock kept within the city must be contained by fence, corral, coop, pen or similar means sufficient to prevent said poultry or livestock from leaving the lot upon which they are kept.
 - (2) Poultry shall be kept only in the rear or side yard of the lot.
 - (3) Poultry must be housed at least 20 feet from any property line and 50 feet from any residence other than the owner's.
 - (4) The keeping of livestock or poultry within the City shall be in compliance with all applicable regulations promulgated by the DeKalb County Health Department.
- (d) Prohibitions
- (1) Roosters, it shall be a violation of this article for any person to keep a rooster within the city.
 - (2) Commercial poultry, The keeping of poultry pursuant to this article is permitted for non-commercial, personal use only. The sale within the city of any poultry, eggs, meat or other poultry-related products derived from the keeping of poultry pursuant to this article shall be a violation of this article.
 - (3) Nuisance, The keeping of poultry shall be conducted in such a manner so as not to unreasonably disturb the use or enjoyment of adjacent properties. Odor generated by poultry shall not be perceptible on adjacent lots. Noise generated by poultry shall not disturb a person of common and reasonable sensitivity to sound at the boundary lines of the lot upon which said poultry are kept.

Sec. 411. Outdoor Storage

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

Sec. 412. Places of Assembly

- (a) This section shall apply to places of assembly for religious or secular purposes, **Public Libraries**, and **Public Parks**
- (b) Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
- (c) Any building or structure established in connection with such use must be set back no less than fifty (50) feet from any property line.

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- (d) Places of assembly must meet the provisions found in Article II, Chapter 3 of the Code of Ordinances of the City of Clarkston, Georgia.
 - (e) No public library or public park shall be a permitted use within any zoning district of the city if the public library or public park lies on the same side of the street and is within one hundred (100) yards of the place of entrance of any business licensed to sell spirituous liquors pursuant to the provisions of Article II, Chapter 3 of the Code of Ordinances of the City of Clarkston, Georgia;
 - (1) For the purposes of this ordinance, measurement shall be from the closest property line of the public library, public park, and the point of entrance of the business licensed to sell spirituous liquors as measured along the most direct route.

DIVISION 3. ACCESSORY STRUCTURES AND USES

Sec. 413. Accessory structures and uses

Accessory buildings, structures and uses determined by the director to be normally incidental to one or more permitted primary uses are hereby permitted as follows:

- (a) Residential districts:
 - (1) Accessory structures allowed in all residential districts may include, but are not limited to garages, storage sheds, and personal recreational facilities such as swimming pools and tennis courts.
 - (2) Residential sheds, workshops, greenhouses or other such accessory buildings shall be located in a rear yard, are limited to one (1) story and shall not exceed one hundred and twenty (120) square feet in size.
 - (3) All such structures shall be located upon the same lot and to the side or rear of the primary building at least ten (10) feet from side or rear lot lines or within the side-or-rear-yard setback, whichever is greater. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the primary building.
 - (4) Garages and other accessory buildings shall meet the dimensional standard requirements of the zoning district where they are to be located.
 - (5) When an accessory structure is attached to the primary building in any manner, it shall be deemed part of the primary structure and subject to all primary structure requirements.
 - (6) No accessory structure shall be constructed upon a lot before the primary building.
 - (7) The area of the accessory building's footprint may not exceed fifty (50) percent of the primary structure's footprint.
 - (8) Swimming pools must be enclosed by a fence not less than six (6) feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.
 - (9) Heating and air conditioning units may encroach five (5) feet into the required rear or side setback.
- (b) Non-residential and mixed-use districts:

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- (1) Such structures and uses shall be located on the same lot as the primary building to which they are accessory.
 - (2) No accessory structure shall be constructed upon a lot before the primary building.
 - (3) Such structures and uses shall not be permitted in a required front or side yard.
 - (4) Accessory uses and structures such as garages, greenhouses or workshops, shall not be rented or occupied for gain.
 - (5) Where a corner lot adjoins in the rear a lot in a residential district, no accessory building shall be located closer to the side street right-of-way line than the primary building or closer than twenty-five (25) feet to the rear property line.
 - (6) When an accessory building is attached to the primary building by breezeway, passageway or similar means, it shall comply with the yard requirements of the primary building to which it is accessory.
- (c) Pools
- (1) Accessory use swimming pools having a minimum depth of two (2) feet:
 - (i) Shall be permitted only upon written approval of the county health department to indicate compliance with applicable health department swimming pool regulations.
 - (ii) Shall be located a minimum of ten (10) feet from any property line.
 - (iii) Shall be completely enclosed with an adequate protective fence of not less than six (6) feet in height and with an appropriate closure.
 - (d) In all zoning districts, no accessory use shall be permitted in public rights-of-way except mailboxes, sidewalks, driveways, light posts, and decorative landscaping with the permission of the public works director.
 - (e) Accessory structures may not be used for residential purposes, except for accessory dwellings in conformance with Sec. 414 of this article.

DIVISION 4. ACCESSORY DWELLING UNIT

Sec. 414. Accessory Dwelling Units

Accessory dwellings. Where listed as a permitted accessory use in a district, an accessory structure may be constructed and used as a residential dwelling place if the structure and use comply with the following regulations:

- (a) Accessory dwellings are only permitted in the zoning districts as illustrated in Table 4.1. On these lots, an accessory dwelling unit may be allowed as one of the following:
 - (1) Attached (addition to primary dwelling).
 - (2) Detached permanent structure; or
 - (3) Within existing primary dwelling (renovations to basements, wings or attics converted into separate living unit).
- (b) The property owner, who shall include titleholders and contract purchasers, must occupy either the primary dwelling unit or the accessory dwelling unit as their residence, and possess a homestead exemption.

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ARTICLE IX. PLANNED DEVELOPMENTS

- (c) Accessory dwellings must include their own independent code-compliant kitchen and bathroom facilities.
- (d) Accessory dwellings shall be limited to one (1) such structure per qualified lot.
- (e) Accessory dwellings shall be located either beside or behind the primary dwelling. No portion of an accessory building may be located in the front yard of the primary dwelling. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the primary dwelling.
- (f) Accessory dwellings shall be permitted to have a first floor (main floor) area of up to one thousand two hundred fifty (1,250) square feet or the area of the first floor of the primary dwelling on the same lot, whichever is smaller.
- (g) Accessory dwellings may be a maximum of 25 feet in height, but cannot be taller than the primary dwelling.
- (h) Accessory dwellings shall meet the setback requirement listed in Article III of this zoning ordinance.
- (i) Each accessory dwelling shall be provided with at least one (1) standard size off-street parking space located on the same lot as the accessory dwelling.
- (j) The main entrance for a detached accessory dwelling unit shall not face the closest property line. The design of the structure shall ensure the privacy of neighboring properties.
- (k) Accessory dwellings shall comply with all applicable codes for residential dwelling units.
- (l) A home occupation shall be conducted in an approved accessory dwelling unit.

DIVISION 5. TEMPORARY USES

Sec. 415. Temporary Uses

- (a) Temporary uses are only permitted with the advance written approval of the city manager within fifteen (15)—thirty (30) days prior to the temporary use of the property. No permit for a temporary use shall be issued unless:
 - (1) Written permission of the property owner is presented.
 - (2) The temporary use is not located within twenty-five (25) feet of any public right-of-way.
 - (3) Adequate parking, ingress and egress are provided on site.
 - (4) All applicable provisions within this code are met.
- (b) No temporary use may last more than forty-five (45) consecutive days.
- (c) No more than two (2) temporary use permits may be obtained per parcel per year.
- (d) Temporary uses include festivals, farmer's markets, storage of construction equipment, tent sales or the sale of goods from any temporary location, including but not limited to, holiday sales, fireworks sales or Christmas tree sales, as well as other special events of community interest, and other uses that the city manager determines to fit within the intent and purpose of this section.
- (e) Food truck means a mobile conveyance equipped with facilities necessary to safely store and/or prepare food and/or drink for consumption, from which customers may directly purchase food and/or drink.

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- (1) Temporary use permits issued by the city manager or his/her designee for a temporary food truck use shall not count toward the limit of two (2) temporary use permits per parcel per year as set out in this section. Food trucks approved by the city manager or his/her designee may be located within twenty-five (25) feet of a public right of way if approved for such location by the city manager or his/her designee.
- (f) Temporary structures and storage of construction equipment
 - (1) A temporary structure(s) or sign(s) for use in connection with a construction project or land subdivision development shall be permitted on the land of the project during the construction period if there is an active permit for the site.
 - (2) Storage of construction equipment is permitted if there is an active permit for the site.

ARTICLE V. SITE DESIGN

DIVISION 1. GENERALLY

Sec. 501. General application.

The following design standards shall apply to all zoning districts.

Sec. 502. Administrative variance.

The City manager has the authority to modify certain provisions of this article pursuant to section 216.

Sec. 503. Removal of soil.

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

Sec. 504. Utilities location.

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

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

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

DIVISION 2. GENERAL LOT AND YARD REQUIREMENTS

Sec. 505. Street frontage requirement.

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

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

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

Sec. 506. Setback Averaging.

- (a) When a vacant lot located in the NR-1 or NR-2 zoning district authorized for single-family detached dwellings is proposed for single-family development, and is located where at least 60 percent of the other lots on the same block face are occupied by single-family detached dwellings, then setback averaging shall apply.
- (b) Where setback averaging applies, the minimum front setback for the vacant lot to be developed shall be the average of the actual front setbacks of the existing dwellings adjacent to the vacant lot and on the same block face.
- (c) When the averaged calculation requires a proposed structure to be closer to the street than the otherwise applicable minimum front setback for the zoning district where the vacant lot is located, then setback averaging shall not be applied.
- (d) Where application of setback averaging would make it impossible for the proposed dwelling to comply with the applicable zoning district's rear yard setback requirement, then the proposed dwelling may be constructed closer to the street, up to the minimum front setback required in the subject zoning district, only to the extent necessary to satisfy the minimum rear yard setback requirement.

Sec. 507. Lot reduction prohibited.

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

Sec. 508. One primary residential building per lot.

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

Sec. 509. Requirements for moving a building.

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

Sec. 510. Building materials.

(a) Permitted exterior building materials

- (1) Brick masonry;
- (2) Stone masonry;
- (3) Cement wood or fiber cement siding, including simulated half-timbering;
- (4) Hard coat stucco;
- (5) Cedar shingles or fiber cement;
- (6) Architectural concrete;
- (7) Precast or tilt-up panel (for industrial buildings only)
- (8) Glass;
- (9) Material not listed in this section, which shall contribute to innovative design or green construction as determined by the planning and zoning director on a case by case basis; and/or
- (10) Architectural accent materials as approved by the planning and development director.

(b) Exterior building materials that are permitted on industrial buildings

- (1) EIFS
- (2) Standing seam or corrugated metal (not more than 40% of the exterior of the structure).

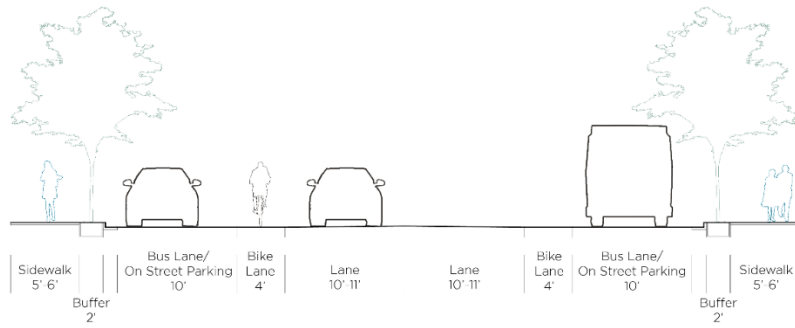
(c) Prohibited materials

- (1) Concrete block
- (2) Vinyl siding

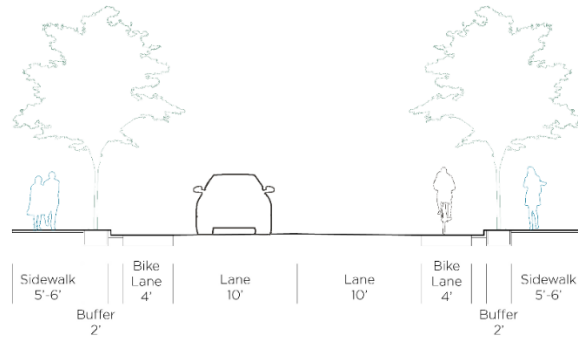
DIVISION 3. STREET REGULATIONS**Sec. 511. Functional classification of streets.**

For purposes of this zoning ordinance, all of the streets, roads and highways in the City of Clarkston are classified according to the Georgia Department of Transportation. The following are typical street sections for each classification:

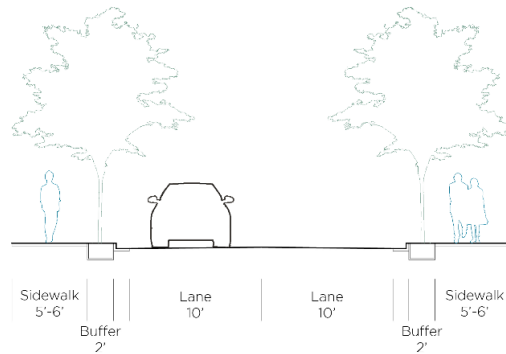
(a) Arterial



(b) Collector



(c) Residential



Sec. 512. Street Connectivity

- (a) New streets shall be designed to create an interconnected system of grid-patterned roads, modified only to accommodate topographic conditions. Each new street shall connect to the existing street grid.

Sec. 513. Vision clearance at intersections.

In all zoning districts, no fence, wall, structure, shrubbery or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet, except utility poles, light or street sign standards or tree trunks, shall be

permitted within twenty-five (25) feet of the intersection of rights-of-ways of streets, highways and railroads. Streets without right-of-way shall be measured from the driving surface or curb at the intersection.

Sec. 514. Yard and other spaces.

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

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

Sec. 515. Permitted encroachments upon required setbacks.

The following setback encroachments are permitted in all zoning districts:

- (a) Cornices, eaves, chimneys, porches, bay windows, or other similar architectural features may extend into the required front, side and rear yard provided such extensions do not exceed three (3) feet.
- (b) Steps and landings may extend into the required setbacks provided such extensions do not exceed ten (10) feet for the front yard, and three (3) feet for the side yard.

Sec. 516. Reduction in front yard setback.

In the NC-1, NC-2, TC, NC-RD, and RC districts, fifty (50) percent reduction in the required front yard setback is allowed when all required parking is located exclusively in the rear yard of the parcel and a eighty (80) percent reduction in the required front yard setback is allowed when all parking is located in an underground parking structure, or a parking structure that is wrapped with commercial uses so that it is concealed.

Sec. 517. Front yard.

- (a) Front yard general requirements.
 - (1) The square footage contained within the front yard which meets open space criteria established in section 705 may count towards the open space requirement as required by that zoning district.
 - (2) Automobile parking shall be prohibited from being located within the front yard, except where otherwise permitted in this zoning ordinance.
 - (3) Non-residential front yards shall permit and encourage pedestrians to walk on the surface of the front yard excluding fountains, pedestrian furniture, public art and similar elements.
 - (4) Residential front yards.
 - i. When sidewalk level residential units are provided, the front yard shall be landscaped with the exception of terraces, porches, stoops and walkways, which may occupy a maximum of 50% of the front yard area.
 - ii. Terraces, porches and stoops shall have a maximum finished floor height of twenty-four (24) inches above finished-grade, unless existing topographical considerations render this requirement unreasonable.
 - iii. Shall only permit automobile parking when located on the permitted accessory driveway asphalt or gravel surface. Said accessory driveway shall not exceed thirty-five (35) percent coverage of the total lot.

DIVISION 4. SITE DESIGN

Sec. 518. Relationship of building to street.

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

Sec. 519. Storefront street requirements and fenestration.

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

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

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

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- (1) The first floor shall have a minimum floor-to-ceiling height of fifteen (15) feet.
 - (2) Sidewalk level uses with street frontage on the Storefront Streets shall only be retail, office, or restaurant establishments with outdoor dining. Said uses shall have a minimum depth of twenty (20) feet from any building facade along the public sidewalk.
 - (3) The length of facade without intervening fenestration or entryway shall not exceed twenty (20) feet.
 - (4) Fenestration shall be provided for a minimum of sixty-five (65) percent of the length of all street frontages:
 - i. Beginning at a point not more than three (3) feet above the sidewalk, to a height no less than ten (10) feet above the sidewalk; or
 - ii. Beginning at the finished floor elevation to a height no less than ten (10) feet above the finished floor elevation when the finished floor elevation is three (3) or more feet above the sidewalk; or
 - iii. Beginning at a point not more than sidewalk level, to a height no less than ten (10) feet above the finished floor elevation when the finished floor elevation is below the sidewalk.
 - (5) Fenestration shall not utilize painted glass, reflective glass or other similarly treated or opaque windows. Entrances may be counted towards fenestration requirements.
 - i. Fenestration shall be provided for a minimum of fifty (50) percent of the length of the street frontage for residential uses on all streets and for non-residential uses.
 - ii. Parking decks and structures located along storefront streets shall meet all of the above requirements. See section 604 for additional requirements for parking decks.

Sec. 520. Building facades and entrances:

- (a) Building facades of commercial and mixed use structures shall be articulated to minimize the monotonous appearance of large buildings through the use of architectural elements such as recessed windows and entries, offset surfaces, differentiated piers and columns, offset planes, textured materials, or awnings,
 - (1) Variations in facade treatment shall be continued throughout the structure, including its roof line and front and rear facades.
- (b) Delineation of building floors at the third story above sidewalk level and lower shall be executed through windows, belt courses, cornice lines or similar architectural detailing.
- (c) Franchise architecture: Buildings where the proposed architecture is the result of "corporate" or franchise style shall be prohibited. New construction should provide variety and diversity and express its own uniqueness of structure, location or tenant. Buildings shall be consistent with the local architectural vernacular, establish a sense of permanence, and avoid over-commercialization. Building design shall reflect local, unique, and traditional designs rather than chain or franchise designs.
- (d) Color: The overall exterior color scheme shall be compatible with those of surrounding properties and shall be primarily earth tones. Accents, like doors and shutters, can be non-earth tones.

Sec. 521. Proportion and scale for multi-family and non-residential uses.

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

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

Sec. 522. Blocks and street infrastructure.

- (a) Non-residential developments with more than six hundred (600) feet of frontage along a single street shall be divided by streets into blocks having a maximum length of six hundred (600) feet, as measured from street curb to street curb. Number and location of curb cuts shall be approved by the city manager.
- (b) Streets used to divide properties into blocks shall meet all of the street and sidewalk designations of this zoning ordinance.
- (c) Opportunities for inter-parcel vehicle access points between all contiguous commercial, office, industrial or multi-family residential tracts shall be provided.
- (d) Streets with greater than two hundred and fifty (250) total linear feet of that are un-intersected.
- (e) Gates and security arms shall be prohibited from crossing any public street or sidewalk.

Sec. 523. Pedestrian and bicycle pathways.

- (a) Pathways shall form a logical, safe and convenient system for pedestrian access to all dwelling units and other buildings and facilities.
- (b) Pathways shall be so located and safeguarded as to minimize contact with automotive traffic.
- (c) Pathways that are appropriately located, designed and constructed may be combined with other easements and used by emergency and service vehicles, but shall not be used by other automotive traffic.
- (d) Pathways shall meet the width requirements depending on the street type described in Sec. 511.

Sec. 524. Lighting.

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

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- (2) Any lighting used to illuminate parking areas, access drives or loading areas shall be of such a design or level of illumination so as to minimize the amount of ambient lighting perceptible from adjacent properties and that would impair the vision of motorists.
 - (3) The Illuminating Engineering Society of North America (IESNA) Lighting Handbook, Ninth Edition, shall be used as a guide for lighting installations. The definitions in this handbook shall be used for technical terminology unless otherwise specified in this code.
- (b) Lighting standards.
- (1) Entrances into developments from a street may be lighted for traffic safety reasons provided such lighting does not exceed the foot candle requirements for lighting walkways and streets.
 - (2) Lighting poles mounted on private property within fifty (50) feet from the street right-of-way may not exceed a height of sixteen (16) feet.
 - (3) Accent lighting for building facades and other vertical structures shall be directed solely onto the building or structure and not toward the sky or onto adjacent properties. Direct light emissions shall not be visible above the roofline or beyond the building's edge. Shielding shall be provided to restrict light to the object being accented.
 - (4) All pole mounted fixtures shall be mounted parallel to the ground. Building mounted floodlights shall be direct cutoff type and set parallel to the ground.
 - (5) All interior lighting shall be designed to prevent the light source or high levels of light from being visible from the street.
 - (6) Lighting for uses adjacent to residentially zoned property shall be designed and maintained such that illumination levels do not exceed 1.0 foot-candles along property lines. Lighting for uses adjacent to non-residentially zoned property shall be designed and maintained such that illumination levels do not exceed 3.0 foot-candles along property lines.
 - (7) The use of search lights, laser lighting, LED lighting in the forms of channel strips, ropes or similar configurations, or lights that pulse, flash, rotate or simulate motion for advertising or promotions is prohibited.
 - (8) All lighting fixtures designed or placed so as to illuminate any portion of a site shall meet the following requirements:
 - i. Fixtures.
 - (a). Any wall or pole-mounted light fixture shall be a cutoff luminaire whose source is completely concealed with an opaque housing and shall not be visible from any street. The light output of the fixture shall be 2.5 percent or less of the total output at ninety (90) degrees from the vertical plane and ten percent or less of total output at eighty (80) degrees from the vertical plane.
 - (b). Light fixtures for canopies covering fueling stations and at individual drive-through facilities shall be mounted such that the lens cover is recessed or flush with the bottom surface of the canopy and/or shielded by the fixture or the edge of the canopy. The light output of the fixture shall be 2.5 percent or less of the total output at 90 degrees from the vertical plane and ten (10) percent or less of total output at eighty (80) degrees from the vertical plane.
 - ii. Lamps.
 - (a) For parking lot and site lighting, the same type of lamp must be used for the same or similar type of lighting on any one site or development. All exterior luminaires that

operate at greater than one hundred (100) watts shall contain lamps having a minimum efficacy of sixty (60) lumens/watt unless the luminaire is controlled by a motion sensor.

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

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

- iii. Methods of measurement Horizontal illumination levels shall be measured at ground level by a light meter certified by its manufacturer as being calibrated in accordance with standards of the National Institute of Standards and Technology. Maximum illumination readings must be taken directly beneath the luminaire. Vertical illumination readings shall be taken on the surface of the object being lighted or at five (5) feet above the ground for pedestrian areas.
- iv. Exemptions.
- (a) Decorative seasonal lighting for festivals and holidays with a power rating of seventy-five (75) watts or less.
 - (b) Temporary emergency lighting used by police, firefighters, or other emergency services.
 - (c) Hazard warning luminaires or safety or security lighting required by regulatory agencies or state or federal law.
- v. Requirements for submittals.
- (a) Site lighting plans shall be submitted to the city manager for review and approved for any new lighting installations. Plans shall be at a scale to allow the reviewer to determine conformance with this chapter, such as 1" = 20' or 1" = 40'.
 - (b) Site lighting plans shall include:
 - 1. Location and mounting information for each light.
 - 2. Illumination calculations showing light levels in foot candles at points located on a ten-foot or smaller grid, including an illustration of the areas masked out per the requirements above regarding points of measurement.

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3. A fixture schedule listing fixture design, type of lamp, and wattage of each fixture, and number of lumens after using 85 percent depreciation of initial output for both metal halide and high pressure sodium.
 4. Manufacturer's photometric data for each type of light fixture.
 5. An illumination summary, including the minimum, average and maximum foot-candles calculations.

Sec. 525. Automobile uses.

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

Sec. 526. Loading Bay Regulations

- (a) Loading areas shall not face any public street.
- (b) Loading and dumping activities located within one hundred and fifty (150) feet of a single-family residential property shall only be permitted to undertake said activities during normal business hours (8:00 a.m.—5:00 p.m.).
- (c) Accessory mechanical systems and features including HVAC systems shall not be visible from the public right-of-way.

DIVISION 5. PLANNED DEVELOPMENTS

Sec. 527. Standards applying to all planned unit developments.

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

- (a) Permitted locations.
 - (1) Planned Unit Developments shall be permitted as outlined in Table 4.1
- (b) Development standards.
 - (2) The development shall utilize design and development features that would not be possible by the application of lot-by-lot zoning district regulations.
 - (3) Site planning. Site planning in the proposed planned unit development shall give consideration to the topography; it shall be compatible with the topography of the land and shall preserve any unusual and valuable natural features.
 - (4) The development shall not adversely affect developed or undeveloped neighboring properties; it should consider the location of structures, screening, setbacks and street design in the evaluation of the relationship of the development to its surrounding areas.
 - (5) Service and emergency access. Access and circulation shall adequately provide for firefighting and other emergency equipment, service deliveries and refuse collection.
 - (6) Infrastructure. Provision shall be made for acceptable design and construction of storm sewers and stormwater retention facilities, as required by Chapter 19 of the City Code and by DeKalb County. Transportation and other infrastructure, such as schools, water and sewer shall be adequate for the

proposed development or there shall be a definite proposal for making them so. All planned developments are required to connect to county water and sewer system.

- (7) Covenants. The planned unit development shall include such covenants and legal provisions as will assure conformity to the achievement of the plan
- (i) *General private deed covenants.* The entire planned development shall be included within private deed covenants running with the land to assure the continuance of the planned residential development in accordance with approved plans and development. No certificate of occupancy shall be issued until a copy of the recorded legal covenants has been submitted to the city.
- (c) Conformance with existing zoning.
- (1) Future land use map. Planned unit developments shall not violate the provisions of the future land use map.
 - (2) Signs. Planned unit developments shall strictly comply with the signage provisions of Chapter 15.5 of the Clarkston City Code.
 - (3) Off-street parking requirements. The off-street parking requirements of this zoning ordinance shall be met.
 - (4) Yards. Along the exterior boundaries of a planned development, no yard shall be less than five (5) feet in width and buffer requirements of this ordinance shall be met.
 - (5) Common open space requirements. The open space requirements for the underlying district shall be met unless otherwise stated in this section.
 - (i) *Open space maintenance.* In event the property owners' association for a planned residential or cottage housing development fails to maintain the common open space property, the city may serve written notice upon the property owners' association and upon the residents and owners of the planned development setting forth the manner in which the organization has failed to maintain the common open space in reasonable condition. Said notice shall include a demand that such deficiencies of maintenance be corrected within thirty (30) days thereof, and shall state the date and place of a hearing thereon which shall be held within fifteen (15) days of the notice.
 - (a) If the deficiencies are not corrected within said thirty (30) days, the city, in order to preserve the taxable values of the properties within the planned development and to prevent the common open space from becoming a public nuisance, may enter upon said common open spaces and maintain the same for one (1) year and thereafter until the property owners' association is prepared to provide proper maintenance.
 - (b) The cost of such maintenance by the city shall be assessed ratably against the properties within the planned residential or cottage development that have a right of enjoyment of the common open space and shall become a tax lien upon said properties. The city at the time of entering upon said common open space for the purpose of maintenance, shall file a notice of such lien in the office of the county tax assessor upon the properties affected by such lien within the planned residential development.
 - (ii) *Phased development projects.* Planned Unit Development applicants may propose construction phases (commencement and completion dates) for a planned residential development project that has identified, logical geographical sections or pods; a

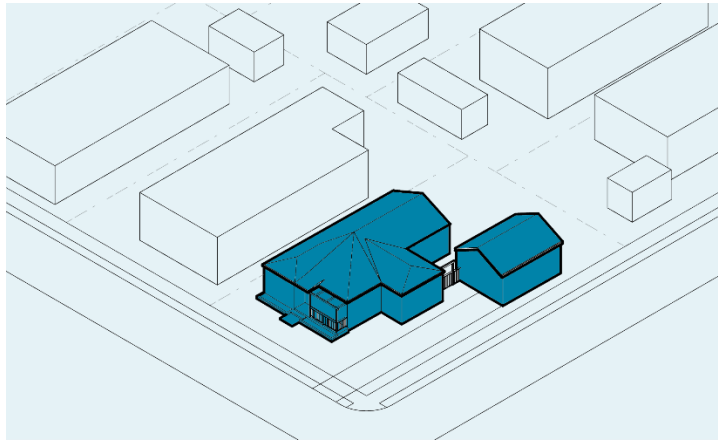
construction phasing plan shall be reviewed by the planning and zoning board and the mayor and city council for approval.

- (iii) *Performance bonds required.* The landowner shall furnish such bond(s) as may be recommended to the mayor and city council by the planning and zoning board and approved by the mayor and city council to be reasonably required to assure performance in accordance with the planned development plan and to protect the public interest in the event of abandonment of said plan before completion.

Sec. 528. Planned Residential Development

Plans for Planned Residential Developments (PRD) must be designed and submitted for review and approval pursuant to Article II of this zoning ordinance. The following regulations apply to planned residential developments:

- (a) Density
 - (1) The overall density for a development is determined by an approved overall concept plan for new development.
- (b) Permitted Uses. At least two types of residential structures can be permitted in a planned residential development.
 - (1) Single family detached homes
 - (2) Single family attached homes (towhomes)
 - (3) Duplexes
 - (4) Multi Family
- (c) Perimeter compatibility. Land uses developed at the perimeter of the site shall be developed in a manner that is compatible with adjacent off-site land uses or zoning. Compatibility shall be judged on the basis of similar land uses, average lot sizes, setbacks, and other development standards.



Planned Residential Development

Sec. 529. Cottage Housing

Development

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

(a) The following requirements shall apply to all CHDs:

(1) *Density and minimum lot area.*

- i. In CHDs, the permitted density shall be one (1) dwelling unit per two thousand nine hundred four (2,904) square feet of lot area (fifteen (15)/acre).

(2) *Required open space.*

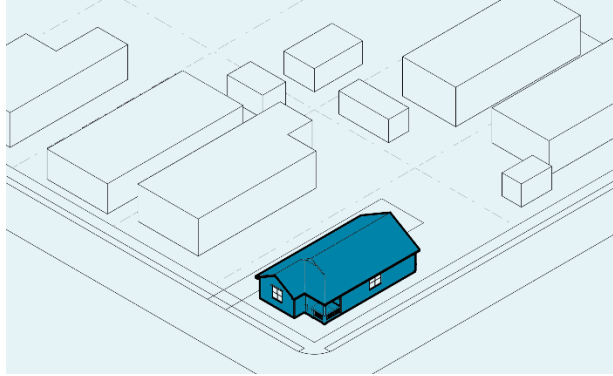
- i. At least fifty (50) percent of the cottage home units shall be oriented around the common open space with their covered porches or main entry facing the common open space.
- ii. All of the cottage units shall be located within one-hundred (100) feet walking distance of the common open space.
- iii. The common open space shall have cottages abutting at least two (2) sides.

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

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

(4) *Additional requirements.*

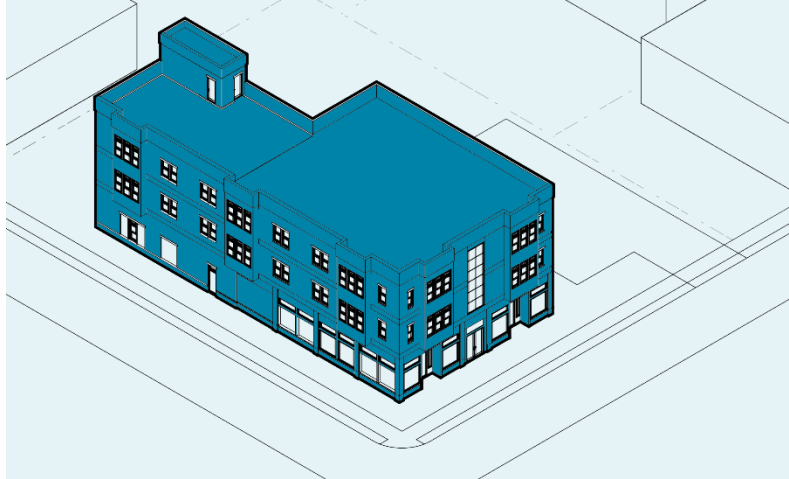
- i. Cottage homes shall have a covered porch at least sixty (60) square feet in size.
 - ii. The condominium association or homeowners' association shall maintain the required open space and all common areas.
 - iii. Each cottage home shall have access to clothes washers and dryer facilities, either through installation of connections to clothes washers and dryers in the cottage home, or access to clothes washers and dryers in a building located off the common open space.
 - iv. Developers of cottage homes are encouraged to provide pervious parking areas. In any event, every cottage home development shall comply with Chapter 22 of the Clarkston City Code regarding stormwater management.
- (b) Lots may be reduced in size, as would otherwise be prohibited by section 507, in order to develop cottage housing in compliance with Sec. 525.
- (c) Common areas shall be required for four or more homes and owned by a condominium association, homeowners' association or jointly by the owners of the individual parcels within the planned development. (Sec. 902).



Cottage home

Sec. 530. Planned Mixed-Use Development

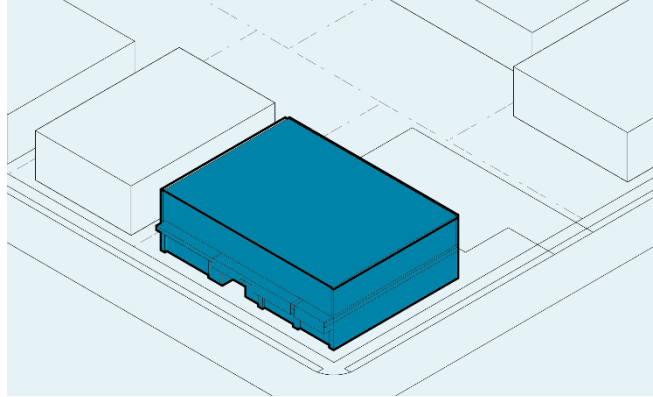
- (a) Density
 - (1) The overall density for a development is determined by an approved overall concept plan for new development.
- (b) Permitted Uses.
 - (1) Single family attached (townhomes)
 - (2) Multi-family (duplex, triplex, and apartment buildings)
 - (3) Commercial
 - (4) Office
 - (5) Retail
- (c) Land Use Mix. A Planned Mixed-Use Development (PMU) must contain at least two types of land use that are not otherwise allowed together in another zoning district. Each Planned Mixed-Use development is anticipated to include a mix of land uses. Non-residential development must be at a scale and type that is compatible with the residential component of the development
- (d) Perimeter compatibility. Land uses developed at the perimeter of the site shall be developed in a manner that is compatible with adjacent off-site land uses or zoning. Compatibility shall be judged on the basis of similar land uses, average lot sizes, setbacks, and other development standards.



Planned Mixed Use Development

Sec. 531. Planned Commercial Development

- (a) Density
 - (1) The overall density for a development is determined by an approved overall concept plan for new development.
- (b) Permitted Uses.
 - (1) Commercial
 - (2) Office
 - (3) Retail
- (c) Land Use Mix. A Planned Commercial Development must contain at least two types of land use that are not otherwise allowed together in another zoning district. Each Planned Commercial development is anticipated to include a mix of commercial land uses.
- (d) Perimeter compatibility. Land uses developed at the perimeter of the site shall be developed in a manner that is compatible with adjacent off-site land uses or zoning. Compatibility shall be judged on the basis of similar land uses, average lot sizes, setbacks, and other development standards.



Planned Mixed-Use Development

DIVISION 6: OPEN SPACE

Sec. 532. Open space.

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

(a) Open space requirement.

- (1) Required yards and, sidewalk clear zones and landscape strips which are constructed on private property may be counted towards this requirement.
- (2) Open space may also include balconies, roof-top terraces, landscaped areas, fountains, parks, plazas, trails and paths, hardscape elements related to sidewalks and plazas, and similar features which are located on private property.
- (3) Open space shall not include areas devoted to public or private vehicular access.
- (4) Where open space is held in common ownership, covenants or other legal arrangements shall specify ownership of the open space; method of and responsibility for maintenance; taxes and insurance; compulsory membership and assessment provisions; and shall be incorporated into legal instruments sufficient to ensure that the open space criteria are maintained.
- (5) 10% of the required open space shall be green space
 - a. Green space is left natural or undeveloped.
 - b. Can be activated or non-activated.

(b) Open space implementation and maintenance.

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

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- (c) Relocation of open space. Relocation of minimum open space requirements: Up to twenty (20) percent of a development's required open space may be relocated to an offsite location provided:
- (1) The planning and development director has reviewed and approved the transfer request;
 - (2) A written agreement among all owners of record shall be provided with the request and held on file with the planning and development director. All renewed or terminated leases shall be filed with the planning and development director.
 - (3) The receiving site(s) is designated as a park open space in the comprehensive plan;
 - (4) The receiving site(s) is located within one thousand three hundred and twenty (1,320) linear feet of the donating property (.25 miles);
 - (5) Designated open space sites shall comply with the following:
 - (i) The open space shall provide active or passive recreational amenities;
 - (ii) The open space shall be no greater than twenty-four (24) inches above or below the adjacent public sidewalk for a minimum distance of fifteen (15) feet from the beginning of the adjacent sidewalk;
 - (iii) The open space shall be visible and accessible from any point along ninety (90) percent of any adjacent sidewalk; and
 - (iv) The open space shall permit and encourage pedestrians to walk on a minimum of eighty (80) percent of the surface of the parcel.
- (d) Additional square footage can be obtained through an density bonus in the TC,
- (1) For every one (1) square foot of additional open space provided in excess of the minimum open space requirement in this section the maximum floor area for the development shall increase by five (5) square feet.
 - (2) For every one (1) square foot of additional green space provided in excess of the minimum green space requirement in this section the maximum floor area for the development shall increase by ten (10) square feet.
 - (3) To receive density bonus for additional open space requires that atleast 25% of the total open space for the project be open to the public.

DIVISION 7: BUFFERS, SCREENING, AND LANDSCAPING

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

Sec. 533. Buffers

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

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

Sec. 534. Buffer dimensions

Transitional buffers are intended to create a visual screen in order to diminish the potential negative impacts of nonresidential and mixed land uses on adjacent residential land uses. Similarly, transitional buffers diminish the potential negative impacts of higher intensity residential development on adjacent single-family residential land uses.

Table 5.1 Required Transitional Buffers (feet)

	NR-1	NR-2	NR-3	NC-1	NC-2	TC	I	R-OS	NR-CD	RC
NR-1	-	-	-	-	-	-	-	-	-	-
NR-2	0	-	-	-	-	-	-	-	-	-
NR-3	15	10	-	-	-	-	-	-	-	-

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(Supp. No. 10)

NC-1	30	30	30	-	-	-	-	-	-	-
NC-2	30	30	30	0	-	-	-	-	-	-
TC	20	20	15	15	15	-	-	-	-	-
I	50	50	50	30	30	50	-	-	-	-
R-OS	20	20	20	20	20	20	30	-	-	-
NR-CD	20-30	20-30	20-30	20	20	20	50	20	-	-
RC	20	20	20	15	15	15	50	20	0	-

Sec. 535. Buffers and landscaping.

(a) Existing conditions.

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

(b) Materials and ratios.

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

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

PLANTS AND SHRUBS

Common Name	Scientific Name
Glossy or common Abelia	<i>Abelia grandiflora</i>
Andromeda varieties	<i>Pieris species</i>
Jap Aucuba	<i>Aucuba Japonica</i>
Indicum, Piedmont, Flame, and other large or native azalea species	<i>Azalea indicum, calendulaceum</i>
Wintergreen Barberry	<i>Berberis juliana</i>
Camellia varieties	<i>Camellia japonica or sassanqua</i>
Eastern Red Cedar or other large juniper species	<i>Juniperus virginiana</i>
Yoshino Cryptomeria	<i>Cryptomeria japonica</i>
Leyland Cypress	<i>Cupressocyparis x leylandii</i>

American Holly varieties	<i>Ilex opaca</i>
Burford Holly	<i>Ilex Burfordi</i>
Yaupon Holly varieties other than dwarf	<i>Ilex vomitoria</i>
Cherry Laurel	<i>Prunus Caroliniana</i>
Loropetalum chinese	<i>Chinese Loropetalum</i>
Southern Magnolia	<i>Magnolia Grandiflora</i>
Leatherleaf Mahonia or Oregon Hollygrape	<i>Mahonia bealeii or aquifolium</i>
Fragrant Tea Olive	<i>Osmanthus Fragens</i>
Raphiolepis umbellata	<i>Yeddo Hawthorn</i>
Native Rhododendron varieties	<i>Rhododendron carolinianum or maximum</i>
White Pine	<i>Pinus Strobus</i>

- (d) Substitute materials. Other evergreen plant materials having the same growth characteristics as the aforementioned may be substituted, subject to approval by the city prior to installation.
- (e) Invasive species are prohibited. Bamboo, Eleagnus, Privet, Kudzu, English Ivy, Japanese Honey Suckle and Wisteria shall be prohibited from being planted.
- (f) Detention ponds. In addition to the screening requirements regulated by this article, the following additional regulations shall apply:
 - (1) The bottom and sides of detention ponds shall be planted with fast-germinating erosion-controlling vegetation, continuous over the entire surface of disturbed soils both inside and outside of the pond.
 - (2) Larger-growing species of perennial plants shall be interplanted in the wet areas of the pond (up to the 25-year storm inundation line) on minimum ten (10) foot centers, that are capable of thriving in intermittently wet and dry soils and will provide food and habitat for birds and other wildlife.
 - (3) Trees are prohibited within or on the outer slopes of detention ponds in order to prevent damage to the pond structure.

Sec. 536. Screening

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

- (a) Fences and walls shall meet the height and location standards in Table 5.2

Table 5.2		Fence	Retaining wall	Maximum fence height with a variance
Front Yard	Maximum Height	4 ft.	3.5 ft.	N/A
	Distance from property line (minimum)	.5 ft.	.5 ft.	N/A
Side and Rear Yard	Maximum height	8 ft.	8 ft.	10 ft.
Along a public street	Maximum height	5 ft.	2 ft.	6 ft.

- (b) Fences and walls shall meet the following material standards:
 - (1) Front yard fences shall be made of brick, stone, stucco, split rail, wood, wrought iron. Side and rear yard fences may be vinyl-coated chain link.

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- (c) Fence foundations and frames shall be on the interior facing of the fence only.

Sec. 537. Fences in buffers.

Fences within required buffer strips shall meet the following requirements:

- (a) Fences shall be constructed of solid materials. Use of cyclone fencing which utilizes inserts as screening shall be prohibited.
- (b) Painted or stained wood shall be maintained.
- (c) Metal fencing shall be painted or vinyl coated.
- (d) Fence supports shall face inwards.
- (e) Posts shall be anchored in concrete when the fence will be over 6 feet.
- (f) Fences may step down a slope, however supports shall be vertical and plumb.

Sec. 538. Other fence standards

- (a) Site visibility
 - (1) On corner lots within all zoning districts, no wall, fence, foliage, or other obstruction to traffic line of sight vision shall exceed a height of two and one-half (2½) feet within the triangular area formed by the intersection of right-of-way lines at two (2) points measured twenty (20) feet along the property line from the intersection. Within said triangle there shall be no sight obscuring wall, fence or foliage higher than thirty (30) inches above grade or in the case of trees, foliage lower than eight (8) feet. Vertical measurement shall be made at the top of the curb on the street or alley adjacent to the nearest side of the triangle or if no curb exists, from the edge of the nearest traveled way.
- (b) Fences measurement rule.
 - (1) Heights of fences, hedges, and other continuous foliage shall be measured from the adjacent top of the street curb, surface of an alley, or the official established grade thereof, whichever is higher. Along interior lot lines, the measurement shall be from the average grade of the lot line of the parcel on which the fence is located.
- (c) Fences and hedges, exceptions.
 - (1) The city manager may approve that fences or plantings of a height in excess of these regulations be placed as shielding between different uses, or between like uses upon agreement between the parties affected thereby, provided that no such approval shall have the effect of reducing corner visibility as provided for herein.

Sec. 539. Screening of dumpsters, loading areas and mechanical systems.

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

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- (d) Pursuant to section 5-44 of this Code of Ordinances, temporary construction trash and recycling dumpsters which are not enclosed shall be permitted from the time a building or land disturbance permit is issued, until the certificate of occupancy is granted.

Sec. 540. Sidewalks and street trees.

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

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

Street Type Dimensions Table	Local Streets (NR-1, NR-2, NR-3 Districts)	Local Streets (All Other Districts)	Arterials & Collectors
Landscape Strip (minimum, ft)	5-6'	5-6'	5-6'
Sidewalk Clear Zone (minimum, ft)	2'	5'	2'

- (b) Landscape strip requirements.

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

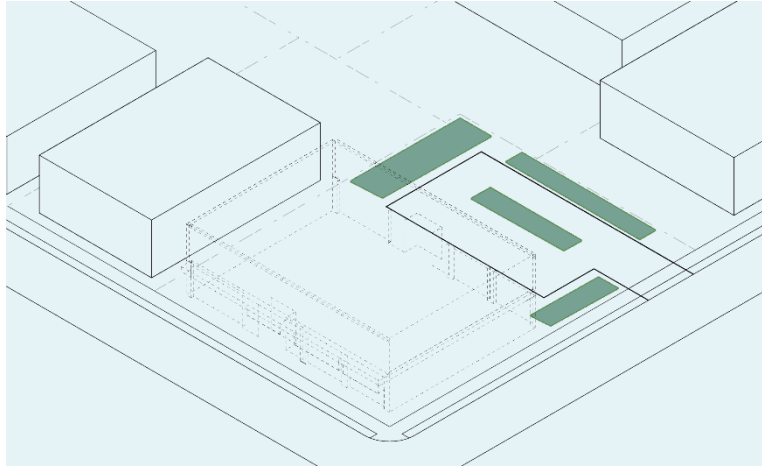
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5. This total area shall be greater than or equal to sixty (60) percent of the total area of the strip.
- (5) The required overstory trees within the front landscape strip(s) shall be a minimum of three-inch caliper or twelve (12) feet to fourteen (14) feet tall at the time of planting.
 - (6) The required understory trees within the front landscape strip(s) shall be a minimum of two-inch caliper or eight (8) feet to ten (10) feet tall at the time of planting.
 - (7) Any exposed ground shall be planted with a living ground cover or lawn, with an appropriate mulching material.
 - (8) All trees and landscape materials should be planted at the proper planting times, preferably in the fall, winter or spring and maintained in perpetuity. The city may require performance bonds be posted if planting is delayed due to seasonality.
 - (9) Trees within required landscape strips shall be provided as follows:
 - (i) Landscape strips shall have a minimum of one (1) tree for every thirty (30) linear feet of a landscape strip to the nearest whole number.
 - (ii) Clumping is permitted provided that adequate spacing is allowed for future growth.
 - (10) Landscape strips shall be shown on the landscape plan for review and approval as part of the building permit process.
- (c) Landscape strip requirements.
- (1) Said zone shall be located immediately adjacent to the curb and shall be continuous.
 - (2) This zone may be used for street trees, street lights, benches, planters, trash receptacles, bicycle parking racks and other street furniture, pedestrian lights, landscaping, or sod. Additional pavement or other similar elements shall be permitted only as approved by the planning and development director.
- (d) Sidewalk clear zone requirements.
- (1) Said zone shall be located immediately contiguous to the landscape zone and shall be continuous.
 - (2) Said zone shall be hardscape, and shall be unobstructed for a minimum height of eight (8) feet. Special paving within the sidewalk clear zone shall be permitted only as approved by the planning and development director.
 - (3) Where newly constructed sidewalks abut narrower existing adjacent sidewalks, the newly constructed sidewalk shall provide an adequate transitional clear zone width for the purposes of providing a safe facilitation of pedestrian traffic flow between the adjacent sidewalks, as approved by the planning and development director.
 - (4) Utilities, including telephone, electric power and cable television in both public and private rights-of-way, shall be placed underground except when extreme conditions of underlying rock or other conditions prevent this requirement from being met and only as approved by the planning and development director.
- (e) *Street tree planting requirements:*
- (1) Street trees are required and shall be planted in the ground a maximum of fifty (50) feet on center or grouped one hundred and twenty (120) feet on-center within the landscape zone and spaced equal distance between street lights.

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- (2) All newly planted trees shall be a minimum of four (4) inches in caliper measured thirty-six (36) inches above ground, shall be a minimum of sixteen (16) feet in height, shall have a minimum mature height of forty (40) feet, and shall be limbed up to a minimum height of ten (10) feet. Said trees shall be in proportion in height to the first floor of building.
 - (3) Trees shall have a minimum planting area of thirty-six (36) square feet and shall have a three-inch raised curb provided along the perimeter of the planting area. All plantings, planting replacement and planting removal shall be approved by the designated City manager , in keeping with the City of Clarkston's tree ordinance replacement values.
 - (4) Tree planting areas shall provide porous drainage systems that allow for drainage of the planting area.
 - (5) The area between required plantings shall either be mulched, planted with sod or shall be paved as approved by the city manager. Paving within the landscape strip shall be limited to a maximum of fifty (50) percent of the total area within the landscape zone.
 - (6) Physical permanent root barriers shall be required along the required street curbs to prevent roots from damaging the curbs.
 - (7) Required tree plantings may be permitted to be planted in the adjacent front yard when extreme conditions like topography prevent the planting of street trees within the landscape zone and only as approved by the city manager.
 - (8) Street tree species shall be consistent for an entire block length. Similar species shall be permitted to change on individual block faces and only when approved by the planning and zoning board.
 - (9) Street lights or pedestrian lights in the landscape zone shall be spaced equidistant between all required street trees.
- (f) *Sidewalks disturbed by development.* Any development that disturbs existing city-funded sidewalks including the clear zone and landscape zone shall be replaced by the property owner to its pre-disturbance state and condition.

Sec. 541. Parking areas.

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

- (a) Where parking bays exceed fifteen (15) continuous spaces, a planter island meeting the following criteria is required. The planting islands shall be located no farther apart than every ten (10) parking spaces and at the terminus of all rows of parking.
 - (1) Each separated planter island shall contain a minimum of two hundred (250) square feet per tree.
 - (2) Each planter island area shall include at least one (1) shade tree. The remaining area may be planted with shrubs, lawn or living ground cover not to exceed three (3) feet in height with mulch of pine straw, bark, wood chips, turf grass, rocks and the like.
 - (3) All planter islands must be curbed to prevent vehicular encroachment.
- (b) To promote better growth of trees and shrubs and to encourage flexibility in parking design, the area of not more than four (4) planter islands may be combined into one (1) large island, provided that the large island include one (1) shade tree per two hundred (200) square feet, with a minimum distance of thirty (30) feet exists between shade trees.



Parking islands required.

Sec. 542. Tree requirements.

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

Canopy (Overstory) Trees	
Common Name	Scientific Name
Green Ash (seedless)	Fraxinus pennsylvanica
White Ash	Fraxinus americana
American Beech	Fagus grandifolia
River Birch	Betula nigra
Bald Cypress	Taxodium distichum
Chinese Elm	Ulmus parvifolia
Ginkgo (male only)	Ginkgo biloba
Thornless Honeylocust	Gleditsia triacanthos "inermis"
European Hornbeam	Carpinus betulus

Katsura Tree	Cercidiphyllum japonicum
Florida or Southern Sugar Maple	Acer barbatum
Red Maple and varieties	Acer rubrum
Sugar Maple (heat-adapted varieties)	Acer saccharum
Southern Magnolia	Magnolia grandiflora
Chestnut Oak	Quercus prinus
Laurel Oak	Quercus laurifolia
Overcup Oak	Quercus lyrata
Pin Oak	Quercus palustris
Red Oak	Quercus rubra
Sawtooth Oak	Quercus accutissima
Scarlet Oak	Quercus coccinea
Southern Red Oak	Quercus falcate
Willow Oak	Quercus phellos
Japanese Pagodatree	Sophora japonica
Loblolly Pine	Pinus taeda
Dawn Redwood	Metasequoia glyptostroboides
Japanese Zelkova	Zelkova serrata

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

Other trees may be approved on a case by case basis. The general criteria for overstory replacement trees are large growing (forty (40) feet tall or greater), and ecologically compatible with the site. The general criteria for

understory replacement trees are medium growing (ten (10) to thirty-five (35) in height), and ecologically compatible with the site. All planting and replanting plans are subject to the city arborist's approval.

Sec. 543. Installation and maintenance.

- (a) Installation. All landscaping shall be installed in a sound workmanlike manner and according to accepted good planting procedures. The city arborist shall inspect all landscaping and no certificate of occupancy or similar authorization will be issued unless the landscaping meets the requirements provided in this zoning ordinance.
- (b) Agreement and bonding. Prior to issuance of a certificate of occupancy, the developer or owner shall post a performance bond or cash escrow guaranteeing all landscaping materials and work for a period of two (2) years after approval or acceptance thereof by the city in a sum established by the city arborist. The bond will be in the amount of one hundred (100) percent of the estimated cost of replacing all of the landscaping required by these specifications. At the end of two (2) years, the building inspector shall make an inspection and notify the owner or developer and the bond company of any corrections to be made.
- (c) Maintenance. The owner, occupant, tenant and respective agent of each, if any, shall be jointly and severally responsible for the maintenance and protection of all required landscaping in perpetuity, in accordance with the following standards:
 - (1) Keep landscaping reasonably free of visible signs of insects and disease and appropriately irrigated to enable landscaping to exist in a healthy growing condition;
 - (2) Mow or trim landscaping in a manner and at a frequency appropriate to the use made of the material and species on the site so as not to detract from the appearance of the general area. Growth of plant material at maturity shall be considered where future conflicts such as view, signage, street lighting, utilities and circulation might arise;
 - (3) Maintain all landscaping to minimize property damage and public safety hazards, including removal of dead or decaying plant material, and removal of low hanging branches next to sidewalks and walkways obstructing street lighting;
 - (4) Plantings in the buffer area shall be replaced unless the city arborist deems such replacement unnecessary;
 - (5) Pruning, trimming, and maintenance shall be performed to maintaining healthy plant matter in accordance with the specifications set forth by the American Forestry Association, the National Arborist Association, or other professional arboricultural organizations; and
 - (6) See Article VI, District Regulations for additional maintenance requirements.

ARTICLE VI. PARKING AND LOADING REQUIREMENTS

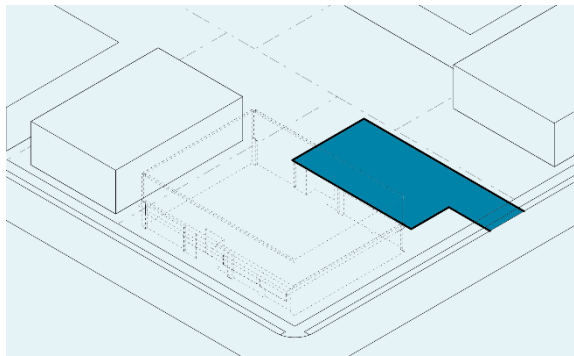
DIVISION 1. GENERAL PROVISIONS

Sec. 601. Off-street parking and loading spaces required.

- (a) It is the intent of this zoning ordinance that all buildings, structures, and uses of land shall provide off-street parking and loading space in an amount sufficient to meet the needs caused by the building or use

of land and that such parking and loading spaces are so oriented that they are readily useable for such purposes.

- (a) Each use of land and each building or structure hereafter constructed or established shall provide off-street parking and loading according to the standards set forth herein. When an addition is proposed to a building that is nonconforming as to parking or loading requirements, a conforming amount of parking or loading shall be supplied based upon the size of the addition.
- (b) No addition to an existing building shall be constructed which reduces the number of spaces, area, or usability of existing parking or loading space unless such building and its addition conform with the regulations for parking and loading contained herein, except when the reduced number of parking spaces still meets the requirements of this article.
- (c) Off-street parking shall incorporate handicapped spaces into the design of parking facilities.



Parking must be behind the building.

DIVISION 2. DESIGN STANDARDS

Sec. 602. General standards.

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

- (a) Parking Spaces.
 - (1) Off-street surface parking shall not be located between a building and the street without an intervening building, except where otherwise permitted in this zoning ordinance.
 - (2) Required dimensions for each parking space. Each automobile parking space shall be not less than nine (9) feet wide and twenty (20) feet deep.
 - (3) Surfacing, drainage and lighting. All off-street parking spaces, access and interior driveways shall be provided with a paved, dust free surface. If the off-street parking facilities are used at night, they shall be properly illuminated for the safety of pedestrians, vehicles and for security. The lighting shall be designed so as not to reflect onto or cause glare in any adjacent residential district.
 - (4) Adequate interior driveways shall connect each parking space with a public right-of-way.
 - (5) Striping and marking.
 - (i) All pavement markings intended to delineate off-street parking spaces shall be striped with durable reflective striping designed for that purpose.

(iii) All handicapped spaces shall be striped and marked in accordance with applicable federal and state standards.

(b) Compact parking spaces.

- (1) No more than 20% of the required parking spaces for industrial, commercial, institutional, or multi-family uses can be designated for compact cars.
- (2) Compact parking spaces shall be identified by pavement markings and/or by appropriate signage.
- (3) Parking spaces for compact cars shall not be less than eight (8) feet wide and fifteen (15) feet deep.

(c) Bicycle parking.

- (1) Developments in all NR-CD, RC, TC, NC-1, and NC-2 districts shall provide bicycle parking racks at a ratio of at least one (1) bicycle parking space for every twenty (20) automobile parking spaces.
- (2) No development shall have fewer than three (3) bicycle parking spaces nor be required to exceed a maximum of thirty (30) spaces.
- (3) Bicycle parking spaces shall be located within the landscape zone a maximum distance of one hundred (100) feet from the building entrance, or shall be located at least as close as the closest automobile space and shall provide a concrete pad upon which the bicycle parking space shall be firmly rooted.

(d) Additional requirements for non single-family districts.

All required off-street parking facilities (other than those for single-family dwellings), including entrances, exits, and maneuvering areas, shall comply with the following provisions. Each parking facility:

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

one thousand (1,000) feet of the main entrance to the primary use for which such parking is provided. A written agreement among all owners of record shall be provided and held on file with the Planning and Development Director. All renewed or terminated leases shall be filed with the Planning and Development Director.

Sec. 603. Driveways and curb cuts.

Driveways and curb cuts shall meet the following criteria:

- (a) Interior driveway. Where ninety (90) degree parking is utilized, all interior driveways shall be a minimum of twenty two (22) feet in width. If forty five (45) or sixty (60) degree angle parking is used, then interior driveways shall be at least twelve (12) feet in width for one-way traffic and twenty two (22) feet in width for two-way traffic. Where parallel parking is utilized or there is no parking, interior driveways shall be a minimum of ten (10) feet in width for one-way traffic and twenty (20) feet in width for two-way traffic.
- (b) All sidewalk paving materials shall be continued across any intervening driveway at the same prevailing grade and cross slope as on the adjacent sidewalk clear zone. A corresponding interior sign or painted bar on the driveway shall be provided adjacent to the sidewalk paving as it intersects the driveway which shall communicate that vehicles must stop or yield for the intervening sidewalk.
- (c) Driveway curb cut widths shall be a maximum of twenty-four (24) feet for two-way entrances and twelve (12) feet for one-way entrances, unless otherwise permitted by the Georgia Department of Transportation. For the purposes of this section, two (2) curb cuts serving two one-way driveways shall only be counted as one (1) curb cut provided that each curb cut does not exceed one (1) lane in width.
- (d) Driveway curb cuts on any street that functions as an arterial street or collector street are permitted only when access cannot be provided from a side or rear street located immediately adjacent to a contiguous property, with the exception of hotel patron drop-off drives.
- (e) Driveways, except for a driveway to reach the side yard or rear yard or an on-site parking facility, are not permitted between the sidewalk and a building, and shall be perpendicular to any adjacent street.
- (f) No more than one (1) curb cut shall be permitted for each development, provided that properties with more than one (1) street frontage may have one (1) curb cut located on each street frontage. However, developments on properties with a single street frontage greater than four hundred (400) feet shall be permitted two (2) curb cuts along one street frontage provided that each curb is at least 300 feet apart.
- (g) A common or joint driveway may be authorized by the City manager pursuant to Sec. 216 of this zoning ordinance.
- (h) All developments shall have pedestrian walkways a minimum width of five (5) feet connecting ground level parking to the public sidewalks and to all building entrances.

Sec. 604. Parking decks and parking structures.

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

- (a) Parking deck facades shall conceal automobiles from visibility from any public right-of-way or private drive or street that are open to the general public and shall have the appearance of a horizontal storied building.
- (b) All parking decks and parking structures shall have pedestrian walkways a minimum width of five (5) feet connecting ground level parking to the public sidewalks and to all building entrances.
- (c) All parking decks and parking structures shall have a landscape strip a minimum area of 250 square feet per tree immediately contiguous to the parking facility for the whole of the exterior perimeter of the parking facility containing at least one (1) understory or overstory tree, as appropriate, and ten (10)

shrubs per fifty (50) linear feet, and a minimum of ninety (90) percent living groundcover, sod, and/or annual or perennial color in the landscape strip surface area.

- (d) Parking structures directly adjacent to a minor arterial or collector street shall have a use on the first floor that meets the requirements in Sec. 519.

Sec. 605. Parking in residential districts.

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

Sec. 606. Parking area landscaping requirements.

Interior landscaping for parking areas shall be required for all parking lots designed for according to the requirements of Sec. 537.

DIVISION 3. OFF-STREET PARKING REQUIREMENTS

Sec. 607. Minimum off-street parking requirements.

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

- (a) The total number of permitted parking spaces shall not exceed one hundred (100) percent of the minimum number of off-street parking spaces required by type of permitted use.
- (b) The number of off-street parking spaces required by use are as follows:

Use	Maximum Number of Spaces Per Unit
Commercial:	
Government, Office, Retail, Service Establishment, Restaurant, and Similar Commercial Uses	1.5 per 300 square feet of gross floor
Vehicle Repair Garages, Paint and Body Shops, Welding Shops, and Similar Establishments	1 per 200 square feet of gross floor area
Vehicle rental establishment	1 per 200 square feet of gross floor area plus one space for every vehicle for rent
Vehicle service garages	3 spaces per service bay
Hotel and motel	.75 spaces per guest room
Recreation—Subdivision recreation area	1 space per 10 dwelling units
Recreation—Commercial and public	1 space per 200 sq. ft. of recreational space
Wholesale stores	1 space per 600 sq. ft. of gross floor area, plus 1 space 2000 sq. ft. of gross storage area
Institutional:	
Places of worship and other places of assembly	1 per each 8 seats in the sanctuary or meeting room where seating is fixed or 1 per 50 square feet of gross floor area of sanctuary or meeting room where seating is not fixed

Theaters, Auditoriums, Funeral Homes, Community Centers and Other Places of Assembly	1 per each 4 seats where seating is fixed; 1 per 25 square feet of gross floor area of assembly area where seating is not fixed
Social organizations including lodges and fraternal organizations	1 space per 250 sq. ft.
Hospitals or group homes	1 space per 2 beds
Libraries, galleries, and similar uses	1 space per each 400 sq. ft. of gross space to which the public has access
Schools (elementary, middle, high schools)	2 per classroom, plus 1 space per each 8 seats in auditorium or assembly area where seating is fixed or 1 per 50 square feet of gross floor area of auditorium or assembly area where seating is not fixed
Schools (colleges, universities or adult education facilities)	As determined as part of the design approval
Daycare or nursery	2 spaces per classroom
Offices:	
Offices—Government, banks, professional, medical, general	1.5 per 300 square feet of gross floor
Residential:	
Apartments, townhomes, condominiums, and other multi-family attached uses	1 space per dwelling unit
Boarding or rooming houses	1 space per 2 bedrooms
Cottage housing	1.25 to 2.0 spaces per dwelling unit as regulated in section 529
Residences including single-family, duplexes, triplexes	2 spaces per dwelling unit
Senior citizen independent living facility	.75 space per unit

DIVISION 4. SHARED OR REDUCED PARKING STANDARDS

Sec. 608. Shared parking standards.

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

- (a) Reduction of parking requirements through a shared parking arrangement may be permissible only through the permission of the mayor and city council provided the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access.
- (b) A to-scale map indicating location of proposed parking spaces shall be provided.
- (c) A shared parking calculation projection shall be provided that demonstrates that each use will have adequate parking provisions at all times. The process for determining the minimum parking requirements for a mixed-use development or for contiguous properties containing multiple uses is:
 - (1) Determine the minimum number of parking spaces required for each use category from section 607 of this article.
 - (2) Multiply each parking requirement by the corresponding percentage for each of the time periods shown on the table below.
 - (3) Total the number of parking spaces for each of the time periods.

- (4) The largest column total is the minimum shared parking requirement for the development or collectively for the contiguous properties.

TABLE: SHARED PARKING SPACE REQUIREMENTS

Use	Weekdays (M-F)		Weekends (Sat. & Sun.)	
	Daytime 6 a.m.—5 p.m.	Evening 5 p.m.—1 a.m.	Daytime 6 a.m.—5 p.m.	Evening 5 p.m.—1 a.m.
Residential	80%	100%	80%	100%
Office	100%	10%	20%	5%
Retail	95%	85%	100%	70%
Hotel	60%	100%	60%	100%
Restaurant	75%	100%	60%	100%
Entertainment	50%	85%	70%	100%
Church	50%	50%	100%	60%

- (d) For contiguous properties sharing parking spaces under this provision, cross-easements shall be filed establishing access to the parking spaces in perpetuity.
- (e) A reduction in the number of parking spaces that would otherwise be required for each of the various uses on a mixed-use development must be clearly shown on the development plan. If shared parking is proposed for a combination of contiguous properties, a plan must be submitted covering all of the properties that will be sharing the parking spaces.
- (f) A written agreement among all owners of record shall be provided and held on file with the city clerk. All renewed or terminated leases shall be filed with the city clerk.
- (g) One-half (½) of the off-street parking spaces required by a use whose peak attendance will be at night or on Sundays may be shared with a use that will be closed at night or on Sundays.

Sec. 610. Pervious parking bonus.

In the TC, NC-1, and NC-2 district, for every full size parking space required by section 607 of this article that is paved with pervious paving as defined in Article IV, an additional fifty (50) square feet of floor area shall be permitted.

DIVISION 5. OFF-STREET LOADING REQUIREMENTS

Sec. 611. Minimum off-street loading requirements.

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

- (a) The following design requirements shall apply to all off-street loading stalls.
- (1) *Access.* All off-street loading stalls shall have access from an alley, or if there is no alley, from a public street.

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- (2) *Surfacing, drainage and lighting.* All off-street loading stalls and access shall be provided with a paved, dust free surface. Loading stalls shall be properly illuminated for the safety of pedestrians, vehicles and for security. Lighting shall be designed to preclude light spill onto adjacent properties.
- (3) *Location.* The off-street loading and unloading stalls shall be located to cause a minimum of interference with the free movement of vehicles and pedestrians over a street, sidewalk or alley.
- (b) The following are the minimum number of off-street loading stalls required by type of permitted use. Square footage is the gross amount unless otherwise indicated.
- (1) Retail operations, and all first floor nonresidential uses, with a gross floor area of less than 20,000 square feet, and all wholesale and light industrial operations with a gross floor area of less than ten thousand (10,000) square feet: One (1) loading space.
- (2) Retail operations, including restaurant and dining facilities within hotels and office buildings, with a total usable floor area of twenty thousand (20,000) square feet or more devoted to such purposes: One (1) loading space for every twenty thousand (20,000) square feet of floor area or fraction thereof and one (1) loading berth for every forty thousand (40,000) square feet of floor area or fraction thereof.
- (3) Office buildings and hotels with total usable floor area of one hundred thousand (100,000) square feet or more devoted to such purposes: One (1) loading berth for every one hundred thousand (100,000) square feet of floor area or fraction thereof.
- (4) Industrial and wholesale operations with a gross floor area of ten thousand (10,000) square feet or over shall conform to the following schedule:

Gross Floor Area	Required Loading Berths
10,000—49,000 square feet	1
49,000—100,000 square feet	2
100,000—160,000 square feet	3
160,000—240,000 square feet	4
240,000—320,000 square feet	5
320,000—400,000 square feet	6
Each 90,000 above 400,000 square feet	1

- (c) This space may be shared by up to four (4) adjacent users by contractual arrangement specifying details of the sharing. A written agreement among all owners of record shall be provided and held on file with the city clerk. All renewed or terminated leases shall be filed with the city clerk.
- (d) Applicants may request a reduction to or exemption from loading requirements. The reduction of loading requirements may be permissible through the permission of the City manager pursuant to Sec. 216 of this zoning ordinance provided the arrangement shall avoid conflicting parking demands and provide for safe pedestrian circulation and access. When loading berths are shared by numerous users a written agreement among all owners of record shall be provided and held on file with the city clerk. All renewed or terminated leases shall be filed with the city clerk..

DIVISION 6. PARKING AND STORAGE OF CERTAIN VEHICLES

Sec. 612. Parking and storage of certain vehicles.

In all residential zoning districts the parking or storage of any commercial truck or vehicle in excess of eight tons (other than recreational vehicles) is prohibited except when the following provisions apply:

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

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

Sec. 613. Multi-wheeled vehicle and bus parking.

Automotive vehicles having more than four (4) wheels, major recreational equipment, school, and other buses are prohibited from parking on residential streets or within public rights-of-way. This section shall not apply to vehicles that park or stand in residential districts for less than eight (8) hours engaged in the loading or unloading of the vehicle nor shall it apply to franchised or regulated utility vehicles. See also Ch. 18, Traffic of this Code.

Sec. 614. Parking, storage, or use of major recreational equipment.

Major recreational equipment may be parked or stored in side or rear yards or in a carport or enclosed buildings, provided:

- (a) The equipment may be parked anywhere on residential premises for a period of not more than twenty four (24) hours during loading or unloading.
- (b) In the case of a corner lot, no such equipment may be parked or stored in the side yard on the street side of the lot.
- (c) No such equipment shall be used for living, sleeping or housekeeping purposes when parked or stored on a residential lot or in any location not approved for such use.

Sec. 615. Handicapped parking requirements.

The minimum number of and dimensions for handicapped parking spaces shall comply with the requirements of the Americans with Disabilities Act (ADA) (Public Law 101-136), the state building code, and the American National Standards Institute, and any other applicable state or federal law.

DIVISION 7. INTERPRETATIONS

Sec. 616. Interpretations.

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

ARTICLE VII. DEFINITIONS³

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

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

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

Accessory use: A land use that is incidental and subordinate to the primary use.

Adult day care center means an "adult day care center" as defined by the State of Georgia, as may be amended by the State. O.C.G.A. Section 49-6-82 currently defines an "adult day care center" as a facility serving aging adults that provides adult day care or adult day health services (as such terms are defined by O.C.G.A. Section 49-6-82) for compensation, to three or more persons. The term "adult day care center" shall not include a respite care services program. This definition shall automatically be updated if the State of Georgia amends its definition of "adult day care center."

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

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

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

Assisted living: A profit or nonprofit facility, home, or structure, licensed by the state, for the protective care of two or more adults who need a watchful environment, but do not have an illness, injury, or disability, which

requires chronic or convalescent care, including medical and nursing services. Protective care and watchful oversight includes, but is not limited to, a daily awareness by management of the residents' whereabouts, the asking and reminding of residents of their appointments for medical checkups, the ability and readiness of management to intervene if a crisis arises for a resident, and supervision by management in areas of nutrition, medication, and actual provision of transient medical care, with a 24-hour responsibility for the well-being of residents of the facility. This use shall not include hospitals, convalescent centers, nursing homes, hospices, clinics, halfway house, a treatment center for alcoholism or drug abuse, or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

Automobile repair center or garage: General repair, rebuilding, or reconditioning of engines, motor vehicles, or trailers such as collision service, body repair and frame straightening; painting and upholstering; vehicle steam cleaning; and undercoating.

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

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

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

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

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

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

Bed and breakfast inn A business establishment operated within a dwelling by the owner-occupant, offering temporary lodging and one or more meals to the traveling public while away from their normal places of residence.

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

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

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

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

Building: Any structure 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 coverage: The horizontal area measured from the outside of the exterior walls of the ground floor of all primary and accessory buildings on a lot.

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

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

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

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

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

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

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

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

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

Child care learning center means "child care learning center" as defined by the State of Georgia, as may be amended by the State. O.C.G.A. Section 20-1A-2 currently defines a "child care learning center" as any place operated by a person, society, agency, corporation, institution, or group wherein are received for pay for group care for less than twenty-four (24) hours per day, without transfer of legal custody, seven or more children under eighteen (18) years of age; provided, however, that this term shall not include a private school which provides kindergarten through grade 12 education, meets the requirements of O.C.G.A. Section 20-2-690, and is accredited by one or more of the entities listed in subparagraph (A) of paragraph (6) of O.C.G.A. Section 20-3-519 and which provides care before, after, or both before and after the customary school day to its students as an auxiliary service to such students during the regular school year only. This definition shall automatically be updated if the State of Georgia amends its definition of "child care learning center."

Child day care: The use of a premises for the care and supervision of children who do not reside on the property for periods less than 24 hours. A child day care facility or center may also be a day nursery, kindergarten or preschool. Child day cares must be licensed by the state where required and shall receive all necessary county board of health and fire marshal approvals prior to issuance of a permit for construction and/or operation and follow the provisions of Section 407 of this Zoning Code.

City: The City of Clarkston, Georgia.

City council: The City Council of Clarkston, Georgia.

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

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

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

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

Convalescent home: An intermediate care facility primarily engaged in providing inpatient nursing or rehabilitative services to residents who require watchful care or medical attention or treatment, but not on a continuous basis, although staff is on duty 24-hours per day.

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

Cottage housing development: Planned unit developments comprised of cottage housing residential units, organized in clusters. Cottage housing is a style of small lot/home development designed for single-family dwelling, and is restricted in square footage, density, and architectural standards as defined within section 904. CHDs are characterized by a shared central open space.

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

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

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

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

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

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

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

Dwelling, triplex: A building containing not more than three (3) kitchens, designed to be occupied by not more than three (3) families living independently of each other.

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

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

Dwelling unit, accessory (ADU): An accessory dwelling unit (ADU) is an additional dwelling unit on a single-family lot that may be attached or detached to an existing building per the provisions set forth in Section 414 of this Zoning Ordinance.

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

Economic Impact Study: A report which measures and analyzes data pertinent to the size and impacts of large scale commercial development to determine impact on the citizens within a neighborhood or affected area.

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

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

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

Family child care learning home: "Family child care learning home" as defined by the State of Georgia, as may be amended by the State. O.C.G.A. Section 20-1A-2 currently defines a "family child care learning home" as a private residence operated by any person who receives therein for pay for supervision and care less than (24) hours per day, without transfer of legal custody, at least three (3) but not more than six (6) children under thirteen (13) years of age who are not related to such person and whose parents or guardians are not residents in the same private residence; provided, however, that the total number of unrelated children cared for in such home, for pay and not for pay, may not exceed six (6) children under thirteen (13) years of age at one time. This definition shall automatically be updated if the State of Georgia amends its definition of "family child care learning home."

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

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

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

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

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

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

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

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

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

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

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

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

Home occupation: Any occupation or activity carried on by a member of the family residing on the premises, in connection with which there is no group instruction, assembly or activity; there is no commodity stored on the premises or held for sale to the public from the premises; no more than three (3) total persons (including residents) may be employed by the home occupation at any given time; and no mechanical or electronic equipment is used for commercial purposes. See Sec. 408 for supplemental provisions.

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

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

Landfill: See "sanitary landfill."

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

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

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

Live-work unit: A single unit (e.g., studio, loft, or one bedroom) consisting of both a commercial/office and a residential component that is occupied by the same resident. The live/work unit shall be the primary dwelling of the occupant.

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

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

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

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

Interior lot: A lot other than a corner lot.

Through lot: An "interior lot" having frontage on two (2) parallel or approximately parallel streets. When the frontage on one (1) street exceeds the frontage on the other, the one with the least frontage shall be deemed the front of the lot.

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

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

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

Major recreational equipment: Boats and boat trailers, travel trailers, pickup campers or coaches (designed to be mounted on automobile vehicles), motorized dwellings tent trailers, and cases or boxes used for transporting recreational equipment, whether occupied by such equipment or not.

Microbrewery: An establishment primarily engaged in manufacturing (i.e., brewing) beer and/or malt beverage in an amount not to exceed two million gallons per calendar year.

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

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

Nursing home: A facility that admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision, maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has a satisfactory agreement with a physician and dentist who will be available for any medical or dental emergency and who will be responsible for the general medical and dental supervision of the home.

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

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

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

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

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

Personal care home: Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. This term shall not include host homes, as defined in paragraph (18) of subsection (b) of O.C.G.A. Section 37-1-20.

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

Planned unit development (PUD): A provision that allows more flexibility to development projects that incorporate two (2) or more buildings on a tract or several tracts of land than would otherwise be allowed by the underlying zoning district regulations. The following types of PUDs are allowed by this ordinance: Planned Residential Developments; Cottage Housing Developments, and Planned Mixed-use Developments; Planned Commercial Development.

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

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

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

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

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

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

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

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

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

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

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

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

Story: That portion of a building included between the surface of any floor and the surface of the next floor above it, or if there is no floor above it, then the space between such floor and the ceiling next above. Attic or daylight basement space is construed as one-half (½) story. A fully underground basement is not a story.

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

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

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

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

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

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

Subdivision: All divisions of a tract or parcel of for the purpose (whether immediate or future) of sale, lease, legacy or building development; it includes all divisions of land involving a new street to which the public has access (whether private or public) or change in an existing street, and includes re-subdivision. Subdivision is also the process (and the result) of dividing a parcel of raw land into smaller buildable sites, blocks, streets, open space and public areas and the designation of the location of utilities and other improvements.

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

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

Traffic Impact Study: A report which measures and analyzes data pertinent to the flow, rate of speed and density of traffic, to determine its impact on the safety of citizens within a neighborhood or affected area.

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

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

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

Yard, side: An open, unoccupied space on the same lot with a primary 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.