



NEW UDC

PUBLIC DRAFT

NOVEMBER 2024



INSTALLMENT ONE

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Article 1: General Provisions

Commentary on Draft

Article 1: General Provisions, is composed of important general provisions that are relevant to the entire UDC.

Section 1.1, Title, establishes the title of the document;

Section 1.2, Authority, identifies the County’s authority to adopt the UDC;

Section 1.3, General Purpose and Intent, establishes the general purpose and intent of the Board of Commissioners in adopting the UDC;

Section 1.4, Applicability, establishes which persons or entities are subject to the UDC;

Section 1.5, Relationship with Other Laws, Covenants, or Decrees, clarifies that when the UDC conflicts with other regulations, the stricter provision applies, to the extent allowed by law, and states that the County does not enforce and the UDC is not affected by private agreements such as covenants;

Section 1.6, Official County Zoning District Map, identifies the Official Zoning District Map and the option of maintaining a digital version, and provides rules for the Community Development Director’s interpretation of the map;

Section 1.7, Transitional Rules, establishes transitional provisions that clarify the changes in zoning districts, and the rules that apply to development approved under the previous Zoning Ordinance and applications pending when the new UDC takes effect;

Section 1.8, Property Maintenance, establishes property owners’ obligations to maintain their properties.

Section 1.9, Severability, provides a severability provision.

Section 1.10, Service of Process, references the state law requirement that the County accept process or other judicial matters relating to matters arising under the new UDC; and

Section 1.11, Effective Date, provides an effective date for the new UDC.

This commentary is provided for reference purposes. It will be deleted in the adopted UDC.

Section 1.1 Title¹

This code shall be officially entitled the “Unified Development Code of Cobb County, Georgia” and may be referred to as the “UDC” or “this Ordinance.”

Section 1.2 Authority

1.2.1. General²

The Cobb County Board of Commissioners is authorized to adopt this Ordinance in accordance with Art. IX, § II of the Georgia Constitution, the Zoning Procedures Law (Official Code of Georgia (O.C.G.A). § 36-66-1, *et seq.*), and all other relevant laws of the State of Georgia.

¹ This is a new section.

² This is a new section.

Article 1: General Provisions

Section 1.3. General Purpose and Intent

1.2.2. References to Georgia Law³

Whenever any provision of this Ordinance refers to or cites a section of the Official Code of Georgia (O.C.G.A) and that section is later amended or superseded, the reference or citation shall be considered amended to refer to the amended section or the section that most nearly corresponds to the superseded section.

Section 1.3 General Purpose and Intent⁴

This Ordinance is adopted for the purpose of promoting the public health, safety and general welfare of the residents, property owners, and visitors to Cobb County, and to encourage the orderly, harmonious, and judicious use of land. More specifically, this Ordinance is intended to do the following:

- 1.3.1. Provide for the harmonious and orderly development of the County, with guidance provided by the County's comprehensive plan.
- 1.3.2. Ensure adequate provisions for infrastructure such as streets, recreation facilities, drainage facilities, water, and sewer to ensure the orderly development of the County.
- 1.3.3. Protect the character of existing residential neighborhoods from incompatible development and redevelopment;
- 1.3.4. Establish zoning districts that support a diversity of housing opportunities for the County's residents;
- 1.3.5. Preserve the County's existing natural resources;
- 1.3.6. Support and encourage new development with a high quality of design that is consistent with the desired character identified in the comprehensive plan;
- 1.3.7. Encourage redevelopment of older commercial corridors;
- 1.3.8. Support and encourage development that includes a mix of uses and supports multiple modes of transportation, including walking, bicycling, driving, and transit, in appropriate locations in the County; and
- 1.3.9. Support development that makes the most efficient use of the County's infrastructure.

Section 1.4 Applicability⁵

The provisions of this Ordinance shall apply to all development and redevelopment within the County except for the following:

- 1.4.1. Except as provided in Section 1.4.2 below or as otherwise provided by law, all federal, state, County and municipal government agencies and boards of authority owned, operated, and leased facilities as well as facilities owned, operated, or leased by others that have received the County's permission to be located on land owned or leased by the

³ This is a new section.

⁴ This is a new section. It incorporates elements from the current purpose statement that applies to the subdivision regulations, in Section 110-3 of the County Code.

⁵ This carries forward Section 134-3 of the current Zoning Ordinance. The regulations in subsection (3) allowing an amateur radio antenna no more than 70 feet in height, and the regulations in subsection (4) exempting basketball goals, gaslight poles, and recreational equipment such as volleyballs, will be relocated to the use-specific standards that apply to that accessory use and will continue to be exempt from the applicable standards. The regulation exempting flagpoles displaying the American flag will be addressed in the rewritten sign regulations.

Article 1: General Provisions

Section 1.5. Relationship with Other Laws, Covenants, or Decrees

County, shall be exempt from the provisions of this Ordinance, following verification of exempt status by the Director.⁶

- 1.4.2.** Any entity that exercises the power of eminent domain shall be exempt from the standards of this Ordinance only to the extent that the entity constructs facilities that are reasonably necessary for the purposes for which the entity was granted the power of eminent domain. Any facilities that are not reasonably necessary for the purposes for which the entity was granted the power of eminent domain shall not be exempt from the provisions of this Ordinance with respect to such facilities, even if those facilities are placed on or connected with facilities that were originally constructed or are to be constructed in accordance with Section 1.4.1 above.

Section 1.5 Relationship with Other Laws, Covenants, or Decrees⁷

1.5.1. Conflicts with other County Regulations

If a provision of this Ordinance is inconsistent with another provision in this Ordinance, or with a provision found in other County ordinance, the more restrictive provision shall control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

1.5.2. Conflicts with State or Federal Law

If a provision of this Ordinance is inconsistent with a provision found in the law or regulations of the state or federal government, the more restrictive provision shall control, to the extent permitted by law. The more restrictive provision is the one that imposes greater restrictions or burdens, or more stringent controls.

1.5.3. Relationship to Private Agreements

The enforcement and interpretation of this Ordinance shall not be affected by private agreements, including deed restrictions, covenants, easements, or similar agreements between private parties. The County shall not be responsible for monitoring or enforcing private agreements.

Section 1.6 Official Zoning District Map⁸

1.6.1. Establishment and Maintenance

The Official Zoning District Map is established by this Ordinance. It designates the location and boundaries of the base zoning districts, planned development districts, and overlay districts established by this Ordinance. The Map may be maintained as an electronic map layer in the County's Geographic Information System. The Official Zoning Map may be amended from time to time in accordance with this Ordinance, and the Director shall promptly update it following any adopted amendments.

1.6.2. Incorporation by Reference

The Official Zoning District Map is incorporated into this Ordinance by reference. The Director shall maintain a copy of the Official Zoning District Map in the offices of the Community Development Agency's planning division and zoning division and shall be subject to public inspection.

⁶ This carries forward Section 134-3(1) of the current Zoning Ordinance. The current subdivision regulations in Ch. 110 do not have similar exemptions, so the explicit exemption of government agencies and boards of authority from Article 6: Subdivision Standards is new.

⁷ This is a new section.

⁸ This builds on Section 134-163 and Section 134-164 of the current Zoning Ordinance, except for Section 1.6.4, which carries forward Section 134-166 of the current Zoning Ordinance.

Article 1: General Provisions
Section 1.7. Transitional Provisions

1.6.3. Interpretation

The Director shall be responsible for interpretation of the Official Zoning District Map in accordance with Section 2.5.18, Interpretation, and the following standards:

- (A) When a district boundary is shown as approximately following a street, highway, alley, road, right-of-way, parkway, public utility right-of-way, railroad, stream, or watercourse, the boundary shall be deemed to be the center line of such feature.
- (B) Boundaries indicated as approximately following and within ten feet of lot lines shall be construed as following such lot lines.
- (C) Boundaries indicated as approximately following established municipal limits and County borders shall be construed as following such lines.
- (D) Boundaries indicated as separated from but approximately parallel to any of the features indicated in subsection (A) through (C) above, or any landmarked or monumental line, shall be deemed to be parallel to the aforesaid center line or railroad track mid-point.
- (E) Distances not specifically indicated on the Official Zoning District Map shall be determined by the scale of the map.
- (F) Where a street, highway, railroad or other physical monument or marker on the ground, by which a boundary is determined, varies from that as shown on the Zoning Map, the physical monument or marker located on the ground shall control.
- (G) Where physical features vary from those shown on the Zoning Map, or in other circumstances not covered by subsections (A) through (F) above, the Director shall determine the district boundaries.

1.6.4. Recording Errors

Should a discrepancy or conflict occur between the Official Zoning District Map and the County Clerk's official records or minutes of actions taken by the Board of Commissioners with respect to a specific parcel, either because of scriveners' errors or in amendment of the official map, the County Clerk's official records shall prevail.

Section 1.7 Transitional Provisions⁹

1.7.1. Transition to New Zoning Districts

- (A) On [insert effective date of this UDC], land zoned with a zoning district classification under the previous Zoning Ordinance that has been revised or removed shall be translated to one of the zoning district classifications in this Ordinance, in accordance with Table 1-1: Transition to New Zoning Districts. The zoning districts are established in Article 3: Zoning Districts.
- (B) Land zoned with a zoning district classification under the previous Zoning Ordinance that has been carried forward in this Ordinance shall maintain that zoning district classification.

⁹ This section is new. It builds on the transitional provisions that apply to subdivisions in Section 110-51 of the current Subdivision Ordinance.

Article 1: General Provisions
Section 1.7. Transitional Provisions

Table 1-1: Transition to New Zoning Districts¹⁰	
Zoning District in Previous Zoning Ordinance	Zoning District in this UDC
Residential Districts	
RMR: Residential Midrise	RM-24: Residential Multifamily
RHR: Residential Highrise	RM-60: Residential Multifamily
Mixed-Use Districts	
UVC: Urban Village Commercial	MX-N: Mixed Use AC Neighborhood
PVC: Planned Village Community	MX-C: Mixed Use AC Community
RRC: Regional Retail Commercial	MX-R: Mixed Use AC Regional
OHR: Office High-Rise	
Planned Development Districts	
	PD: Planned Development
	PD-TND: Planned Development Traditional Neighborhood Development
General Overlay Districts	
OSC Open Space Community Overlay	OSC-O: Open Space Community Overlay
Civilian Airport Hazard District	AHC-O Airport Hazard Civilian Overlay
Military Airport Hazard District	AHM-O: Airport Hazard Military Overlay
Design Overlay Districts	
	ATRD-O: Atlanta Road Design Overlay
Austell Road Design Overlay	AURD-O: Austell Road Design Overlay
	CRDD-O: Canton Road Design Overlay
	DHD-O: Dallas Highway Design Overlay
	JHD-O: Johnson Ferry Design Overlay
	MRD-O: Macland Road Design Overlay
	VVD-O: Vinings Village Design Overlay
Retired Districts¹¹ [1]	
SC: Suburban Condominium	D-SC: Retired Suburban Condominium
UC: Urban Condominium	D-UC: Retired Urban Condominium
MHP/S: Mobile Home Subdivision	D-MHP/S: Retired Mobile Home Subdivision

¹⁰ This new is based on the Table III-1 of the Code Assessment, Proposed Zoning Districts, starting on p. III-15. **This table will be updated**

¹¹ The retirement of these districts is new. As discussed on p. II-47 of the Code Assessment, Retired districts will persist on a zoning map, but rezonings to these districts will no longer be permitted.

Article 1: General Provisions
Section 1.7. Transitional Provisions

Table 1-1: Transition to New Zoning Districts¹⁰

Zoning District in Previous Zoning Ordinance	Zoning District in this UDC
RDR: Recreation Outdoor Golf Driving Range	D-RDR: Retired Recreation Outdoor Golf Driving Range
GC: General Commercial	D-GC: Retired General Commercial
CF: Future Commercial	D-CF: Retired Future Commercial
PSC: Planned Shopping Center	D-PSC: Retired Planned Shopping Center
NS: Neighborhood Shopping	D-NS: Retired Neighborhood Shopping
IF: Future Industrial	D-IF: Retired Future Industrial
CS: Conservation Subdivision	D-CS: Retired Conservation Subdivision
NOTES:	
[1] A retired district is a zoning district that is applied to land on the Official Zoning Map as of [redacted] [effective date of this UDC] but that is not intended to be applied to new lands in the future. See Section 3.9, Retired Districts.	

(C) Any stipulations or other conditions of approval associated with the Official Zoning Map under the previous Zoning Ordinance shall continue in full force and effect under this Ordinance.¹²

1.7.2. Violations Continue

A violation of prior Chapter 110 or 134 of the County Code and other regulations replaced by this Ordinance shall continue to be a violation under this Ordinance, and subject to the penalties set forth in Article 8: Enforcement, unless the development complies with the express terms of this Ordinance.

1.7.3. Nonconformities

- (A) If any use, structure, lot of record, sign, or site feature was legally established before [redacted] [effective date of this UDC], but no longer complies with the standards of this Ordinance, that use, structure, lot of record, sign, or site feature shall be considered nonconforming and subject to the provisions of Article 7: Nonconformities.
- (B) If a use, structure, lot of record, sign, or site feature that was legally nonconforming under the previous Zoning or Subdivision Ordinances becomes conforming under this Ordinance it shall no longer be deemed nonconforming and subject to the provisions of Article 7: Nonconformities.

1.7.4. Complete Applications Pending Final Action

- (A) Any development application submitted and accepted as complete before [redacted] [insert effective date of this UDC], but still pending final action as of that date, shall be reviewed and decided in accordance with the regulations in effect when the application was accepted.
- (B) Completed applications shall be processed in good faith and shall comply with any time frames for review, approval, and completion as established in the regulations in effect at the time of application acceptance. If the applicant fails to comply with the required time frames or any

¹² This makes clear that stipulations and other conditions of approval associated with specific properties will continue to be effective.

Article 1: General Provisions
Section 1.8. Property Maintenance

terms or conditions of approval, the application shall expire, and future development shall be subject to the requirements of this Ordinance.

- (C) An applicant with a pending application accepted before [] [effective date of this UDC] may opt to have the proposed development reviewed and decided under the procedures and standards of this Ordinance by withdrawing the pending application and submitting a new application in accordance with the standards of this Ordinance. Any applicable application submittal fees will be waived for this new application.
- (D) To the extent an application approved under this section includes development that does not comply with this Ordinance, the development, although permitted, shall be nonconforming and subject to the provisions of Article 7: Nonconformities.

1.7.5. Development Approvals and Permits under Prior Regulations

- (A) All development approvals or permits approved before [] [insert effective date of this UDC] remain valid until their expiration date, and shall be carried out in accordance with the terms and conditions of their approval and the development standards in effect at the time of approval, so long as they remain valid and have not expired or been revoked, or been substantially modified with respect to the character of the development or the intent of the approval. If the development approval or permit expires or is revoked (e.g., for failure to comply with the terms and conditions of approval) or is substantially modified with respect to the character of the development or the intent of the approval, all subsequent development of the site shall comply with the procedures and standards of this Ordinance.
- (B) No provision of this Ordinance requires any change in the plans, construction, or designated use of any structure for which a building permit was issued prior to [] [insert the effective date of this UDC].
- (C) To the extent a prior-approved application includes development that does not comply with this Ordinance, the subsequent development, although permitted, shall be nonconforming and subject to the provisions of Article 7: Nonconformities.
- (D) Any re-application for an expired development approval or permit shall comply with the requirements of this Ordinance.

1.7.6. Hearing Procedures Continue¹³

Any rules for hearings which are currently in effect at the time of the passage of this Ordinance derived shall remain in effect unless in conflict with this chapter, in which case the procedures set forth in this Ordinance shall be controlling.

Section 1.8 Property Maintenance¹⁴

Property owners shall comply with the following:

1.8.1. Windows

Windows of buildings shall be maintained with glass window panes or with a substitute approved by the Building Official. Glass window panes or substitutes shall not have open cracks or holes. Screens, if provided, shall be securely fastened to the window.

¹³ This carries forward Section 134-32(a) of the current Zoning Ordinance.

¹⁴ This carries forward Secs. 134-130 through 134-134 of the current Zoning Ordinance. The section may be relocated in future drafts.

Article 1: General Provisions

Section 1.9. Severability

1.8.2. Exterior Doors and Frames

Exterior doors of buildings shall be maintained so that they fit reasonably well within their frames, to generally prevent rain and wind from entering a building. Exterior door jambs, stops, headers and moldings shall be securely attached to the structure and maintained in good condition without splitting or deterioration. Exterior doors shall have proper hardware and be maintained in proper working condition.

1.8.3. Gutters and Shutters

Building gutters and shutters, and any attached appurtenances, shall be maintained so that they are structurally sound and in good repair, with proper anchorage and attachment. Gutters shall be kept free from obstructions.

1.8.4. Exterior Building Surface

All exterior building surfaces, including but not limited to, doors, door and window frames, cornices, soffits, porches, trim, balconies, roofs, and decks, shall be maintained in good condition and without rot. Exterior wood surfaces, other than decay-resistant woods, shall be protected from the elements and decay by painting or other protective covering or treatment. Peeling, flaking and chipped paint shall be removed, and surfaces repainted. All exterior walls shall be free from holes, breaks, and loose or rotting materials; and maintained in a weatherproof condition and properly surface coated, where required, to prevent deterioration.

1.8.5. Exterior Stairways, Decks, Porches, and Balconies

Exterior stairways, decks, porches, and balconies, and any attached appurtenances, that are attached to buildings shall be maintained so that they are structurally sound, in good repair with proper anchorage, and capable of supporting the imposed loads.

Section 1.9 Severability¹⁵

If any section, subsection, sentence, clause, or phrase of this Ordinance is for any reason held by a court of competent jurisdiction to be invalid, such decision shall not affect the validity and continued enforcement of any other provision of this Ordinance. The remainder of this Ordinance shall continue to remain valid and in force despite any one or more sections, subsections, sentences, clauses, or phrases of the Ordinance being declared invalid by a court of competent jurisdiction.

Section 1.10 Service of Process¹⁶

The County Clerk and any Assistant County Clerk and Deputy County Clerk of the Board of Commissioners are authorized to accept all petitions, complaints, processes, subpoenas, and summons in any action, suit, or proceeding in any of the Courts of the State of Georgia or United States Courts in Georgia, with respect to matters arising under this Ordinance.

Section 1.11 Effective Date

This Ordinance shall become effective on *[insert the effective date of this UDC]*.

¹⁵ This is a new section.

¹⁶ This carries forward Section 134-96(c) and Section 134-128(c) of the current Zoning Ordinance.

Article 2: Administration

Commentary on Draft

Article 2: Administration, consolidates all development review procedures and creates a set of standard procedures that generally apply to all development applications. It adds several new procedures, clarifies existing procedures, and codifies review bodies and procedures currently set out in the separate Development Standards. The article is organized into five sections:

Section 2.1, Organization, summarizes the article’s organization.

Section 2.2, Summary Table of Development Review Responsibilities, consists of a summary table of the development approvals and permits required under the new UDC, and the responsibilities of the various bodies and persons for reviewing, making recommendations on, and making decisions on each application.

Section 2.3, Advisory and Decision-Making Bodies and Persons, identifies the powers and duties of the reviewing bodies and persons under the new UDC, including the responsibilities of each with regard to the various types of applications.

Section 2.4, Standard Application Requirements and Procedures, establishes a standard set of review procedures that are generally applicable to the review of all or most development applications, including provisions regarding application submission, public notice, and public hearings. It provides the framework, which, to the greatest degree possible, makes uniform County’s development review procedures.

Section 2.5, Application Specific Review Procedures and Decision Standards, supplements the standard review procedures. For each type of development application, it identifies in what situations application approval is necessary (or available), any applicable modifications of or additions to the standard procedures, and the standards for making a decision on the application.

This commentary is provided for reference purposes. It will be deleted in the adopted UDC.

Section 2.1 Purpose and Organization

2.1.1. Purpose

This article sets forth the review and approval procedures and standards for all development applications under this Ordinance.

2.1.2. Organization

The article is organized as follows:

(A) Section 2.1, Purpose and Organization

Section 2.1, Purpose and Organization, summarizes the purpose of Article 2 and the article’s organization.

(B) Section 2.2, Summary Table of Development Review Responsibilities

Section 2.2, Summary Table of Development Review Responsibilities, provides a summary table of the actions required for each body or person that reviews, advises, or makes decisions on each type of development application.

(C) Section 2.3, Advisory and Decision-Making Boards and Persons

Section 2.3, Advisory and Decision-Making Boards and Persons, describes the powers and duties of the various bodies and persons that review and make decisions on development applications.

Article 2: Administration

Section 2.2. Summary Table of Development Review Responsibilities

(D) Section 2.4, Standard Application Requirements and Procedures

Section 2.4, Standard Application Requirements and Procedures, describes procedures that generally apply to the review of all development applications.

(E) Section 2.5, Application-Specific Review Procedures and Decision Standards

Section 2.5, Application-Specific Review Procedures and Decision Standards, contains specific information for each type of development application, including applicable additions or modifications to the standard review procedures, and the review standards for making a decision on the application.

Section 2.2 Summary Table of Development Review Responsibilities

2.2.1. Summary Table

Table 2-1: Summary Table of Development Review Procedures sets forth the review and approval bodies for each type of development application. A development application shall be submitted in accordance with Section 2.4.1, Development Application Submission, as modified for each application type in Section 2.5, Application-Specific Review Procedures and Decision Standards.

Table 2-1: Summary Table of Development Review Procedures						
S = Staff Review R = Recommendation D = Decision A = Appeal						
* = Neighborhood Meeting Required <> = Public Hearing Required						
Review Procedure	Section	Community Development Director	Development Review Committee	Board of Zoning Appeals	Planning Commission	Board of Commissioners
Discretionary Approvals						
UDC Text Amendment*	See Official Code of Cobb County, Georgia; Chapter 1 – General Provisions Section 1-7 – Amendments; effect of new ordinances, amendatory language					
Official Zoning Map Amendment*	2.5.1	R			<R>	<D>
Planned Development*	2.5.2	R			<R>	<D>
Temporary Land Use Permit	2.5.3	R			<R>	<D>
Special Land Use Permit*	2.5.4	R			<R>	<D>
Site Plan/Stipulation Amendment	2.5.5	R				<D>
Site Development and Subdivision						
Concept Plan	2.5.6		S			
Subdivision	2.5.7					
Construction Plan [1]	2.5.7(D)		D			
Final Plat	2.5.7(E)		D			A
Minor Subdivision	2.5.8		D	<A>		

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Section 2.2. Summary Table of Development Review Responsibilities

Table 2-1: Summary Table of Development Review Procedures						
S = Staff Review R = Recommendation D = Decision A = Appeal * = Neighborhood Meeting Required <> = Public Hearing Required						
Review Procedure	Section	Community Development Director	Development Review Committee	Board of Zoning Appeals	Planning Commission	Board of Commissioners
Permits and Other Approvals						
Special Exception	2.5.9	D		<A>		
Land Disturbance Permit	2.5.10		D			A
Zoning Compliance Permit	2.5.11	D		<A>		
Chattahoochee River Development Certification	2.5.12					<D>
Flood Damage Prevention Improvement or Development Permit	See Section 5.13, Flood Damage Prevention					
Sign Permit	2.5.13	D		<A>		
Electronic Sign Upgrade Permit	2.5.14	S				D [2]
Relief and Interpretation						
Administrative Variance	2.5.15	D		<A>		
Modification Due to Nonconformity	2.5.16	D		<A>		
Flood Damage Prevention Variance	See Section 5.13, Flood Damage Prevention					
Variance	2.5.17	S		<D>		[3]
Interpretation	2.5.18	D		<A>		
Appeal of Administrative Decision ¹⁷	2.5.19			<D> [1]		
Other Procedures						
Certificate of Appropriateness	Official Code of Cobb County, George; Chapter 66 – Historic Preservation Article IV – Certificates of Appropriateness					
Building Moving Permit	2.5.20	[4]				[4]

¹⁷ D.S. Section 101.12 gives the County Manager appellate authority for any decision made by an agency director, including the Community Development Director. This Ordinance eliminates that provision.

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Section 2.3. Advisory and Decision-Making Boards and Persons

Table 2-1: Summary Table of Development Review Procedures

S = Staff Review R = Recommendation D = Decision A = Appeal * = Neighborhood Meeting Required <> = Public Hearing Required						
Review Procedure	Section	Community Development Director	Development Review Committee	Board of Zoning Appeals	Planning Commission	Board of Commissioners

Notes:

- [1] Appeals of Construction Plans shall be decided by the Development Appeals Committee.
- [2] If the sign is located within 500 feet of a lot with a residential use, the Board of Commissioners shall review the application at a quasi-judicial public hearing.
- [3] The Board of Commissioners makes decisions on variances associated with an Official Zoning Map Amendment.
- [4] For a building proposed to be moved to a destination within the County, the Board of Commissioners makes the decision. For a building proposed to be moved to a destination outside the County, the Community Development Director makes the decision, with appeal to the Board of Commissioners.

Section 2.3 Advisory and Decision-Making Boards and Persons¹⁸

Advisory and decision-making boards and persons are described and established in this section.

2.3.1. Board of Commissioners

In addition to the authority granted to the Board of Commissioners by state law and the County Code, the Board of Commissioners shall have the following powers and duties under this Ordinance:

- (A) To review and decide the following:
 - (1) UDC Text Amendments (Section 1-7 of the County Code);
 - (2) Official Zoning Map Amendment (see Section 2.5.1);
 - (3) Planned Development (see Section 2.5.2);
 - (4) Temporary Land Use Permit (see Section 2.5.3);
 - (5) Special Land Use Permit (see Section 2.5.4);
 - (6) Site Plan/Stipulation Amendment (see Section 2.5.5);
- (B) To hear and decide appeals applications for a Final Plat (see Section 2.5.7(E)) and a Land Disturbance Permit (see Section 2.5.10);
- (C) To adopt policies, rules and procedures for the conduct of public hearings before the Board of Commissioners;¹⁹

¹⁸ This is a new section. It identifies the advisory and decision-making boards and key persons responsible for reviewing, advising, evaluating, and deciding development applications under this Ordinance. It builds upon portions of Article II of the current Ch. 134, Zoning.

¹⁹ This section elaborates upon state law establishing the responsibilities of the Board of Commissioners and consolidates similar provisions throughout the current Zoning Ordinance and Subdivision Regulations, as well as the Development Standards, e.g., Secs. 110-29, 134-6, 134-34(a)(3), 134-94(a)(1), 134-94(a)(4), 134-121(b)(3), 134-121(c)(1), 134-126, 134-198.1(e)(1)(i), 134-273(3)(m)(6), 134-278(c)(1)(b)(3); D.S. Secs. 105.1, especially 105.1.8 and 105.1.9, 106.

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Section 2.3. Advisory and Decision-Making Boards and Persons

- (D) To establish a schedule of fees for applications for development approvals and permits reviewed under this Ordinance;
- (E) To appoint and remove members of the Planning Commission and the Board of Zoning Appeals;
- (F) To approve or deny the application, or other zoning agenda item, reduce the land area for which the application is made, change the zoning classification, district or category requested, either to the one(s) sought or to other constitutionally permissible classification(s) which may not necessarily be an intervening classification, add or delete conditions of the application, including but not limited to site-specific conditions, variances to zoning regulations, or allow an application to be withdrawn without prejudice with respect to the 12-month limitation of this division. This Code section shall apply to any application for rezoning, special land use permit, temporary land use permit, other business item, special exception or any other agenda item heard by the board of commissioners and²⁰
- (G) To take any other action not delegated to the Planning Commission, Board of Zoning Appeals, or any other body or person, that state law authorizes the Board of Commissioners to take.²¹

2.3.2. Board of Zoning Appeals

(A) Establishment

The Board of Zoning Appeals (BZA) is hereby established.²²

(B) Powers and Duties

The BZA shall have the following powers and duties under this Ordinance:

- (1) To review and decide the following:
 - (a) Variance (see Section 2.5.17); and
 - (b) Appeal of Administrative Decision (see Section 2.5.19); and
- (2) To hear and decide appeals for the following:
 - (a) Concept Plan (see Section 2.5.6);
 - (b) Subdivision (see Section 2.5.7);
 - (c) Minor Subdivision (see Section 2.5.8);
 - (d) Special Exception (see Section 2.5.9);
 - (e) Flood Damage Prevention Improvement or Development Permit (see Section 5.13);²³
 - (f) Zoning Compliance Permit (see Section 2.5.11);
 - (g) Sign Permit (see Section 2.5.13);
 - (h) Administrative Variance (see Section 2.5.15);
 - (i) Modification Due to Nonconformity (see Section 2.5.16);
 - (j) Interpretation (see Section 2.5.18); and

²⁰ This carries forward the very broad authority granted the Board of Commissioners to make changes to the Official Zoning Map in accordance with a development application, in accordance with Section 134-124(b) of the current Zoning Ordinance.

²¹ This is a new section that clarifies the board's authority to act in the event a necessary procedure is not outlined in this Ordinance.

²² This carries forward Section 134-91 of the current Zoning Ordinance.

²³ This will be updated when the development standards are drafted.

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Section 2.3. Advisory and Decision-Making Boards and Persons

(C) Membership²⁴

- (1)** The BZA shall be composed of five members. Each member of the Board of Commissioners shall be entitled to appoint to the BZA one member, who the member or the member's successor may remove at any time with or without cause.
- (2)** No member of the BZA may be a candidate for or serve in an elective public office while serving on the BZA. A BZA member who qualifies as a candidate for or serves as an elected official shall be removed from the BZA and their seat deemed vacant.²⁵
- (3)** The Board of Commissioners shall determine the amount of compensation, if any, that will be paid to the members of the BZA.

(D) Meetings²⁶

(1) Officers

The BZA shall annually elect a chair and a vice chair from among its members. The chair and vice chair shall serve until their successors are elected.

(2) Procedure

- (a)** The BZA shall adopt rules of procedure governing its operation. These rules shall be consistent with this Ordinance and state law and made available to the public.²⁷
- (b)** Meetings shall be held at times determined by the BZA or upon the call of the chair.
- (c)** The chair, or if the chair is absent, the acting chair, may administer oaths and compel attendance of witnesses by subpoena.

(3) Minutes and Records

- (a)** The County Clerk shall appoint a secretary, who may be an officer or employee of the Board of Commissioners or the Planning Commission.
- (b)** The County Clerk shall keep minutes of the BZA's proceedings, showing the vote of each member upon each question, or if the member was absent or failed to vote.
- (c)** The County Clerk shall maintain records of the BZA's official actions as a public record.

2.3.3. Planning Commission

(A) Establishment

The Planning Commission is hereby established.²⁸

(B) Powers and Duties²⁹

The Planning Commission shall have the following powers and duties under this Ordinance:

- (1)** To review and recommend action to the Board of Commissioners regarding the following:

²⁴ This significantly simplifies Section 134-92 of the current Zoning Ordinance with revisions for clarity. It removes the removal process for a BZA member, as the commissioner may remove the appointee at will which is redundant with a commissioner's ability to remove their appointee at will.

²⁵ Removes explicit allowance that a BZA member may serve on the Planning Commission because the Planning Commission is not an elective public office.

²⁶ This carries forward Section 134-93 of the current Zoning Ordinance and clarifies the term of the BZA officers.

²⁷ This consolidates Section 134-32 of the current Zoning Ordinance with respect to the BZA. Section 2.4.5, Public Hearing and Notice, carries over Sec 134-32(b).

²⁸ This carries forward Section 134-61 of the current Zoning Ordinance.

²⁹ This carries forward Section 134-64 of the current Zoning Ordinance with revisions for clarity.

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Section 2.3. Advisory and Decision-Making Boards and Persons

- (a) Official Zoning Map Amendment (see Section 2.5.1);
 - (b) Planned Development (see Section 2.5.2);
 - (c) Temporary Land Use Permit (see Section 2.5.3); and
 - (d) Special Land Use Permit (see Section 2.5.4);
- (2) To make careful and comprehensive surveys and studies of existing conditions and future developments and to prepare such plans for physical, social and economic growth so as to promote public health, safety, morals, convenience, property or general welfare, as well as efficiency and economy, as directed by the Board of Commissioners;
 - (3) To prepare and recommend for adoption to the Board of Commissioners revisions to this Ordinance or the Official Zoning Map;
 - (4) To make, publish, and distribute maps, plans, and reports and recommendations relating to the plan and development of the County to the public;
 - (5) To enter upon any land, make examinations and surveys, and place and maintain necessary monuments and marks thereon; provided, however, that the Planning Commission shall be liable for any injury or damage to property resulting from its entrance; and
 - (6) To take any other actions that may be necessary to perform its functions and promote the planning of the County.³⁰

(C) Membership³¹

- (1) The Planning Commission shall be composed of five members. Each member of the Board of Commissioners shall be entitled to appoint to the Planning Commission one member, who the applicable commissioner or the commissioner's successor may remove at any time with or without cause.
- (2) No member of the Planning Commission may be a candidate for or serve in an elective public office while serving on the Planning Commission. A Planning Commission member who qualifies as a candidate for or serves as an elected official shall be removed from the commission and their seat shall be deemed vacant.
- (3) The Board of Commissioners shall determine the amount of compensation, if any, that will be paid to the members of the Planning Commission.

(D) Meetings³²

(1) Officers

The Planning Commission shall annually elect a chair and a vice chair from among its members. The chair and vice chair shall serve until their successors are elected.

(2) Procedure

- (a) The Planning Commission shall adopt rules of procedure governing its operation. These rules shall be consistent with this Ordinance and state law and made available to the public.³³
- (b) The Planning Commission shall meet at least once each month at the call of the chair. The chair may call additional meetings.

³⁰ Secs. 2.3.4(c)(2)-(5) carry forward Section 134-65 of the current Zoning Ordinance with revisions for clarity.

³¹ This carries forward Section 134-62 of the current Zoning Ordinance with revisions for clarity.

³² This carries forward Section 134-63 of the current Zoning Ordinance with revisions for clarity.

³³ This consolidates Section 134-32 of the current Zoning Ordinance with respect to the Planning Commission.

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Section 2.3. Advisory and Decision-Making Boards and Persons

(3) Minutes and Records

- (a)** The County Clerk shall keep minutes of its proceedings, showing the vote of each member upon each question, or if the member was absent or failed to vote.
- (b)** The County Clerk shall keep records of its actions, findings, and determinations as a public record.

2.3.4. Community Development Director

(A) General

The Community Development Director (“Director”) is the head of the Community Development Agency and is responsible for the planning functions of the County and for administration of this Ordinance.

(B) Power and Duties

The Director has the following powers and duties under this Ordinance:

- (1)** To review and decide the following:
 - (a)** Minor Subdivision (see Section 2.5.8);
 - (b)** Special Exception (see Section 2.5.9);
 - (c)** Zoning Compliance Permit (see Section 2.5.11);
 - (d)** Sign Permit (see Section 2.5.13);
 - (e)** Administrative Variance (see Section 2.5.15);
 - (f)** Modification Due to Nonconformity (see Section 2.5.16); and
 - (g)** Building Moving Permit (see Section 2.5.20);
- (2)** To review and recommend action to the Board of Commissioners, Planning Commission, or Board of Zoning Appeals regarding the following:
 - (a)** Official Zoning Map Amendment (see Section 2.5.1);
 - (b)** Planned Development (see Section 2.5.2);
 - (c)** Temporary Land Use Permit (see Section 2.5.3);
 - (d)** Special Land Use Permit (see Section 2.5.4);
 - (e)** Site Plan/Stipulation Amendment (see Section 2.5.5); and
 - (f)** Variance (see Section 2.5.17);
- (3)** To review the following:
 - (a)** Electronic Sign Upgrade Permit (see Section 2.5.14);
- (4)** To make interpretations of this Ordinance (Section 2.5.18);
- (5)** To establish the requirements for the content and form and the submittal and review schedule for each type of development application reviewed under this Ordinance, and to administer those procedures established by the requirements;
- (6)** To update the Community Development Department’s procedures as needed to ensure effective and efficient development review and reflect updated fees and procedures adopted by the Board of Commissioners and other review bodies;
- (7)** To make administratively maintained material such as application forms and submittal requirements available to the public;

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Section 2.3. Advisory and Decision-Making Boards and Persons

- (8) To serve as professional staff liaison to the Board of Commissioners, the Planning Commission, and the Board of Zoning Appeals, and to provide technical assistance as needed;
- (9) To maintain a record of all development applications reviewed under this Ordinance;
- (10) To enforce all provisions of this Ordinance in accordance with Enforcement;
- (11) To delegate any decision or review authority to any professional-level staff in the Community Development Agency, and to delegate clerical authority to any staff in the Community Development Agency; and
- (12) To appoint members of the Community Development Agency to serve on the Development Review Committee.

2.3.5. Development Review Committee³⁴

(A) Establishment

The Development Review Committee (“DRC”) is hereby established.

(B) Powers and Duties

In addition to accomplishing tasks assigned by the Director in support of the administration and enforcement of this Ordinance, including review and decision-making for development applications not identified in this Ordinance, the DRC shall:

- (1) Review and decide the following:
 - (a) Concept Plan (see Section 2.5.6);
 - (b) Construction Plan (see Section 2.5.7(D));
 - (c) Final Plat (see Section 2.5.7(E));
 - (d) Land Disturbance Permit (see Section 2.5.10).

(C) Membership

The Director is authorized to designate the members of the DRC assigned to review each development application.

2.3.6. Development Appeals Committee³⁵

(A) Establishment

The Development Appeals Committee (“DAC”) is hereby established.

³⁴ This is a new section that consolidates provisions from the Development Standards, current Subdivision Regulations, and current Zoning Ordinance. D.S. Secs. 101.15 and 200.1 reference a Development Plan Review Committee (representatives of each agency/department/division involved with a development) that deals with subdivisions. To streamline the procedures, the “Plan Review Committee” discussed in the Development Standards has not been carried forward, although no change to the Community Development Department’s current review process is intended. D.S. Section 103 refers to a “Development Review Committee” as the staff entity that advises and decides on Land Disturbance Permits and Grading Permits and is identified in the Subdivision Regulations committee as the decision-making body for major subdivision (Section 110-1) construction plans, which, when approved, generate a land disturbance permit. Outside of D.S. Section 103, the Development Plan Review Committee may be the same as the “Plan Review Committee” (Section 102.3.1). The “Development Review Committee” is established a separate entity with members appointed by the Director to provide flexibility.

³⁵ This is a new section that carries forward an established, but rarely used decision-making body that is not described in the current Ordinance. The powers of the “Board of Adjustments and Appeals” established in Sec. 101.3 of the Development Standards are incorporated into the DAC.

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Section 2.4. Standard Application Requirements and Procedures

(B) Powers and Duties

The DAC shall have the power and duty under this Ordinance to hear and decide appeals of Construction Plans (see Section 2.5.7(D)).

(C) Membership

The County Manager is authorized to designate the members of the DAC.

Section 2.4 Standard Application Requirements and Procedures

This section sets forth the standard procedures that generally apply to the review of development applications under this Ordinance. Not all procedures in this Section apply to every development application. Each subsection in Section 2.5, Application-Specific Review Procedures and Decision Standards identifies, for a specific type of development application, which standard procedures are required, including any additions or modifications that apply. The County may contact applicants by electronic means unless this Ordinance requires a specific form of notification.

2.4.1. Development Application Submission³⁶

(A) General

All development applications shall be submitted to the Director in accordance with the requirements of this section.

(B) Authority to File Applications

Applications shall be submitted by:

- (1)** The landowner;
- (2)** The landowner's authorized agent; or
- (3)** Any other record holder of the land upon which the development is proposed, or their authorized agent.

(C) Application Contents and Form³⁷

The application contents and form shall be in accordance with requirements established and maintained by the Director. Applications may be required to include, without limitation, traffic impact studies, site plans, and other material set out in the application form.

(D) Fees

No application is complete until all required application fees are paid in full. Anyone who commences work before obtaining the necessary permits, or who exceeds the scope of work authorized by the necessary permits, shall be required to pay a penalty fee established in the schedule of fees by the Board of Commissioners, and may be subject to enforcement proceedings in accordance with Article 8: Enforcement.³⁸ The penalty fee may be waived by the Director for good cause³⁹ shown.

³⁶ This is a new section. It establishes the requirements for application submission, including who is allowed to submit an application, authority regarding an application's contents and applicable fees, and other information relevant to a submission. It incorporates aspects of D.S Section 102.3 and Secs. 134-121 & 343 of the current Zoning Ordinance. It is drafted in general terms to provide the Director flexibility to establish and revise internal policies. The subsections below are all new unless otherwise stated.

³⁷ This section is new and allows the Director to establish application requirements; this streamlines the UDC by allowing the removal of specific application requirements from the Ordinance, and provides staff with the flexibility to adjust application requirements without amending the Ordinance.

³⁸ The second part of this subsection carries forward the penalty fee provision that applies to sign permits in Section 134-136 of the current Zoning Ordinance and is applied to all development applications.

³⁹ This is intended to provide an opportunity for the Director to waive a penalty fee in appropriate, infrequent circumstances, such as if there is a misunderstanding about the required permits.

(E) Schedule and Review

The schedule for application submission and review, including time frames for review, shall be established and maintained for each application type by the Director and made available to the public.

(F) Revision of Application

- (1)** An applicant may submit a revised application after receiving initial staff review comments on the application or on requesting and receiving permission from a decision-making body or the Planning Commission after that body has reviewed but not yet made a decision on the application. Revisions shall be limited to changes that directly respond to specific requests or suggestions made by the Director or the decision-making body or the Planning Commission, as long as they constitute only minor additions, deletions, or corrections, and do not include significant substantive changes to the plan for development proposed in the application.
- (2)** Any other revisions to the application may be submitted at any time during the review procedure, but the revised application shall be submitted and reviewed as if it were a new application, and may be subject to additional application fees to defray the additional costs of processing the revised application, at the Director's discretion.

(G) Withdrawal of Application⁴⁰

- (1)** An application may be withdrawn upon request by all applicants, without prejudice to refile, in accordance with the following:
 - (a)** By right, if the development application does not require a public hearing, and the request is made in writing by all applicants at any time before a decision is made.
 - (b)** By right, if the development application requires a public hearing before the Planning Commission, and the request is made in writing by all applicants at least seven days ahead of the public hearing before the Planning Commission.
 - (c)** With permission of the Planning Commission, if the development application requires a public hearing before the Planning Commission, and the request is made in writing by all applicants fewer than seven days ahead of the public hearing before the Planning Commission.
 - (d)** With permission of the Planning Commission, if the request is made in writing by all applicants or verbally during a public hearing held by the Planning Commission prior to the close of the public hearing on that matter. For purposes of this paragraph, the public hearing shall be deemed closed when the chair announces the hearing is closed.
 - (e)** With permission of the Board of Commissioners, at any time.⁴¹
- (2)** An application may not be withdrawn following a decision by the Board of Commissioners on the application.

⁴⁰ This carries forward the current withdrawal regulations in Section 134-121(e) of the current Zoning Ordinance with restructuring for clarity.

⁴¹ Section 134-121(e)1) of the current Zoning Ordinance establishes the same authorization for withdrawal during a public hearing in front of the Board of Commissioners as during a public hearing in front of the Planning Commission as carried forward in subsection (D). However, Section 134-124(b) grants the Board of Commissioners the authority to "allow an application to be withdrawn without prejudice with respect to the 12-month limitation of this division." These two provisions conflict, and we have carried forward the provision which grants broader power to the Board of Commissioners.

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Section 2.4. Standard Application Requirements and Procedures

- (3) An application that is not withdrawn in accordance with subsection (1) above shall be deemed a denial of the application in accordance with Section 2.4.7, Decision-Making Body Review and Decision, and the regulations that apply to the specific application type.
- (4) An applicant who withdraws the same or similar application more than once shall be subject to the limitations on application submission in Section 2.4.9(C), Limitation on Subsequent Applications.⁴²
- (5) If an applicant requests or causes continuing postponement of submissions or actions required to complete the application review process, and this results in six or more months of inaction in the review of the application, the Director may consider the application withdrawn and shall notify the applicant in writing if so.⁴³

(H) Simultaneous Processing of Applications⁴⁴

- (1) Whenever two or more forms of review and approval are required under this Ordinance, at the applicant's request, the Director may but is not required to allow applications for those development approvals or permits may be processed simultaneously when appropriate as long as all applicable state and local requirements are satisfied. Simultaneous processing of applications may result in additional fees to the applicant.
- (2) No permits or other applications that are contingent on an amendment to the Official Zoning Map will be issued or approved until a final decision on the Official Zoning Map amendment has been made.

2.4.2. Determination of Completeness⁴⁵

(A) Completeness Review

Within fifteen business days⁴⁶ after submittal of an application, the Director shall determine whether the application is complete or incomplete. A complete application is one that:

- (1) Contains all application content requirements established for the particular type of application in accordance with Section 2.4.1(C), Application Contents and Form;
- (2) Is in the form required for submittal of the particular type of application in accordance with Section 2.4.1(C), Application Contents and Form;
- (3) Includes information in sufficient detail to evaluate the application to determine whether it complies with the appropriate substantive standards of this Ordinance; and
- (4) Is accompanied by the application and all required fees established for the particular type of application.

(B) Application Incomplete

- (1) If it is determined the application is incomplete, the Director shall send written notice to the applicant of the submittal deficiencies and advise that review of the application shall not proceed until a complete application is submitted. The applicant may correct the deficiencies and resubmit the application for completeness determination.

⁴² In the current Zoning Ordinance, this limitations on withdrawal and refiling of the same or similar applications applies only to limited applications that require a public hearing. This expands the limitation to all types of development applications.

⁴³ This is new and allows staff to deem applications withdrawn when the applicant has not taken steps to move it forward in the process.

⁴⁴ This carries forward Section 134-6 of the current Zoning Ordinance with revisions for clarity and compatibility.

⁴⁵ This is a new section that incorporates standards from the sign permit application requirements in Section 134-343(d) of the current Zoning Ordinance and the requirements in D.S. Section 102.1.

⁴⁶ Section 134-343(d) of the current Zoning Ordinance provides for a 45-day window for sign permit completeness review. We recommend a shorter timeframe and have recommended 15 days.

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Section 2.4. Standard Application Requirements and Procedures

- (2) If the applicant fails to resubmit a complete application within the timeframe established in the notification of submittal deficiencies, the application shall be considered withdrawn.
- (3) If the applicant submits additional materials in an attempt to complete an application, the submission date of the entire application shall be considered the most recent date material was submitted.
- (4) Notwithstanding the other provisions of this subsection, after an application is determined to be incomplete three times, the applicant may request, and the Director shall undertake, processing and review of the application, except that an applicant may not request processing and review of an incomplete application that requires notarized signatures if those signatures have not been provided.⁴⁷

(C) Application Complete

If the application is determined complete, or if the applicant has requested that the application be processed in accordance with subsection (B)(4) above, the application shall be reviewed in accordance with the procedures and standards of this Section 2.4.

2.4.3. Neighborhood Meeting⁴⁸

(A) Purpose

The purpose of the neighborhood meeting is to provide an opportunity early in the application process for landowners and neighboring residents to learn about a proposed development near their properties and provide input and concerns, and for the applicant and neighbors to resolve conflicts in an informal setting before the public review and hearing process begins.

(B) Applicability

A neighborhood meeting shall be held following submission of applications for any of the following applications:

- (1) Section 2.5.1, Official Zoning Map Amendment, if the amendment would increase density/intensity, or is adjacent to single-family development or a single-family zoning district;
- (2) Section 2.5.2, Planned Development; and
- (3) Section 2.5.4, Special Land Use Permit.

(C) Procedure

(1) Meeting Location and Time

The neighborhood meeting shall be held at a time and a location that is convenient and generally accessible to neighbors residing in proximity to the land subject to the proposed application. An applicant shall coordinate with the Director regarding the availability of and reserving of appropriate space.

(2) Notification

(a) Mailed Notice

The applicant shall mail notice of the meeting a minimum of 14 days in advance of the meeting to:

- (A) The Director;

⁴⁷ This is a new provision that allows an applicant to insist that an application be reviewed even if staff does not consider it complete, to address potential due process concerns.

⁴⁸ This is a new provision that requires a neighborhood meeting before submission of certain applications. It is discussed in Sec 1.5.2(d) of the Code Assessment, pp. II-20 & 21.

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Section 2.4. Standard Application Requirements and Procedures

- (B) The owner of land subject to the application (if different from the applicant); and
- (C) Any persons to whom mailed notice of a public hearing is required by Section 2.4.5(B)(3)(c), Mailed Notice.

(b) Posted Notice

The applicant shall post notice of the neighborhood meeting on the land subject to the application at least 14 days before the date of the meeting, in a form established administratively by the Director.

(c) Content of Notice

(A) The mailed notice shall state the time and place of the meeting, describe the purpose of the meeting, include a basic map identifying the land associated with the proposed development, summarize the general nature of the plan for development, provide a phone number or email address to contact to report any disabilities or interpretive services needed, and identify the type of development approval or permit sought.

(B) The posted notice shall state the time and place of the meeting, provide the name of the development application, provide a means for learning additional information about the address such as a phone number, email address, or website address, and identify the type of development approval or permit sought.

(3) Conduct of the Meeting

The meeting shall be open to the public. At the meeting, the applicant shall explain the development proposal and application, describe the application review process, respond to questions and concerns that attendees raise about the proposed application, and discuss ways to resolve conflicts or concerns. County staff may attend the meeting to answer questions about the Ordinance and the general development review process.

(4) Written Summary of Meeting

After the conclusion of the meeting, the applicant shall prepare a written summary of the meeting that includes a list of meeting attendees, a summary of attendee comments and issues discussed related to the development proposal, and any other information the applicant deems appropriate. The summary shall be submitted to the County within seven days after the neighborhood meeting has been held. The meeting summary shall become part of the application record.

(5) Response to Summary

Any person who attends the neighborhood meeting may submit a written response to the applicant's meeting summary after the application is determined complete. The response may state that person's understanding of attendee comments, discuss issues related to the development proposal, and include any other information deemed appropriate. The written response shall be submitted to the Director. All such written responses shall be appended to the staff report.

2.4.4. Staff Review and Action⁴⁹

(A) Staff Review and Opportunity to Revise Application

- (1) The Director shall distribute the completed application to appropriate County staff and review agencies for review and comment.
- (2) County staff shall review the application, relevant support material, and any comments or recommendations from County staff and any other review agencies to which the application was referred. If deficiencies in complying with the applicable review standards of this Ordinance are identified, the Director shall notify the applicant of the deficiencies and provide the applicant a reasonable opportunity to discuss the deficiencies and revise the application to address them, in accordance with Section 2.4.1(F), Revision of Application.

(B) Application Subject to Director Recommendation and Report

- (1) If an application is to be reviewed by or a recommendation given by the Director, County staff shall, following completion of staff review, prepare a staff report that addresses the application's compliance with applicable review standards and provide the staff report to the Director. The Director shall, if applicable, recommend action on the application, including any recommended modifications or conditions of approval.
- (2) The Director shall transmit the application and staff report and any recommendation to the appropriate decision-making body or the Planning Commission (when applicable) and the applicant, and make a copy of the staff report available for examination by the public within a reasonable time before the hearing on the application.

(C) Application Subject to Decision by Staff

(1) Decision

Applications subject to a final decision by the Director or the DRC shall receive one of the allowed decisions that is based on the review standards for the specific type of application in Section 2.5, Application-Specific Review Procedures and Decision Standards.

(2) Conditions of Approval

If permitted for the particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Decision Standards, approval of an application may be subject to conditions of approval. Any conditions of approval shall be expressly set forth in the approval, shall be limited to conditions deemed necessary to ensure compliance with the requirements and particular standards of this Ordinance, and shall relate in both type and scope to the anticipated impacts of the proposed development.

2.4.5. Public Hearing and Notice⁵⁰

If the application is subject to a public hearing by decision-making body or the Planning Commission, the decision-making body or the Planning Commission shall hold the public hearing in accordance with state law, the rules that apply to the decision-making body or the Planning Commission, and the following

⁴⁹ This carries forward parts of Secs. 134-122 and 134-343(d) & (e) of the current Zoning Ordinance and expands both to establish standard review procedures for staff to review and take action on an application. Section 134-343(b) establishes basic rules of notice for any communications with the applicant that do not regard a public hearing. This section has been removed since it overlaps with Section 2.4.5, Public Hearing and Notice.

⁵⁰ This carries forward Section 134-121(d), 134-124, 134-32 of the current Zoning Ordinance, incorporating the 2023 Code Amendments to Chapter 134 adopted June 27, 2023. These amendments state that "any rules and procedures adopted by the board of commissioners, planning commission or board of zoning appeals shall contain, at minimum, the following..." The Zoning Ordinance was amended in order to bring the Code into compliance with the 2022 amendments to O.C.G.A § 36-66-5(a), which requires certain policies and procedures be adopted for the execution of quasi-judicial and zoning decisions.

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procedures as appropriate for the type of hearing, with appropriate public notice provided as set forth in this section:

(A) Scheduling

- (1) Table 2-2: Notice Requirements for Public Hearings summarizes the types of applications that require public hearing(s) under this Ordinance, and for each application lists the type of public hearing (zoning or quasi-judicial) and any modifications to the standard notice procedure set forth in subsection 2.4.5(B), Notification.⁵¹
- (2) If an application is subject to a public hearing, the Director shall ensure that the hearing on the application is scheduled for a regularly scheduled or specially called meeting of the body conducting the hearing.
- (3) The hearing on the application shall be scheduled to allow sufficient time for preparation and distribution of any required staff report, for public notification in accordance with this section, and to comply with state law.⁵²

(B) Notification

(1) General

Public notice is required ahead of public hearings held by a decision-making body or the Planning Commission in accordance with the standards in this section.

(2) Public Notification

All public hearings shall be noticed in accordance with state law, Table 2-2: Notice Requirements for Public Hearings and subsection (3) below.

Table 2-2: Notice Requirements for Public Hearings

Z = Zoning Decision Q = Quasi-Judicial				
PC = Planning Commission BZA = Board of Zoning Appeals BoC = Board of Commissioners				
Application Type	Section	Decision Type	Public Hearing Body	Modification to Standard Notice Requirement [1]
Discretionary Approvals				
Official Zoning Map Amendment ⁵³	2.5.1	Z	PC BoC	When County-initiated, impacted property owners must be notified at least 15 days before consideration via certified mail.
Planned Development	2.5.2	Z	PC BoC	

⁵¹ The distinction between quasi-judicial decisions and zoning decisions is small in this UDC. See Section 2.4.9(A), Appeal for a more detailed discussion about why it is included.

⁵² State law requires that the public hearing be scheduled several months in advance of a final action for a rezoning request that would allow for halfway house, drug rehabilitation centers, or other drug treatment centers, or in many cases for an amendment to the UDC that allows multifamily housing in zoning districts or that previously allowed single-family residential uses. O.C.G.A. § 36-66-4.

⁵³ This carries forward the requirements of Section 134-121(c) of the current Zoning Ordinance.

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Table 2-2: Notice Requirements for Public Hearings

Z = Zoning Decision Q = Quasi-Judicial				
PC = Planning Commission BZA = Board of Zoning Appeals BoC = Board of Commissioners				
Application Type	Section	Decision Type	Public Hearing Body	Modification to Standard Notice Requirement [1]
Special Land Use Permit ⁵⁴	2.5.4	Z	PC BoC	
Site Plan/Stipulation Amendment ⁵⁵	2.5.5	Z		No posted or mailed notice is required.
Temporary Land Use Permit ⁵⁶	2.5.3	Z	PC BoC	Mailed notice not required, except to applicant property owner.
Permits and Other Approvals				
Chattahoochee River Development Certification	2.5.12	Z		Refer to Metropolitan River Protection Act Review process, available from the Director.
Electronic Sign Upgrade Permit	2.5.14	Q	BoC	
Building Moving Permit	2.5.20	Q	BoC	Only applicable when moving a building within the boundaries of Cobb County.
Relief and Interpretation				
Variance ⁵⁷		Q	BZA	Mailed notice not required, except to applicant property owner, and published notice not required.
Appeal of Administrative Decision ⁵⁸	2.5.19	Q	BZA	Mailed notice not required, except to applicant property owner, and published notice not required.

⁵⁴ This carries forward the requirements of Section 134-37(c) of the current Zoning Ordinance. The current Ordinance is ambiguous about the requirement for mailed notice, but that requirement has not been included here.

⁵⁵ This carries forward the requirements of Section 103.40 of the Development Standards.

⁵⁶ This carries forward the requirements of Section 134-36(c) of the current Zoning Ordinance. The current Ordinance is ambiguous about the requirement for mailed notice, but staff reports that mailed notice is not provided for temporary land use permits, and so the mailed notice requirement has not been included here.

⁵⁷ This carries forward the requirements of Section 134-34(b) of the current Zoning Ordinance, as well as the requirements for public notice for quasi-judicial actions in O.C.G.A. § 36-66-4(g).

⁵⁸ This carries forward the requirements of Section 134-95(c) of the current Zoning Ordinance as well as the requirements for public notice for quasi-judicial actions in O.C.G.A. § 36-66-4(g).

Table 2-2: Notice Requirements for Public Hearings

Z = Zoning Decision Q = Quasi-Judicial				
PC = Planning Commission BZA = Board of Zoning Appeals BoC = Board of Commissioners				
Application Type	Section	Decision Type	Public Hearing Body	Modification to Standard Notice Requirement [1]

Notes:

[1] The standard notice requirements are listed in Section 2.4.5(B)(3), Public Notice Requirements.

(3) Public Notice Requirements

There are three types of public notice—posted notice, published notice, and mailed notice, as described below. Each type of notice is required for all application types listed in Table 2-2: Notice Requirements for Public Hearings, as modified by the right-most column in Table 2-2, Modification to Standard Notice Requirement.

(a) Posted Notice Requirement

- (A)** The applicant shall post and maintain signs supplied by the Director on or near the right-of-way of the nearest public street to the property that is subject to the proposed action. One sign shall be posted for each 500 feet of street frontage or fraction thereof. Each sign shall comply with state law and include the information required for posted notice in subsection (4) below. Each sign shall be posted during a period beginning at least 30 days before the date of any public hearings on the application until a final decision by the applicable decision-making body.⁵⁹
- (B)** If all signs are not posted continuously during the period established in subsection (A) above, the applicable decision-making body or the Planning Commission, in its sole discretion, may require reposting and readvertising prior to any future public hearing, for which the applicant shall pay an additional readvertising fee. The applicable decision-making body or the Planning Commission may also, in its sole discretion, continue, hold, or dismiss the application on the grounds of the applicant’s failure to comply with the above requirements. Any such dismissal shall be deemed a denial of the application in accordance with the decisions authorized for the particular type of application, as set forth in Section 2.5, Application-Specific Review Procedures and Decision Standards, unless the applicable decision-making body or the Planning Commission specifically states the effect of the dismissal is withdrawal of the application without prejudice to refileing.

(b) Published Notice

When required, the Director shall be responsible for publishing notice of a public hearing in a newspaper of general circulation⁶⁰ at least 15 but not more than 45 days

⁵⁹ This carries forward the current 30-day requirement. State law only requires 15 days of posted notice in advance of a hearing.

⁶⁰ Section 134-121 of the current Zoning Ordinance requires, for zoning map amendments, that “The zoning division shall be responsible for advertising in the legal organ of the county pursuant to O.C.G.A. § 36-66-4, as amended from time to time.” However, the term “legal organ” is not used in § 36-66-4. We recommend changing to the language used O.C.G.A. § 36-66-4 for clarity.

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prior to the date of the hearing. The notice shall comply with state law and include the information required for published notice in subsection (4) below.

(c) Mailed Notice

When required, mailed notice shall comply with the following:

- (A)** The applicant shall send written notice via United States Postal Service, via first class mail with a certificate of mailing or certified mail. The notice shall comply with state law and include the information required for posted notice in subsection (4) below.
- (B)** The notice shall be mailed to all property owners within a 1,000-foot radius of the property that is subject to the proposed action, as shown on the most current tax records. The notice shall be postmarked at least 30 days prior to the first hearing for which the application is scheduled to be considered.
- (C)** For development applications that include a quasi-judicial hearing, the party filing an appeal or development application shall send the mailed notice only to the owner of the property that is the subject of the proposed action.⁶¹
- (D)** At least 21 days prior to the first hearing for which the application is scheduled to be considered, the applicant shall file with the Director proof of the mailing required by this section. The Director may continue any pending case for failure to comply with the mailed notice requirements.

(4) Content of Notice⁶²

(a) Posted and Published Notice⁶³

For a development application that is decided upon by the Board of Commissioners, posted notice in accordance with subsection (3)(a) above and published notice in accordance with subsection (3)(b) above shall include the following statement:

“PURSUANT TO THE COBB COUNTY UNIFIED DEVELOPMENT CODE, THE COBB COUNTY BOARD OF COMMISSIONERS IS AUTHORIZED TO CONSIDER AND MAY CONSIDER ALL CONSTITUTIONALLY PERMISSIBLE ZONING CLASSIFICATIONS, INCLUDING, BUT NOT LIMITED TO, INTERVENING CLASSIFICATIONS AND/OR THE CLASSIFICATION(S) SOUGHT BY THE APPLICANT.”

(b) Published and Mailed Notice

All published notice in accordance with subsection (3)(b) above and mailed notice in accordance with subsection (3)(c) above shall, at a minimum:

- (A)** Identify the application;

⁶¹ O.C.G.A. § 36-66-4(g) requires, for public hearings in quasi-judicial actions, “additional notice being mailed to the owner of the property that is the subject of the proposed action.” The statute does not identify who should send this mailed notice, and in many cases the owner of the property is the party initiating the quasi-judicial action. Therefore, we have required that the applicant transmit the notice to the owner, and assume that if the applicant is the owner, they will have notice of the hearing.

⁶² This new section clarifies the information that is required to be included on the public notice. It includes information sufficient to identify the application and opportunities to provide public comment. This updates Section 134-121(c)(3) in the current Zoning Ordinance, which requires that the “applicant/representative mail[] a copy of the application”. Applications can be hundreds of pages long, and we assume that current practice is not to include a copy of the entire application in the mailed notice.

⁶³ This language should only be included when the Board of Commissioners makes a decision on the application, and not for decisions decided upon by, for example, the Board of Zoning Appeals. Therefore, this has been updated to not apply to decisions such as variances that are not decided upon by the Board of Commissioners.

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- (B) Describe the nature and scope of the proposed development or action;
- (C) Identify the location of land subject to the application (not applicable to notices posted on the subject property);
- (D) If an application for an Official Zoning Map Amendment filed by a party other than the County, identify the current zoning district that applies to the property, and the zoning district proposed to be applied to the property;
- (E) Identify the date, time, and location of the public hearing(s) being noticed;
- (F) Indicate how and where written comments on the application may be submitted before the hearing;
- (G) Indicate how and where additional information about the application and review process may be obtained (such as a phone number or website); and
- (H) Comply with any other notice content requirements established by state law.

(5) Effect of Deferral or Continuation of Hearing

An action by a decision-making body or the Planning Commission to defer or continue an application shall include a statement of the date and time of the next meeting at which the application will be considered, and no further mailed notice is required.⁶⁴

(C) Public Hearing

(1) Agenda⁶⁵

- (a) An agenda for the meetings shall be established by the Director and available to the members of the board and the public in advance of the public meeting.
- (b) A portion of the agenda may be designated as a consent agenda and all items listed within that portion may be voted on as a whole following the presentation of the consent items. Any board member or any member of the public may have an item withdrawn from the consent agenda so that it will be placed on the regular agenda for a full public hearing.

(2) Attendance⁶⁶

The applicant or representative of the applicant shall be required to attend all public hearings on the application. The failure to attend may result in dismissal with prejudice, rejection of the application, or continuance of the hearing at the Planning Commission or decision-making body's sole discretion. If the applicant(s) or their representative fail to appear at the next regularly scheduled hearing following one continuance, the application will be automatically dismissed with prejudice. This attendance requirement for land use permits may be waived by the Director based upon medical hardship or other emergency.

(3) Presentations⁶⁷

Representatives/applicants, as a group, and representatives/opponents as a group, shall have a maximum of ten minutes for each side to present its case, unless the applicable decision-making body or the Planning Commission allows more time.⁶⁸ No further public

⁶⁴ This carries forward Section 134-124 of the current Zoning Ordinance.

⁶⁵ This carries forward Section 134-32(b)(1) of the current Zoning Ordinance.

⁶⁶ This carries forward Section 134-121(d) of the current Zoning Ordinance.

⁶⁷ This carries forward Section 134-32(b)(2) of the current Zoning Ordinance.

⁶⁸ Section 134-32 does not specify how much additional time may be allocated. The current regulations allow the extension if "by general consensus, more time is allotted by the respective board."

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input shall be allowed except responses to questions asked by members of the decision-making body or the Planning Commission.

(4) Swearing in of Witnesses⁶⁹

All witnesses for the applicant(s) or their representatives and for the opponents or their representatives, if applicable, shall be sworn in prior to making their presentations.

(5) Voting⁷⁰

The decision-making body or the Planning Commission shall discuss the application and make a recommendation or decision on an application, as applicable, following the close of the public hearing.

(6) Record of Hearing Proceedings⁷¹

The body conducting the public hearing shall record the proceedings by any appropriate means. If a video or sound recording is made, any person shall be entitled to watch or listen to the recording at a reasonable time. The public hearing record shall include the application, the staff report, any board proceedings, board or staff recommendations on the application, all testimony offered at the hearing, all written materials concerning the application presented or entered into the record at the hearing, and any other materials used to evaluate the case or provided by the applicant, the opponent, or their representatives.⁷²

2.4.6. Planning Commission Review and Recommendation⁷³

If an application is subject to a recommendation by the Planning Commission, the Planning Commission shall review and act on the application in accordance with the requirements in this subsection.

(A) General

The Planning Commission shall hold any required public hearing in accordance with Section 2.4.5, Public Hearing and Notice. At the hearing, the Planning Commission shall consider the application, relevant support materials, the staff report, and any public comments, and then recommend one of the decisions authorized for the particular type of application, based on the decision standards applicable for the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Decision Standards.

(B) Statement of Basis for Recommended Decision

The Planning Commission's recommendation shall state the basis or rationale for the recommended decision.

(C) Timing⁷⁴

- (1)** The Planning Commission shall take action within any time period specified in Section 2.5, Application-Specific Review Procedures and Decision Standards, for the type of application.
- (2)** If the Planning Commission continues or holds a development application, any two members of the Board of Commissioners may submit a clerk's note during a Board of Commissioners' meeting where zoning cases are being considered that directs the

⁶⁹ This carries forward Section 134-121(b)(3) of the current Zoning Ordinance.

⁷⁰ This carries forward and revises Section 134-32(b)(4) of the current Zoning Ordinance.

⁷¹ This is a new subsection. It incorporates public hearing requirements from Secs. 134-63 134-93, and 134-123 of the current Zoning Ordinances and includes new requirements for public access to video or sound recordings.

⁷² This new subsection reiterates and expands the provision that requires a recording to be made in Sec.2.4.7(B), Review and Decision so as to provide a record of the proceedings, especially in case of an appeal.

⁷³ This new section outlines the required procedures for review and recommendation where the Planning Commission is charged with making a recommendation to the Board of Commissioners.

⁷⁴ This subsection carries forward Section 134-123(b) of the current Zoning Ordinance.

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Planning Commission to consider and a make a decision on the application at the next Planning Commission hearing.

(D) Conditions of Approval

If permitted for the particular type of application as set forth in Section 2.5, Application-Specific Review Procedures and Decision Standards, the Planning Commission may recommend conditions of approval. Conditions of approval shall relate in both type and extent to the anticipated impacts of the proposed development.

2.4.7. Decision-Making Body Review and Decision⁷⁵

If an application is subject to a final decision by Board of Commissioners or Board of Zoning Appeals, the decision-making body shall review and decide the application in accordance with the following procedures.

(A) Timing

The decision-making body shall take action within any time specified in this Ordinance or established by the Director for the type of application. If no time period is specified, the decision-making body shall take action as promptly as reasonably possible in consideration of state law and the interests of the applicant, affected parties, and citizens of the County.

(B) Review and Decision

- (1) The decision-making body shall hold any required public hearing in accordance with Section 2.4.5, Public Hearing and Notice, and shall consider the application; relevant support materials; the staff report; any staff, DRC, or Planning Commission recommendations, if applicable; and any public comments, materials, information, and testimony entered into the record at the hearing. It shall then make one of the decisions authorized for the particular type of application, based on the review standards applicable to the application type, as set forth in Section 2.5, Application-Specific Review Procedures and Decision Standards. The decision-making body shall issue a written decision that states the factors considered in its decision and the basis or rationale for the decision.
- (2) In addition, if the application is subject to a quasi-judicial public hearing as set forth in Table 2-2: Notice Requirements for Public Hearings, the decision-making body's review and decision shall be based on whether the application meets all applicable requirements of this Ordinance, based on the entirety of the record before the decision-making body.
- (3) If the Board of Commissioners is the decision-making body, it may remand the application to the Planning Commission or DRC for further consideration of any issue before making its decision.

(C) Conditions of Approval

If permitted for a particular type of application in accordance with Section 2.5, Application-Specific Review Procedures and Decision Standards, approval of an application may be with conditions of approval. Conditions of approval must relate in both type and extent to the anticipated impacts of the proposed development.

(D) Effect of Approval

Approval of an application in accordance with this Ordinance authorizes only the particular use, plan, or other specific activity approved, and not any other development requiring separate application and approval. If one development approval or permit is a prerequisite to another

⁷⁵ This is a new section that addresses the last step of the review process, where the decision-making bodies review and then approve, approve with conditions, or deny an application. It requires final decision to clearly state any conditions of approval. The subsection also outlines procedural requirements for public hearings. It also establishes rules for conditions of approval (when they can be included in an approval), when the approval (development order) lapses, and modifications to development orders.

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development approval or permit (e.g., variance approval prior to a site plan), development may not take place until all required approvals or permits are obtained. Approval of one development application does not necessarily guarantee approval of any subsequent development application.

2.4.8. Notification to Applicant of Decision⁷⁶

- (A) For decisions made by the Board of Commissioners (see Section 2.3.1) or the Board of Zoning Appeals (see Section 2.3.2(B)) the written minutes of the meeting in which a final decision was made on an application shall serve as notice to the applicant of the decision.
- (B) For decisions made by the Community Development Director (see Section 2.3.4(B)) or the Development Review Committee (see Section 2.3.5(B)), within 14 days after a final decision on an application, the Director shall provide the applicant written notice of the decision and, in the case of denial, a written explanation of the reason for the denial. The written notice may be sent via first-class mail or by electronic means. A copy of the decision shall also be made available to the public in the Community Development Agency.⁷⁷

2.4.9. Post-Decision Limitations and Actions

(A) Appeal

- (1) A party aggrieved or adversely affected by a final decision may appeal the decision in accordance with the procedures and standards in Section 2.5.19, Appeal of Administrative Decision, as specified in Section 2.5, Application-Specific Review Procedures and Decision Standards for the particular type of application procedure.⁷⁸
 - (a) Appeal may be taken to Board of Commissioners on final decisions on:
 - (A) Final Plat (see Section 2.5.7(E)); and
 - (B) Land Disturbance Permits (see Section 2.5.10) in accordance with Section 50-79, Appeal of Administrative Decision; Judicial Review, of the County Code.
 - (b) Appeal may be taken to the BZA on final decisions on the following applications:
 - (A) Special Exception, see Section 2.5.9;
 - (B) Zoning Compliance Permit, see Section 2.5.11;
 - (C) Sign Permit, see Section 2.5.13;
 - (D) Administrative Variance, see Section 2.5.15;
 - (E) Modification Due to Nonconformity, see Section 2.5.16;
 - (F) Interpretation, see Section 2.5.18; and
 - (G) Building Moving Permit, see Section 2.5.20;
 - (c) Appeal may be taken to the DAC on final decisions on the following application:

⁷⁶ This time limit is new. The only other time limit for notification in the current Zoning Ordinance is in Section 134-343(e), which requires notice of denial of a sign permit within 45 days of the decision to deny the permit. However, that is a very long window for notification, so we have shortened it to a period typical in other communities. Otherwise, this carries forward the first half of Section 134-343(e) of the current Zoning Ordinance, regarding sign permits. This is the only section of the current regulations that provide a decision-notification procedure outside of D.S. 108.21, regarding tourist courts.

⁷⁷ Notifications pertaining to communication tower installations that are regulated by the Federal Communications Commission will be located in the telecommunications section of Article 4: Use Regulations.

⁷⁸ This subsection is new. It lists the applications that may be appealed to the Board of Commissioners or the BZA.

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(A) Construction Plan, see Section 2.5.7(D).

- (2)** An appeal stays all legal proceedings resulting from the action appealed, unless the Director or other officer whom the appeal is taken certifies to the appellate body that because of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings will not be stayed unless via a restraining order, granted by the appellate body or by a court with jurisdiction, following notice to the officer from whom the appeal is taken, and for due cause shown.⁷⁹
- (3)** An appeal is timely only if notice of the appeal is submitted to the Director within 30 days of the notice of the final decision, in accordance with Section 2.4.8, Notification to Applicant of Decision.⁸⁰
- (4)** A party aggrieved or adversely affected by any decision for which no further relief is provided by this Ordinance may seek review of the decision in superior court in accordance with state law.⁸¹
- (5)** The chairperson of the Board of Commissioners or the Board of Zoning Appeals, as applicable, is authorized to approve or issue any form or certificate necessary to perfect the petition in O.C.G.A. § 5-3-1 *et seq*, without additional approval from the board.⁸²

(B) Expiration⁸³

- (1)** Development orders shall expire as provided in Section 2.5, Application-Specific Review Procedures and Decision Standards, for each type of application. If no expiration period is provided for the specific type of development order, and if no expiration period is imposed as part of the approval by the decision-making body, the development order shall expire if further development approvals or a building permit are required and are not applied for within six months of the order's issuance or if, after a building permit is obtained, construction activity is discontinued for a period of six months.⁸⁴
- (2)** A change in ownership of the land that is the subject of a development order shall not affect the established expiration period for the development order.⁸⁵
- (3)** A one-year extension of the expiration time-period for a specific development order may be awarded by the decision-making body that granted the development order upon the applicant's submission of a written request for extension to the Director before the expiration date, and a showing of good cause.⁸⁶

⁷⁹ This subsection carries forward Section 134-95(b) of the current Zoning Ordinance.

⁸⁰ This subsection carries forward Section 134-343(e) of the current Zoning Ordinance's sign article regarding the timing of appeals and generalizes it to other applications.

⁸¹ This carries forward and simplifies Section 134-96 and Section 134-128 of the current Zoning Ordinance and to conform with changes in appellate procedure in HB 916 (2022), codified in O.C.G.A. Title 5, Chapter 3. Time limits have been removed, as state law establishes time limits for filing petitions for review. O.C.G.A. § 5-3-7(a).

⁸² This carries forward Section 134-128(b) and Section 134-96(b) of the current Zoning Ordinance.

⁸³ This subsection provides a general rule that governs the expiration of approved development orders where no action has been taken. The six-month period is carried forward from D.S. Section 102.5, which describes the active duration of a land disturbance permit. Otherwise, the language is new.

⁸⁴ The length of the expiration period is under continued discussion with staff.

⁸⁵ This subsection is new. It makes explicit that the expiration period for a development order will not be affected by a change in ownership of the land.

⁸⁶ This subsection is new. It provides for an extension of the expiration period for a development order, provided the applicant has submitted a written request and the extension is awarded by the decision-making body that granted the original development order.

(C) Limitation on Subsequent Applications⁸⁷

(1) General

If an application requiring a public hearing is denied or is withdrawn by the applicant more than one time, no application proposing the same or similar development on all or part of the same land shall be submitted within one year after the date of denial unless the decision-making body waives this time limit in accordance with subsection (2) below.⁸⁸

(2) Exception

(a) An applicant may submit an application for an amendment to the Official Zoning Map to a more restrictive classification than the application previously denied, or denied without prejudice, no less than six months after the date of denial.⁸⁹

(b) The Board of Commissioners may consider property for rezoning within the six-month time period in connection with settlement of litigation or pursuant to an order by a court of competent jurisdiction. The board shall advertise, post the property, and conduct another public hearing prior to taking such action.⁹⁰

Section 2.5 Application-Specific Review Procedures and Decision Standards

Discretionary Approvals

2.5.1. Official Zoning Map Amendment

(A) Purpose⁹¹

The purpose of this section is to provide a uniform mechanism for reviewing and deciding proposed amendments to the Official Zoning Map (“rezoning”) whenever the public necessity, convenience, general welfare, comprehensive development plan, or appropriate land use policies justify or require doing so.

(B) Official Zoning Map Amendment Procedure⁹²

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to an Official Zoning Map Amendment. Figure 2-1 identifies key steps in the Official Zoning Map Amendment procedure.

⁸⁷ This carries forward Section 134-121(f) (rezoning) of the current Zoning Ordinance with revisions for clarity and applies the standard to all development applications.

⁸⁸ This section carries forward the general provision from Section 134-121(f)(1) of the current Zoning Ordinance.

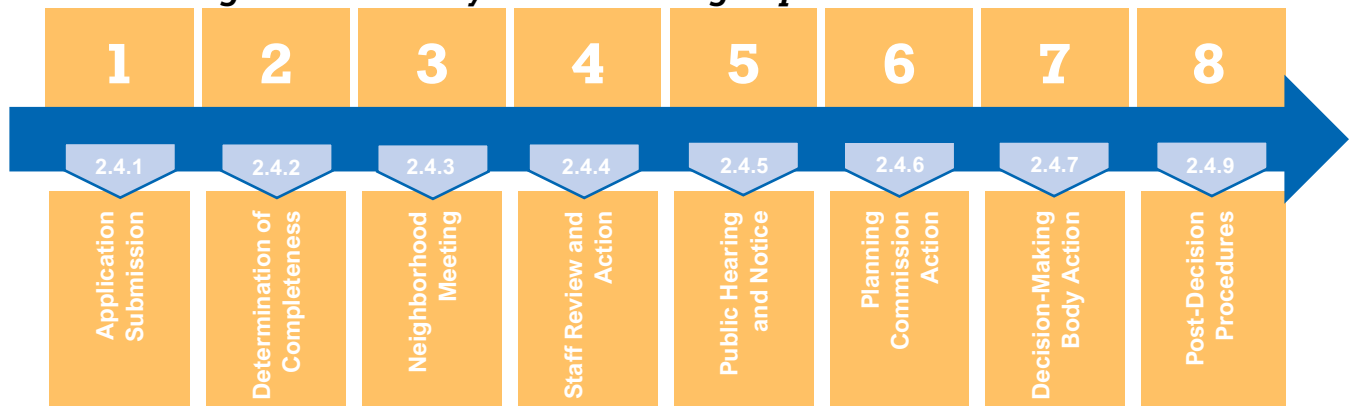
⁸⁹ This section carries forward the exception provision from Section 134-121(f)(1) of the current Zoning Ordinance.

⁹⁰ This section carries forward Section 134-121(f)(2) of the current Zoning Ordinance.

⁹¹ This purpose section is new and establishes the purpose of the zoning map amendment procedure. A purpose section is included for all development application types.

⁹² This establishes the specific procedure for the application type and identified deviations from the standard procedures set out in Section 2.4, Standard Application Requirements and Procedures and describes any points at which the specific procedure for the given application diverges from the standard procedures.

Figure 2-1: Summary of Official Zoning Map Amendment Procedure



(1) Application Submission⁹³

Applicable, see Section 2.4.1, except that for a County-initiated rezoning, the Board of Commissioners shall adopt a resolution authorizing staff to prepare an application and submit it for consideration. An application by a private party shall contain the notarized signature of the applicant and all landowners.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Neighborhood Meeting⁹⁴

Applicable if the amendment would increase the allowable density or intensity on land, is adjacent to existing single-family development, or is adjacent to land in the R-80, R-40, R-30, R-20, R-15, or R-12 zoning districts. See Section 2.4.3.

(4) Staff Review and Action

Applicable, see Section 2.4.3.

(5) Public Hearing and Notice Procedures

Applicable, see Section 2.4.5.

(6) Planning Commission Review and Recommendation

Applicable, see Section 2.4.6. The Planning Commission reviews the application at a public hearing and makes a recommendation based on the review standards in subsection (C) below.

(7) Decision-Making Body Review and Decision⁹⁵

Applicable, see Section 2.4.7. The Board of Commissioners reviews the application at a public hearing and makes a decision based on the review standards in subsection (C) below. The Board of Commissioners' decision shall be one of the following:

⁹³ This subsection carries forward much of Division 4 (Secs. 134-121 to 134-128) of the current Zoning Ordinance. Section 134-125 is removed. We recommend removing all application-specific requirements from the UDC and relocating those to the Development Standards or another document maintained by staff, as discussed in the Code Assessment on page II-23. This makes the regulations more concise and provides staff flexibility to modify application requirements over time.

⁹⁴ Neighborhood meetings only being required in specific scenarios is a best practice intended to reduce the difficulty and duration of the development process by requiring meetings only in situations likely to be controversial.

⁹⁵ This section is new and is included for all application-specific review procedures. It clarifies which body is the decision-making body for this specific application type, and lists the possible decisions that body can make for this type of application.

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- (a) Approval of the application as submitted;
- (b) Approval of the application with modifications, including approving an amendment to a zoning district different from the district proposed in the application, reducing the land area to which the amendment applies, and adding conditions of approval; or
- (c) Denial of the application.

(8) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(9) Post-Decision Limitations and Actions⁹⁶

Applicable, see Section 2.4.9. In addition:

- (a) Approval of an application for an Official Zoning Map Amendment does not ensure the availability of utilities or other infrastructure in connection with development of the site.
- (b) An Official Zoning Map Amendment shall be considered effective upon approval (unless otherwise specified in the approval by the Board of Commissioners) and does not lapse.

(C) Official Zoning Map Amendment Review Standards⁹⁷

The advisability of amending the Official Zoning Map is a decision committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to approve or deny a proposed amendment to the Official Zoning Map, the Board shall weigh the relevance of and consider whether and to what extent the amendment:

- (1) Is consistent with the goals, objectives and policies of the comprehensive plan, including the Future Land Use Map;
- (2) Is consistent with the goals, objectives, and policies of other adopted County plans;
- (3) Would permit a use that is suitable in view of the use and development of adjacent and nearby property;
- (4) Would not adversely affect the existing use or usability of adjacent or nearby property;
- (5) Would not result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, sewer, water, and stormwater infrastructure, or schools;
- (6) Would be compatible with other existing or changing conditions affecting the use and development of the property which support approval of the amendment.

2.5.2. Planned Development⁹⁸

(A) Purpose

Planned developments are amendments to the Official Zoning Map that accommodate developments that are planned and developed under unified control. They allow for flexible standards and procedures conducive to creating more mixed-use, pedestrian-oriented, and otherwise higher quality development than could be achieved through base zoning district regulations, as well as offering enhanced community benefits and amenities. The purpose of this subsection is to provide a uniform mechanism for amending the Official Zoning Map to reclassify land to the PD district (see Section 3.6, Planned Development Districts).

⁹⁶ This section carries forward Section 134-125 of the current Zoning Ordinance.

⁹⁷ This section carries forward and updates Section 134-124(c) of the current Zoning Ordinance.

⁹⁸ This is a new procedure. As discussed in section 1.5.3(a) of the Code Assessment, this procedure offers an applicant flexibility from the strict application of the zoning district regulations and development standards in return for greater development quality, and, in some instances, encouraging preferred development types.

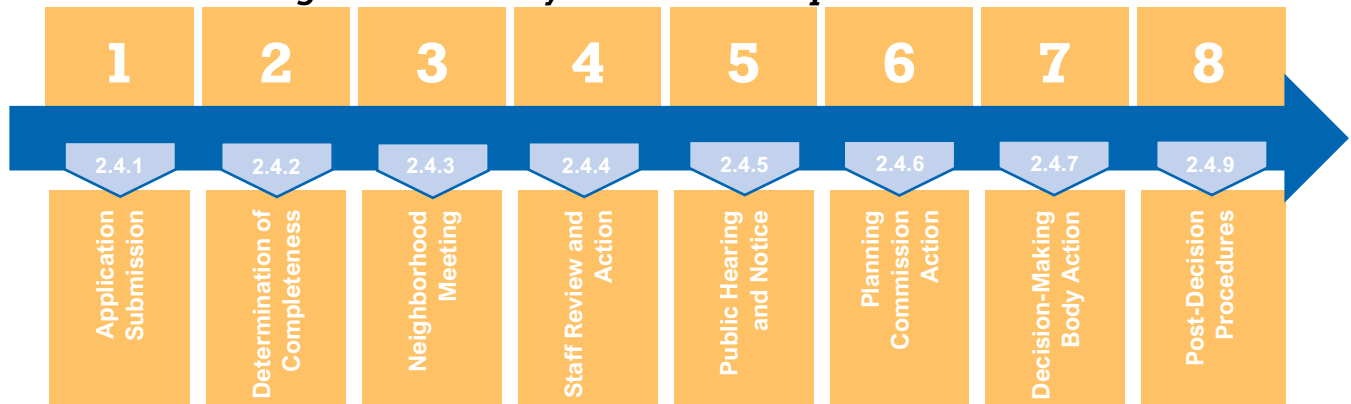
(B) Applicability

A planned development is established by amendment of the Official Zoning Map to a planned development (PD) zoning district classification that is defined by a PD Plan and PD Agreement. Subsequent development within the PD district occurs through the approval of a Subdivision (see Section 2.5.7) or Minor Subdivision (see 2.5.8), as appropriate, to confirm substantial compliance with the PD Plan and PD Agreement.

(C) Planned Development Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Planned Development. Figure 2-2 identifies key steps in the Planned Development procedure.

Figure 2-2: Summary of Planned Development Procedure



(1) Application Submission⁹⁹

Applicable, see Section 2.4.1. The application shall include a PD Plan and PD Agreement in accordance with **Section <>, PD Plan**, and **Section <>, PD Agreement**. An application by a private party shall contain the notarized signature of the applicant and all landowners.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Neighborhood Meeting

Applicable, see Section 2.4.3.

(4) Staff Review and Action

Applicable, see Section 2.4.4.

(5) Public Hearing and Notice Procedures

Applicable, see Section 2.4.5.

(6) Planning Commission Review and Recommendation

Applicable, see Section 2.4.6. The Planning Commission reviews the application at a public hearing and makes a recommendation based on the review standards in subsection (D) below.

⁹⁹ This section carries forward much of Division 4 of the current Zoning Ordinance. Since a planned development is a rezoning, the same stipulations should apply to the application. The requirements for Planned Development applications are similar to those for an Official Zoning Map Amendment (see Section 2.5.1).

(7) Decision-Making Body Review and Decision

Applicable, see Section 2.4.7. The Board of Commissioners reviews the application at a public hearing and makes a decision based on the review standards in subsection in subsection (D) below. The Board of Commissioners' decision shall be one of the following:

- (a)** Approval of the application as submitted, subject to the PD Plan and PD Agreement;
- (b)** Approval of the application subject to additional or modified conditions related to the PD Plan and PD Agreement;
- (c)** Denial of the application.

(8) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(9) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. In addition:

- (a)** Lands amended to a PD district shall be subject to the approved PD Plan and PD Agreement. The PD Plan and PD Agreement are binding on the land as an amendment to the Official Zoning Map, shall be binding on the landowners and their successors and assigns, and shall constitute the development regulations for the land. Development of the land shall be limited to the uses, intensity and density, configuration, and all other elements and conditions set forth in the PD Plan and PD Agreement. The applicant may apply for and obtain subsequent development approval and permits necessary to implement the PD Plan and PD Agreement in accordance with the appropriate procedures and standards set forth in this Ordinance. Any subsequent development approvals or permits shall be in substantial compliance with the PD Plan and PD Agreement. Approval of an application for a Planned Development does not ensure the availability of utilities or other infrastructure in connection with development of the site.
- (b)** Approval of a PD zoning district does not lapse. Approval of the PD Plan and PD Agreement, however, shall automatically lapse unless a construction plan (see Section 2.5.7(D)), a final plat (see Section 2.5.7(E)), or minor subdivision (see Section 2.5.8) for any portion of the PD is approved within five years after approval of the PD district or any other expiration period approved as part of the PD Plan/PD Agreement, unless an extension of such time period is authorized in accordance with provisions in the PD Plan and PD Agreement. If a PD Plan or PD Agreement lapses, the owner of the land in the PD district may apply to amend the planned development zoning classification to incorporate a new PD Plan and PD Agreement, or apply to reclassify the site to another base district.
- (c)** Subsequent applications for a development approval or permit within an approved PD district may include minor deviations from the PD Plan and PD Agreement, provided such deviations are limited to changes that the Director (or, at the Director's discretion, the DRC), determines:¹⁰⁰
 - (A)** Address technical considerations that could not reasonably be anticipated during the PD approval process;
 - (B)** Comply with the Ordinance and other applicable provisions of the County Code; and

¹⁰⁰ The modifications listed here are proposed to be at the Director's discretion to allow because they have minimal impact on surrounding properties and do not impact the intent of the PD district. They are included to streamline the development process.

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- (C) Have no material effect on the character of the approved PD district, and the basic concept and terms and conditions of the PD Plan and PD Agreement. Minor deviations may include, but are not limited to, the following:
 - (1) Realignment of internal roadways or driveways that improve traffic flow, turn movements, or other safety considerations;
 - (2) Structural alterations that do not significantly affect the basic, form, style, and appearance of principal structures and do not increase or reduce the structural square footage of the project by more than five percent;
 - (3) Relocation of the orientation of the footprint of a building, provided it maintains the same distance from existing single-family development;
 - (4) Revisions that do not increase or decrease density, height, intensity, or building coverage, unless a minimum density or intensity has been specified within the PD Plan or PD Agreement, in which case the deviation may only be considered minor if the decrease is less than 15 percent;
 - (5) Revisions that do not reduce transitional buffer widths or the amount of required plantings; and
 - (6) Revisions to signage that do not increase overall sign area by more than ten percent.
- (d) A development order for a PD district and the PD Plan and PD Agreement may be amended only in accordance with the procedures and standards for its original approval.

(D) Planned Development Review Standards

The advisability of amending the Official Zoning Map to approve a Planned Development is a decision committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to approve or deny an application for a Planned Development, the Board shall weigh the relevance of and consider:

- (1) The review standards for an Official Zoning Map Amendment in Section 2.5.1(C), Official Zoning Map Amendment Review Standards; and
- (2) The standards for development in a PD district set forth in **Section <>, PD Plan**.

2.5.3. Temporary Land Use Permit¹⁰¹

(A) Purpose

The purpose of this section is to establish a uniform mechanism for the review and approval of temporary land uses to ensure compliance with this Ordinance and the standards in **Section <>, Temporary Land Uses**.

(B) Applicability

Approval of a temporary land use permit is required prior to the establishment of a temporary use or structure for which a temporary land use permit is required in accordance with **Section <>, Temporary Land Uses**.

¹⁰¹ This section carries forward the procedures in Section 134-36 of the current Zoning Ordinance. The list of uses that required temporary land use permits have been relocated and consolidated with other use regulations in Article 4: Use Regulations. Enforcement provisions in Section 134-36(h) have been relocated to Article 8: Enforcement. This procedure also incorporates the procedure for approval of a temporary mobile home in Section 134-38; the substantive regulations will be relocated to Article 4.

(C) Temporary Land Use Procedure

Figure 2-3: Summary of Temporary Land Use Procedure



(1) Application Submission

Applicable, see Section 2.4.1. An application by a private party shall contain the notarized signature of the applicant and all landowners.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action

Applicable, see Section 2.4.4.

(4) Public Hearing and Notice Procedures

Applicable, see Section 2.4.5.

(5) Planning Commission Review and Recommendation

Applicable, see Section 2.4.6. The Planning Commission reviews the application at a public hearing and makes a recommendation based on the review standards in subsection (D) below.

(6) Decision-Making Body Review and Decision

Applicable, see Section 2.4.7.¹⁰² The Board of Commissioners reviews the application at a public hearing and makes a decision based on the review standards in subsection (D) below. The Board of Commissioners’ decision shall be one of the following:

- (a) Approval of the application as submitted;
- (b) Approval of the application subject to modification and/or conditions of approval; or
- (c) Denial of the application.

(7) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(8) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. In addition:

- (a) A temporary land use permit shall be valid for the period of time specified in the approved permit, or 24 months if no time is specified in the approved permit.

¹⁰² The second clause of Section 134-36(d) of the current Zoning Ordinance, which states that “land use permits that have been in existence for ten years or more from the adoption date of this amendment will continue to be considered upon each renewal, until the use ceases to operate or is relocated,” has not been carried forward.

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- (b) Prior to the expiration of the temporary land use permit, an applicant may apply for renewal of the permit for up to 24 months in accordance with the procedure in this section.¹⁰³
- (c) Following the expiration of the temporary land use permit, all temporary uses and structures shall be removed from the site.
- (d) If the property where a temporary land use permit has been granted is sold or otherwise conveyed, or the business for which the land use permit was granted is sold or otherwise conveyed and requires a change in the business license, the temporary land use permit shall no longer be valid. To continue the temporary use, the applicant shall apply for a new temporary land use permit in accordance with the procedures in this section.

(D) Temporary Land Use Permit Standards¹⁰⁴

The advisability of issuing a temporary land use permit is a decision committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to approve deny an application for a temporary land use permit, the Board shall consider the following factors:

- (1) Safety, health, welfare and moral concerns involving the surrounding neighborhood;
- (2) Parking and traffic considerations;
- (3) Number of nonrelated employees;
- (4) Number of commercial and business deliveries;
- (5) The general presumption of the board of commissioners that residential neighborhoods should not allow noncompatible business uses;
- (6) Compatibility of the business use to the neighborhood;
- (7) Hours of operation;
- (8) Existing business uses in the vicinity;
- (9) Effect on property values of surrounding property;
- (10) Circumstances surrounding neighborhood complaints;
- (11) Intensity of the proposed business use; and
- (12) Location of the use within the neighborhood.

2.5.4. Special Land Use Permit¹⁰⁵

(A) Purpose

A use that is identified as a special land use in **Table ____: Principal Use Table** is a use that requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings because of its nature,

¹⁰³ Section 134-36(d)(5) indicates that temporary land uses, with a few exceptions, may only be renewed once. This restriction is not carried forward.

¹⁰⁴ This updates the criteria in Section 134-36(g) of the current Zoning Ordinance that the Board of Commissioners use when evaluating a temporary land use permit for conciseness and for clarity.

¹⁰⁵ This section carries forward those parts of Section 134-37 of current Zoning Ordinance that relate to procedure for evaluating a special land use application. The remainder of the section lists uses that require special land use permits and some of the standards these uses must meet; those have been consolidated with all use regulations and use-specific standards in Article 4: Use Regulations. Additionally, it consolidates the procedures established in Section 134-39 of the current Zoning Ordinance, which creates the Limited Professional Services permit, and Section 134-38, which creates the Temporary mobile home occupancy and land use permit. The substantive standards for limited professional services and temporary mobile home occupancy will be included in Article 5: Development Standards.

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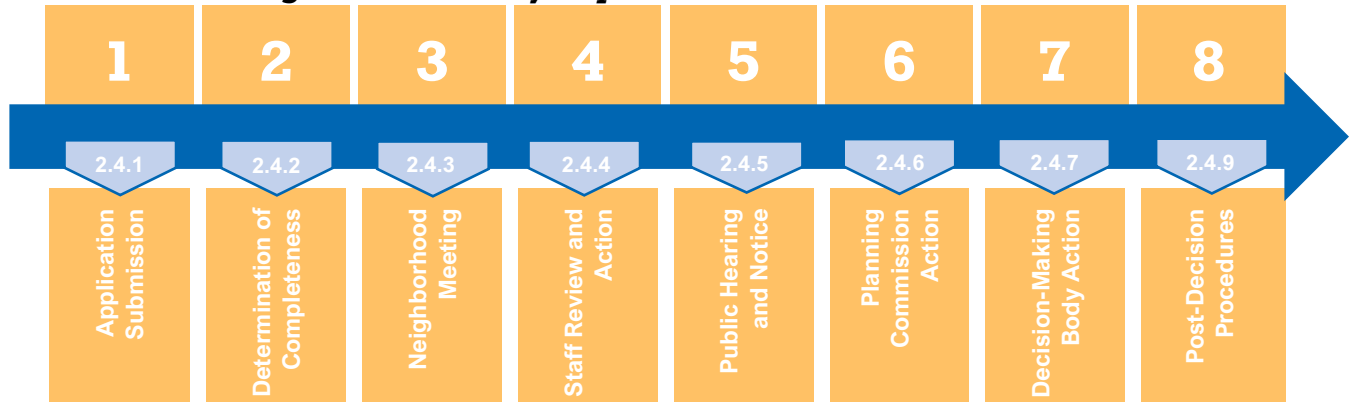
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extent, and external effects. The purpose of this section is to establish a uniform mechanism for the review and approval of special land uses.

(B) Special Land Use Permit Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Special Land Use Permit. Figure 2-4 identifies key steps in the Special Land Use Permit procedure.

Figure 2-4: Summary of Special Land Use Permit Procedure



(1) Application Submission

Applicable, see Section 2.4.1. In addition, the application shall include a site plan. An application by a private party shall contain the notarized signature of the applicant and all landowners.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Neighborhood Meeting

Applicable, see Section 2.4.3.

(4) Staff Review and Action

Applicable, see Section 2.4.4.

(5) Public Hearing Procedures

Applicable, see Section 2.4.5.

(6) Planning Commission Review and Recommendation

Applicable, see Section 2.4.6. The Planning Commission reviews the application at a public hearing and makes a recommendation based on the review standards in subsection (C) below.

(7) Decision-Making Body Review and Decision

Applicable, see Section 2.4.7. The Board of Commissioners reviews the application at a public hearing and makes a decision based on the review standards in subsection (C) above. The Board of Commissioners' decision shall be one of the following:

- (a) Approval of the application as submitted;
- (b) Approval of the application subject to modification and/or conditions of approval; or
- (c) Denial of the application.

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(8) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(9) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9.

(a) In addition, approval of a special land use permit is subject to the site plan approved by the Board of Commissioners.

(b) A special land use permit shall be considered effective upon approval and does not lapse.

(C) Special Land Use Permit Standards¹⁰⁶

The advisability of issuing a special land use permit is a decision committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to approve or deny an application for a special land use permit, the Board shall weigh the relevance of and consider if the applicant has demonstrated whether:

- (1)** There will be a significant adverse effect on the neighborhood or area in which the proposed use will be located;
- (2)** The use is otherwise compatible with the neighborhood;
- (3)** The use proposed will result in a nuisance as defined under state law;
- (4)** Quiet enjoyment of surrounding property will be adversely affected;
- (5)** Property values of surrounding property will be adversely affected;
- (6)** Adequate provisions are made for parking and traffic considerations;
- (7)** The site or intensity of the use is appropriate;
- (8)** Special or unique conditions overcome the board of commissioners' general presumption that residential neighborhoods should not allow noncompatible business uses;
- (9)** Adequate provisions are made regarding hours of operation;
- (10)** Adequate controls and limits are placed on commercial and business deliveries;
- (11)** Adequate landscape plans are incorporated to ensure appropriate transitions;
- (12)** The public health, safety, welfare or moral concerns of the surrounding neighborhood will be adversely affected;
- (13)** The application complies with any applicable specific requirements set forth in this chapter for special land use permits for particular types of uses; and
- (14)** The applicant has provided sufficient information to allow a full consideration of all relevant factors.

2.5.5. Site Plan/Stipulation Amendment¹⁰⁷

(A) Purpose

The purpose of this section is to establish a uniform and expedited review process for the review and approval of minor modifications to site plans or conditions which do not alter or conflict with the basic intent of the initial approval.

¹⁰⁶ This carries forward the existing standards in Section 134-37(e) and Section 134-124(c) (for rezonings) of the current Zoning Ordinance.

¹⁰⁷ This section carries forward Section 134-126 with changes to conform to the structure of this Ordinance and adds Section 2.5.2, Planned Development as an application explicitly eligible for a site plan/stipulation amendment.

(B) Applicability

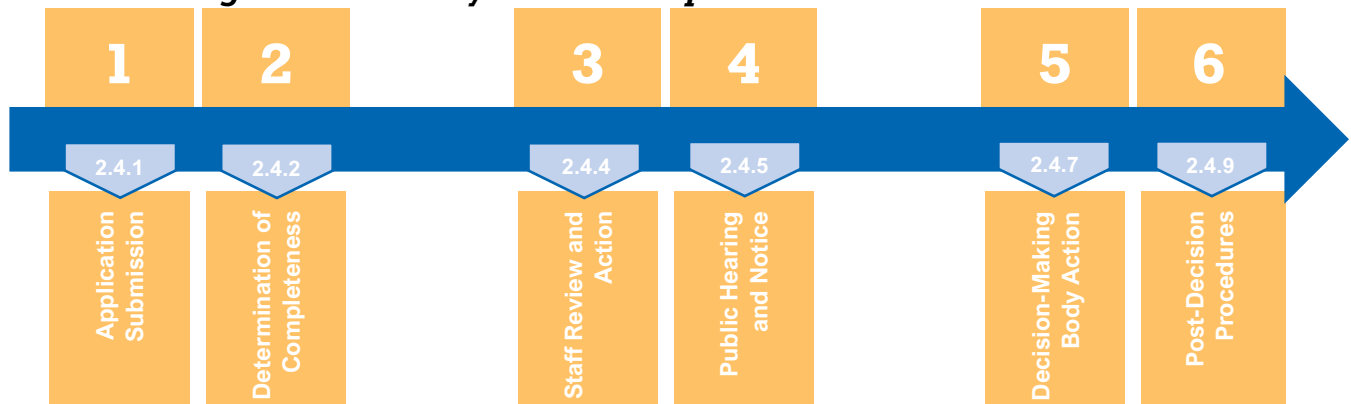
An application for a site plan/stipulation amendment may be made for minor modifications to the site plans or conditions of approval for the following types of development approvals:

- (1) Official Zoning Map Amendment (see Section 2.5.1);
- (2) Planned Development (see Section 2.5.2);
- (3) Temporary Land Use Permit (see Section 2.5.3);
- (4) Special Land Use Permit (see Section 2.5.4).

(C) Site Plan/Stipulation Amendment Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Site Plan/Stipulation Amendment. Figure 2-5 identifies key steps in the Site Plan/Stipulation Amendment procedure.

Figure 2-5: Summary of Site Plan/Stipulation Amendment Procedure



(1) Application Submission

Applicable, see Section 2.4.1. An application shall contain the notarized signature of the applicant and all landowners.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action¹⁰⁸

Applicable, see Section 2.4.4. The Director shall evaluate the application and make a recommendation based on the review standards in subsection (D) below.

(4) Public Hearing and Notice Procedures

Unless the Director determines the proposed amendments are specific and limited to stipulations which do not alter or conflict with the basic intent of the rezoning to which they apply, applicable, see Section 2.4.5.

¹⁰⁸ If the Director determines that the modification is not minor, Section 134-126 of the current Zoning Ordinance states that the modification “must be advertised and rezoned in accordance with the provisions set forth in this [ordinance].” In this draft, we provide that the standard notice procedures are required if the Director determines the requested modification is not minor; and the Board of Commissioners retains its plenary authority to require additional notice.

(5) Decision-Making Body Review and Decision

Applicable, see Section 2.4.7. The Board of Commissioners reviews the application at a public hearing and makes a decision based on the review standards in subsection (D) below. The Board of Commissioners' decision shall be one of the following:

- (a) Approval of the application as submitted;
- (b) Approval of the application subject to modification and/or conditions of approval; or
- (c) Denial of the application.

(6) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(7) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. Any revised site plan and new or revised stipulations shall be included in the official record of the approved development project.

(D) Site Plan/Stipulation Amendment Review Standards

The advisability of approving a site plan/stipulation amendment is a decision committed to the legislative discretion of the Board of Commissioners and is not controlled by any one factor. In determining whether to approve or deny an application for a site plan/stipulation amendment, the Board shall evaluate if the applicant has provided competent evidence to demonstrate the approval of the proposed site plan/stipulation amendment would not alter or conflict with the basic intent of the approval of the project to which the site plan/stipulation amendment relates.

Site Development and Subdivision

2.5.6. Concept Plan¹⁰⁹

(A) Purpose

The purpose of this section is to provide a uniform, optional mechanism for review of development prior to submission of an application of an application for subdivision (see Section 2.5.7), or minor subdivision (see Section 2.5.8).

(B) Applicability

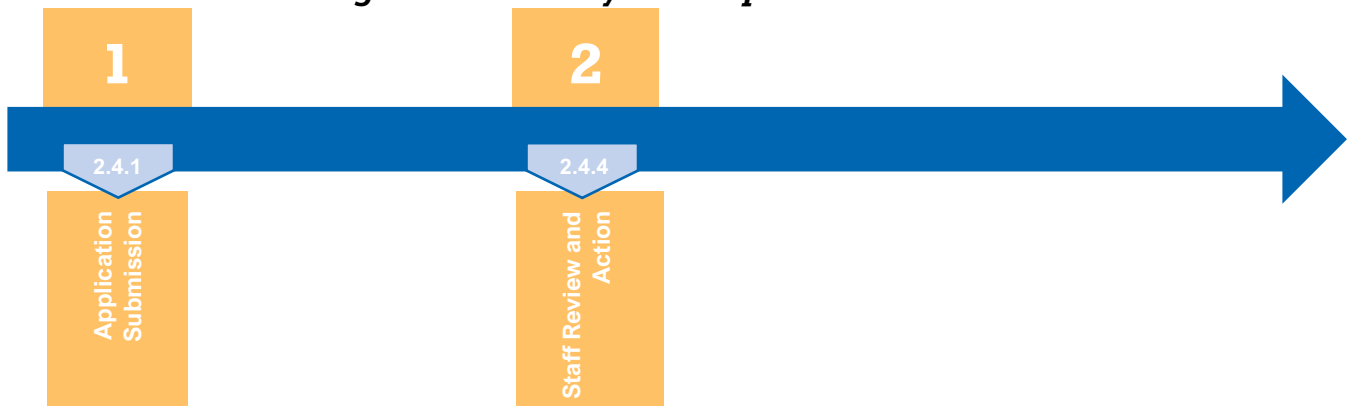
An applicant may, but shall not be required to, submit a concept plan prior to submitting an application for Subdivision (see Section 2.5.7) or Minor Subdivision (see Section 2.5.8).

(C) Concept Plan Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a concept plan. Figure 2-6 identifies key steps in the concept plan procedure.

¹⁰⁹ This section revises the portions of D.S. Section 102, "Development Review Process" which describes the current site plan review process, to better reflect current practices of the Site Plan Review section. It does not carry over technical information, which should be placed in materials outside of the UDC compiled by the Director. D.S. Section 102.3(b) regarding fast-track review process for early detention pond release construction has not been carried forward.

Figure 2-6: Summary of Concept Plan Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action

Applicable, see Section 2.4.4. Concept plans shall be reviewed by the Director. The Director shall review and provide feedback on the concept plan based on the review standards in subsection (D) below.

(D) Concept Plan Standards¹¹⁰

A concept plan should show that, generally:

- (1)** The proposed development is consistent with the goals, policies, and objectives of the comprehensive development plan;
- (2)** The proposed development and uses in the site plan comply with Article 4: Use Regulations.
- (3)** The proposed development and its general layout and design comply with all applicable standards in Article 5: Development Standards; and
- (4)** The proposed development complies with all other applicable standards in this Ordinance, the Code of Ordinances, and all other County regulations.

2.5.7. Subdivision¹¹¹

(A) Purpose¹¹²

The purpose of this section is to provide a uniform mechanism for the approval of divisions of land and to ensure that subdivisions promote the health, safety, convenience, order, prosperity, and welfare of the present and future inhabitants of the County by:

¹¹⁰ These standards build upon the existing review standards in D.S. Section 102 and 103. The lengthy list of development design criteria (the “development standards”) that a project must meet are only referenced here.

¹¹¹ This carries forward the subdivision procedure in Secs. 110-1, 110-2, 110-26, 110-28, and 110-29 of the current Subdivision Regulations with reorganization for clarity and compatibility with the structure of this Ordinance. The definition of subdivision in Section 110-1(5) of the current Subdivision Regulations establishes requirements and limitations for subdivisions into lots which cannot meet the minimum public road standards. These requirements and limitations will be included in the standards in Article 6: Subdivision Standards.

¹¹² The purpose statement is new.

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- (1) Providing for the orderly growth and development of the County;
- (2) Coordinating streets within proposed subdivision plats with the County's street system and transportation plans, and with other public facilities;
- (3) Ensuring there is adequate potable water, sewer, and drainage;
- (4) Providing rights-of-way for streets and utility easements;
- (5) Avoiding congestion and overcrowding;
- (6) Preserving valuable and scenic natural features;
- (7) Ensuring adequate open space and recreation facilities to serve development; and
- (8) Ensuring proper recordation of land ownership or property owner association records, where applicable.

(B) Applicability

- (1) Except as provided in subsection (3) below, any land in the County divided into two or more lots shall receive subdivision approval in accordance with the procedures and standards of this section.
- (2) No lot may be subdivided and recorded if it was subdivided and recorded within the past year. The Director may grant exceptions from this restriction if the Director determines that the applicant is not trying to evade the requirements of this UDC through multiple subdivisions of land.¹¹³
- (3) The following shall be exempt from the requirements of this section:
 - (a) A division of property that meets the requirements for a minor subdivision in Section 2.5.8, Minor Subdivision, and is processed in accordance with the procedure in Section 2.5.8.
 - (b) The sale or exchange of a parcel of land between adjoining property owners where the sale or exchange does not create additional lots.
 - (c) The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resulting lots are equal to the standards of this Ordinance.
 - (d) A division or sale of land by judicial decree.
 - (e) Any division of land either where the resulting lots are greater than 80,000 square feet and have a frontage of at least 200 feet, as long as no new streets, roads, or other rights-of-way are involved.¹¹⁴

(C) Overview

The procedure for review and decision on a subdivision consists of the following two steps:

- (1) Submission and approval of a construction plan, in accordance with subsection (D) below; and
- (2) Submission and approval of a final plat, in accordance with subsection (E) below.

¹¹³ This carries forward part of Sec. 200.1 of the Development Standards.

¹¹⁴ This exemption has been removed from the definition of subdivision in the current Subdivision Ordinance and placed here.

(D) Construction Plan

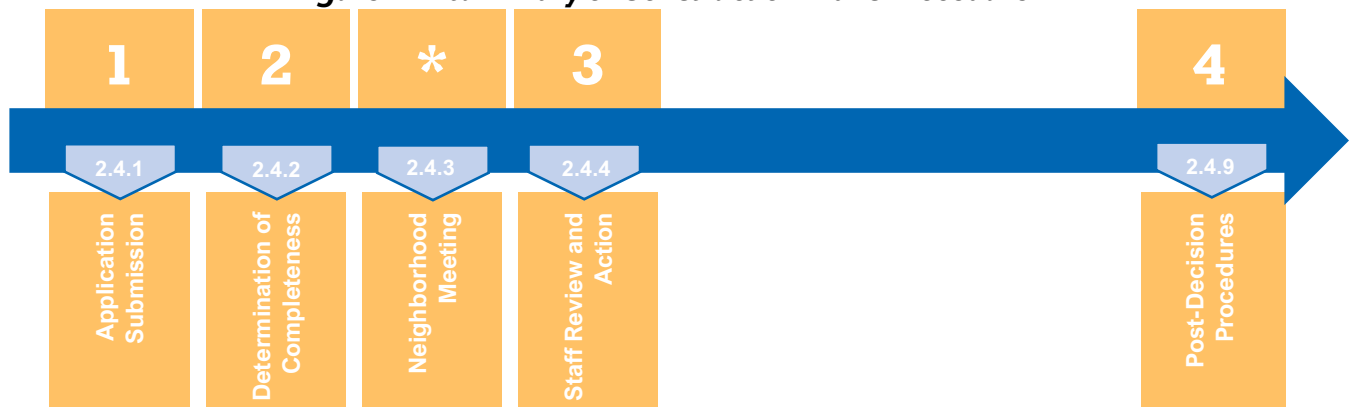
(1) Purpose¹¹⁵

The purpose of this section is to provide a uniform mechanism for review and approval of construction plans for subdivisions to ensure compliance with the development standards in this Ordinance.

(2) Construction Plans Procedure¹¹⁶

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to Construction Plans. Figure 2-7 identifies key steps in the Construction Plans procedure.

Figure 2-7: Summary of Construction Plans Procedure



(a) Application Submission

Applicable, see Section 2.4.1.

(b) Determination of Completeness

Applicable, see Section 2.4.2.

(c) Neighborhood Meeting

Optional, see Section 2.4.3.

(d) Staff Review and Action

Applicable, see Section 2.4.4. Construction plans shall be reviewed by the DRC. Applications that propose the use of septic tanks shall be referred to the County health department for its review and recommendation. The DRC reviews and makes a decision on the application based on the review standards in subsection (3) below. The DRC’s decision shall be one of the following:

(A) Approval of the application;

(B) Denial of the application.

(e) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

¹¹⁵ This purpose statement is new.

¹¹⁶ This is a new section that establishes the procedure for review of construction plans, which is required in Section 110-26(1) of the County Code.

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(f) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. A Land Disturbance Permit (see Section 2.5.10) shall be issued for the development following approval of the application.

(3) Subdivision Construction Plans Permit Standards

Construction plans shall be approved only on a finding there is competent substantial evidence in the record that the construction plan complies with:

- (a)** All applicable standards in Article 5: Development Standards and Article 6: Subdivision Standards;¹¹⁷
- (b)** The standards applicable to land disturbance permits in Ch.50, Art. III of the County Code;
- (c)** The stormwater management requirements of Ch. 50, Art. IV of the County Code, this Ordinance, and any other relevant federal, state, and County regulations
- (d)** All stipulations or other conditions of approval which apply to the land proposed for subdivision; and
- (e)** All other applicable standards in this Ordinance, the Code of Ordinances, and all other County regulations.

(E) Final Plat

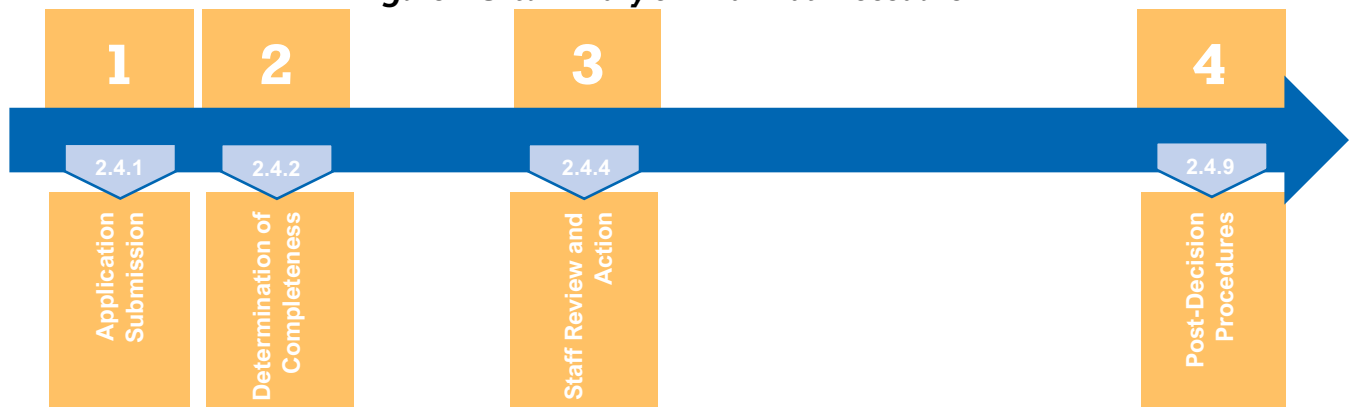
(1) Purpose

The purpose of this section is to provide a uniform mechanism for review and approval of plats to ensure compliance with the development standards in this Ordinance.

(2) Final Plat Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures, that apply to a Final Plat. Figure 2-8 identifies key steps in the Final Plat procedure.

Figure 2-8: Summary of Final Plat Procedure



(a) Application Submission¹¹⁸

Applicable, see Section 2.4.1. An application for a final plat may be submitted for all or a portion of the land included in the approved construction plan.

¹¹⁷ This section carries forward Section 110-26(1) of the current Subdivision Regulations.

¹¹⁸ The detailed list of plat requirements in Section 110-30 of the current Subdivision Regulations have not been carried forward, and it is recommended that they be maintained administratively by the Director.

(b) Determination of Completeness

Applicable, see Section 2.4.2.

(c) Staff Review and Action

Applicable, see Section 2.4.3. Applications for a final plat shall be reviewed by the DRC. The DRC shall review and make a decision on the application based on the review standards in subsection (3) below. The DRC's decision shall be one of the following:

(A) Approval of the application; or

(B) Approval of the application subject to modification and/or conditions of approval;
or

(C) Denial of the application.

(d) Notification to Applicant of Decision

Applicable, see Section 2.4.8

(e) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. The applicant is responsible for recording an approved final plat in accordance with state law.

(3) Major Subdivision Final Plat Standards

A final plat shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

(a) The final plat complies with all applicable standards in Article 5: Development Standards and Article 6: Subdivision Standards.

(b) All infrastructure specified in the construction plan for the land included in the final plat has been installed in accordance with the approved construction plans.

(c) The final plat is consistent with the comprehensive development plan.

(d) The final plat complies with all other applicable requirements of this Ordinance, the County Code, and any other County regulations, including any variances granted by the BZA

(e) If applicable, performance bonds or other sureties for installation and maintenance of improvements have been provided in accordance with Section <>, Performance Bonds and Sureties.¹¹⁹

(4) Major Subdivision Final Plat Certifications¹²⁰

The following certificates shall be included on the final plat:

(a) An owners' certification, as follows:

I hereby certify that I am the owner of the land shown on this plat (or a duly authorized agent thereof) whose name is subscribed hereto. I acknowledge that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, I do hereby convey all streets and rights-of-way, detention pond lots, water mains and sewer lines shown hereon in fee simple to

¹¹⁹ The surety and guaranty regulations in Section 110-56 of the current Subdivision Regulations will be relocated to Article 6: Subdivision Standards, to the extent applicable.

¹²⁰ This section carries forward Section 110-30(d) of the current Subdivision Regulations, except the signature of the chair of the Board of Commissioners has been replaced with the signature of the Community Development Director.

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Cobb County and further dedicate to the use of the public forever all alleys, parks, watercourses, drains, easements, and public places hereon shown for the purposes and considerations herein expressed.¹²¹ In consideration of the approval of this development plan and other valuable considerations, I further release and hold harmless Cobb County from any and all claims, damages, or demands arising: on account of the design, construction, and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

And further, I warrant that I own fee simple title to the property shown hereon and agree that Cobb County shall not be liable to me, my heirs, successors, or assigns for any claims or damages resulting from the construction or maintenance of cross drain extensions, drives, structures, street, culverts, curbs, or sidewalk, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters, and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do hereby bind owners and myself subsequent in title to defend by virtue of these presents.

Signature Printed Name Date

(b) A surveyor’s certification, as follows:

I hereby certify that the plan shown and described hereon is a true and correct survey made on the ground under my supervision, that the monuments have been placed as shown hereon, and is to the accuracy and specifications required by the Cobb County Development Standards.

Signature Printed Name Date
Registered Ga. Land Surveyor

(c) Certification from County development, as follows:

This plat, having been submitted to Cobb County and having been found to comply with the Cobb County Development Standards and the Cobb County Zoning Ordinance, is approved subject to the installation and dedication of all streets, utilities, easements and other improvements in accordance with the Standard Design Specifications and the posting of a one-year maintenance security.

Cobb County Water System Date

Zoning Division Date

¹²¹ This language will be updated in future drafts to more accurately infrastructure that will be conveyed to the County, and that infrastructure that will not be conveyed to the County and retained by a homeowners’ association or similar organization.

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Development & Inspections Division Date

Cobb County Community Development Director Date

(d) Certification from Cobb Public Health, as follows:

This plat or survey has been approved for development utilizing onsite sewage management systems except as noted. Unauthorized excavation or filling of lots may render their approval void.

Environmental Health District Director For Cobb County Public Health Date

Note on Individual Septic Systems

Out: Currently unsuitable for on-site sewage management systems.

SP: Approval of individual site plan required prior to issuance of on-site sewage management system permit.

SPA: Approval of individual site plan utilizing an alternative on-site sewage management system required prior to permit issuance.

(e) The appropriate surveyor’s certification in accordance with O.C.G.A. § 15-6-67.

2.5.8. Minor Subdivision¹²²

(A) Purpose

The purpose of minor subdivision review under this section is to provide a streamlined process for review of approval of subdivisions that have minimal impact on surrounding lands.

(B) Applicability

(1) A minor subdivision of land is a subdivision of land where:

(a) Either:¹²³

(A) A lot is divided into two lots, also known as a lot split;

(B) Boundaries of existing platted lots are rearranged without changing the total number of lots or affecting the outermost property boundary, also known as a lot reconfiguration;

(C) Boundaries between two or more platted lots are eliminated, merging the lots, also known as a lot combination; or

(D) All resulting lots are greater than 80,000 square feet and have a frontage on an existing street of at least 200 feet.

(b) No new streets, roads, or other rights of way are created; and

¹²² This is a new section that provides a streamlined process for smaller subdivisions that involve the division of land into a limited number of lots and no development of new public or quasi-public infrastructure, as discussed in Section 1.5.3(b) of the Code Assessment.

¹²³ This section converts the types of subdivision not defined as “subdivision” by Sec. 110-1 of the current Subdivision Ordinance into minor subdivisions.

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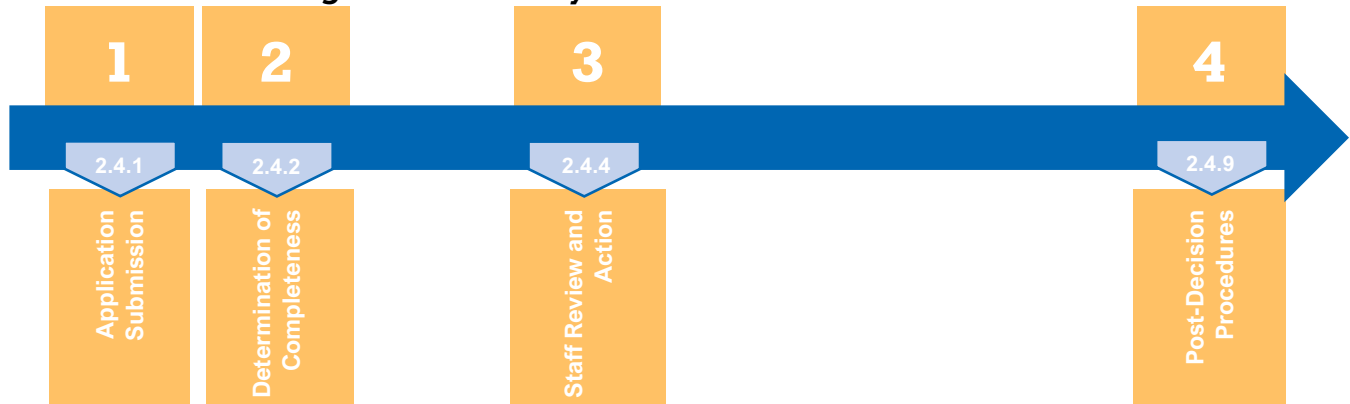
Section 2.5. Application-Specific Review Procedures and Decision Standards

- (c) No extension of public utilities is involved.¹²⁴
- (2) No lot may be subdivided and recorded if it was subdivided and recorded within the past year. The Director may grant exceptions from this restriction if the Director determines that the applicant is not trying to evade the requirements of this UDC through multiple subdivisions of land.¹²⁵

(C) Minor Subdivision Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Minor Subdivision. Figure 2-9 identifies key steps in the Minor Subdivision procedure.

Figure 2-9: Summary of Minor Subdivision Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action¹²⁶

Applicable, see Section 2.4.4. The DRC reviews and makes a decision on the application based on the review standards in subsection (D) below. The DRC's decision shall be one of the following:

- (a) Approval of the application; or
- (b) Denial of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. If the application is approved, the applicant is responsible for recording the final plat in accordance with state law.

¹²⁴ Extension of public utilities does not include new sewer, water, or electrical hookups to an existing line, but extension of the main.

¹²⁵ This carries forward part of Sec. 200.1 of the Development Standards.

¹²⁶ Because the minor subdivision procedure involves limited divisions of land that are expected to have little impact on surrounding properties, approval authority is administrative.

(D) Minor Subdivision Standards¹²⁷

A minor subdivision plat shall be approved only on a finding there is competent substantial evidence in the record that all of the following standards are met:

- (1)** The minor subdivision plat complies with all applicable standards in Article 5: Development Standards and Article 6: Subdivision Standards.
- (2)** The minor subdivision plat is consistent with the comprehensive development plan.
- (3)** The minor subdivision plat complies with all other applicable requirements of this Ordinance, the County Code of Ordinances, and other County regulations, including any variances granted by the BZA.

Permits and Other Approvals

2.5.9. Special Exception¹²⁸

(A) Purpose¹²⁹

A special exception use is a use that may be appropriate in a particular district, but because of its nature, extent, and external effects, requires special consideration of its location, design, and methods of operation before it can be deemed appropriate in the district and compatible with its surroundings. The purpose of this section is to establish a uniform mechanism for the review of special exceptions to ensure they are appropriate for the location where they are proposed.

(B) Applicability

An application for a special exception permit may be made for those uses identified as special exception uses in **Table ____: Principal Use Table.**

(C) Special Exception Procedure

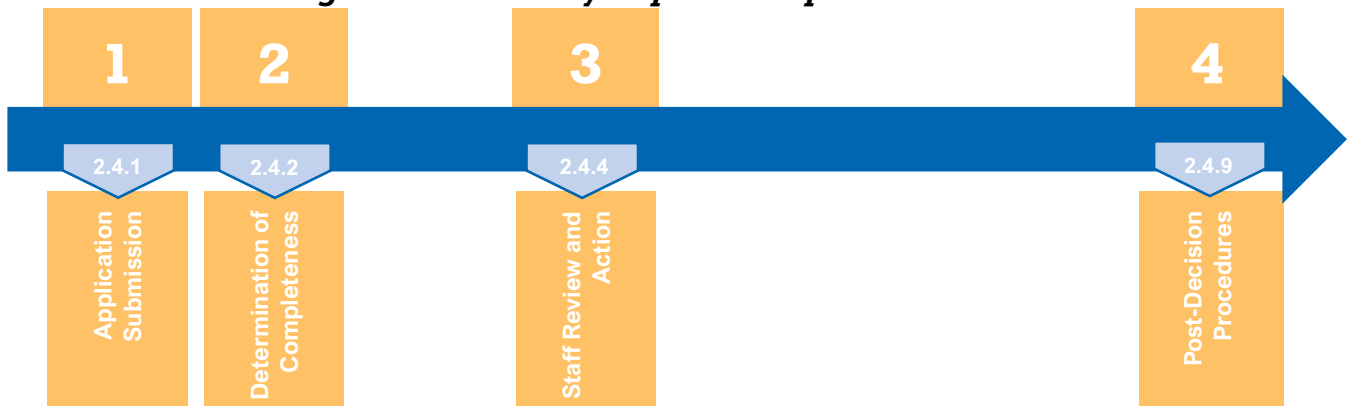
This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Special Exception. Figure 2-10 identifies key steps in the Special Exception procedure.

¹²⁷ These decision-making criteria are the same as for a major subdivision. Provisions requiring all lots created by minor subdivision to have adequate road access will be included in future drafts of this Ordinance.

¹²⁸ This section builds on Section 134-271 of the current Zoning Ordinance, which describes the procedure for approving a special exception. Secs. 134-271(1) to 134-271(6), which state which uses are considered special exceptions are carried forward in Article 4: Use Regulations. Section 134-271(7), regarding treatment of uses on lots with inadequate public road frontage or size, has been carried forward as a variance decision decided by the Board of Zoning Appeals, as discussed in the Code Assessment (p. II-28).

¹²⁹ The purpose statement is new and reflects that a particular use may require a special exception in certain districts because of its impacts, but be allowed by right in other districts.

Figure 2-10: Summary of Special Exception Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action

Applicable, see Section 2.4.4. The Director shall review and make a decision based on the review standards in subsection (D) below. The Director’s decision shall be one of the following:

- (a) Approval of the application as submitted; or
- (b) Denial of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9.

(D) Special Exception Standards¹³⁰

A special exception shall be approved only on finding there is competent substantial evidence in the record that the proposed use:

- (1) Will comply with all applicable zoning district standards;
- (2) Will comply with all standards in **Section 4.2.3, Standards Specific to Principal Uses**; and
- (3) Will comply with all other relevant County, state, and federal laws and regulations.

2.5.10. Land Disturbance Permit¹³¹

(A) Purpose

The purpose of this section is to provide a uniform mechanism for review and approval of proposed land disturbing activities to ensure compliance with the development standards in this

¹³⁰ These are new standards which incorporate the use-specific standards while adding general criteria based on the new standards for review of a special land use permit (in Section 2.5.4(C), Special Land Use Permit Standards).

¹³¹ This section references the portions of Section 50-71 of the County Code of Ordinances, which regulates land disturbing activities, that relate to the land development process. It is included because of the importance of the land disturbance permit in the development process.

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Ordinance, the County Code of Ordinances, and state law; and to require proper provisions for stormwater runoff and the protection of soil surfaces during and after any land disturbing activity so as to promote the safety, public health and general welfare of the people of the County.

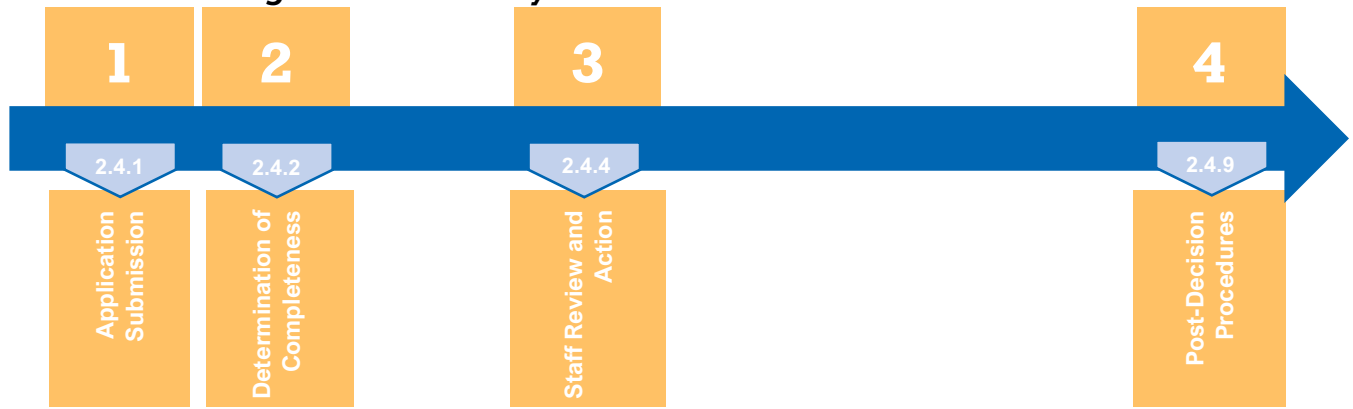
(B) Applicability

Except as exempted by Section 50-74 of the County Code of Ordinances, a land disturbance permit shall be required for any land disturbing activity as defined in Section 50-71 of the County Code of Ordinances.

(C) Land Disturbance Permit Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Land Disturbance Permit. Figure 2-11 identifies key steps in the Land Disturbance Permit procedure.

Figure 2-11: Summary of Land Disturbance Permit Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action¹³²

Applicable, see Section 2.4.4. The DRC shall review and make a decision on the application based on the review standards in subsection (D) below. The DRC's decision shall be one of the following:

- (a) Approval of the application;
- (b) Denial of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. The DRC's decision may be appealed in accordance with Section 50-79 of the County Code of Ordinances.

¹³² This section is carried forward from D.S. Section 102.3.3 and updates the decision-making body from "the issuing authority" to the DRC in accordance with current practice.

(D) Land Disturbance Permit Standards

A land disturbance permit shall be approved only on a finding there is competent substantial evidence in the record that proposed the land disturbing activity complies with the standards in Section 50-75 of the County Code of Ordinances, the stormwater management requirements of Ch. 50, Art. IV of the County Code of Ordinances, this Ordinance, and any other relevant federal, state, and County regulations.¹³³

2.5.11. Zoning Compliance Permit¹³⁴

(A) Purpose

The purpose of this subsection is to establish a uniform mechanism to evaluate changes in use and small-scale development that do not require other forms of review and approval by this Ordinance for compliance with the standards in this Ordinance.

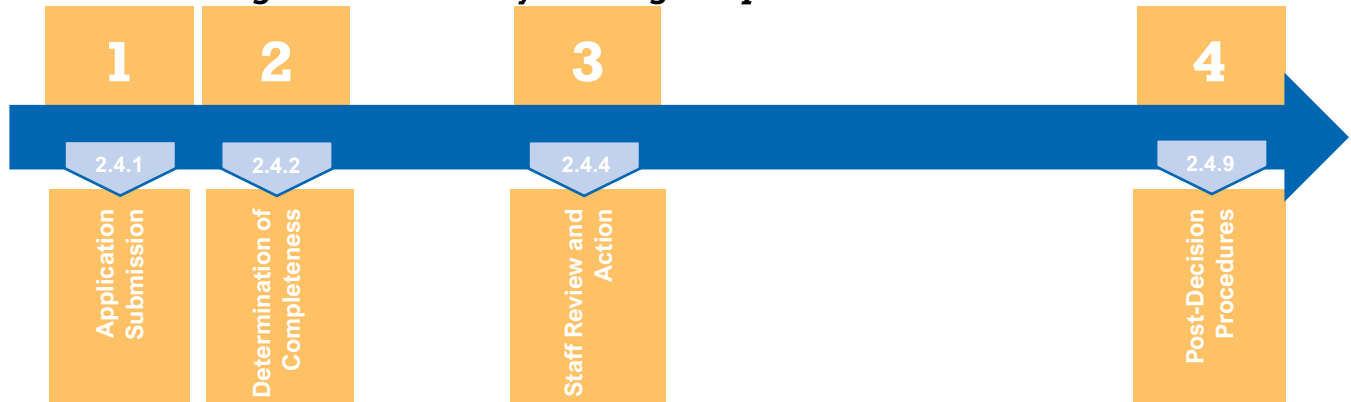
(B) Applicability¹³⁵

A zoning compliance permit is required for a change in use and small-scale development that does not require a separate approval in accordance with this Ordinance, except for site development for a detached single-family dwelling on an individual lot.¹³⁶

(C) Zoning Compliance Permit Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Sign Permit. identifies key steps in the Zoning Compliance Permit procedure.

Figure 2-12: Summary of Zoning Compliance Permit Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

¹³³ This carries forward and updates Section 50-76(d)(1) of the County Code of Ordinances.

¹³⁴ This section is new. As discussed in Section 1.5.3(d) of the Code Assessment (page II-25), the goal is to provide a formal review process for use changes or small-scale development that does not meet the standards for another form of review in this Ordinance and allow staff to determine compliance with the UDC.

¹³⁵ This subsection exempts single-family development on a single lot.

¹³⁶ This subsection narrows in on use changes that do not qualify as requiring a zoning decision.

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(3) Staff Review and Action

Applicable, see Section 2.4.3. The Director shall review the application and make a decision based on the review standards in subsection (D) below. The Director's decision shall be one of the following:

- (a)** Approval of the application as submitted;
- (b)** Approval of the application with modifications and conditions of approval; or
- (c)** Denial of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9.

(D) Zoning Compliance Permit Standards

A Zoning Compliance Permit shall be approved only on a finding there is competent substantial evidence in the record that the proposed use or site development is in accordance with the requirements of this Ordinance.

2.5.12. Chattahoochee River Development Certification¹³⁷

(A) Purpose

The purpose of this section is to provide a uniform mechanism for referral and approval of proposed land disturbing activities or land uses within protected areas along and near the Chattahoochee River to ensure compliance with state law.

(B) Applicability¹³⁸

Except as provided in O.C.G.A. § 12-5-451, a Chattahoochee River Development Certificate is required before land disturbing activities or permitted land uses may commence on lands in the stream corridor within the Chattahoochee River Tributary Protection Area.

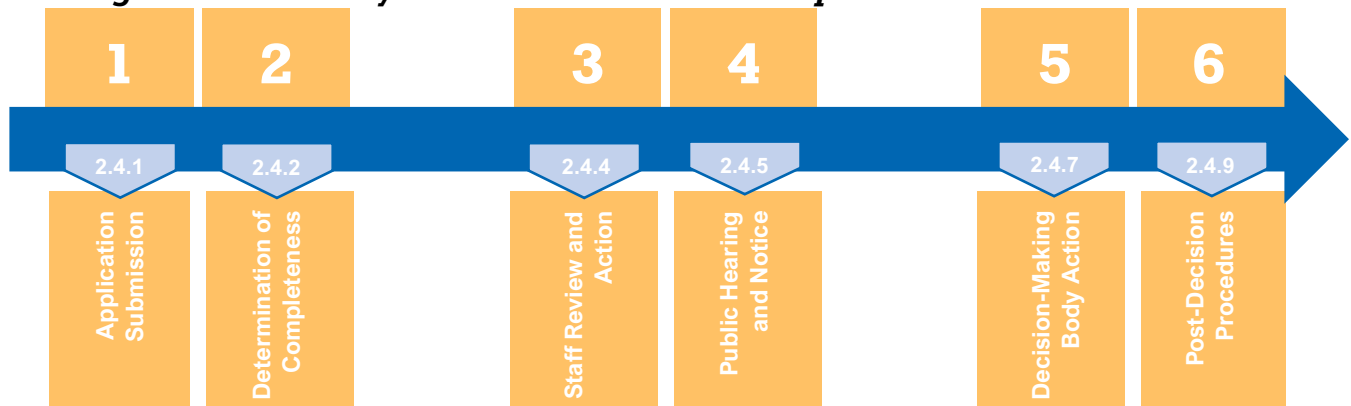
(C) Chattahoochee River Development Certification Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Chattahoochee River Development Certification. Figure 2-13 identifies key steps in the Chattahoochee River Development Certification procedure.

¹³⁷ This section carries forward Section 134-284 of the current Zoning Ordinance, with the exception of Section 134-284(b), which is carried forward in Section 9.3, Definitions; The substantive standards that apply to development in the Chattahoochee River Tributary Protection Area, such as the lists of permitted uses in subsection (c) and prohibited uses in subsection (d) will be updated and carried forward in Section 5.8, Environmental Standards.

¹³⁸ This is new; the exceptions in O.C.G.A. § 12-5-451 are duplicates of the exceptions in Section 134-284(e) of the current Zoning Ordinance and thus subsection (e) has not been carried forward.

Figure 2-13: Summary of Chattahoochee River Development Certification Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action¹³⁹

Applicable, see Section 2.4.4. The Director shall submit the application, which may include revisions from the submitted version that are mutually agreed to be the Director and applicant, with staff comments to the Atlanta Regional Commission and shall receive the Commission’s recommendation in accordance with O.C.G.A. § 12-5-445.

(4) Public Hearing and Notice Procedures

Applicable, see Section 2.4.5.

(5) Decision-Making Body Review and Decision

Applicable, see Section 2.4.7. Following receipt of the recommendation from the Atlanta Regional Commission, the Board of Commissioners shall review the application and may make a decision on the application in accordance with the procedures in O.C.G.A. § 12-5-445(c) and based on the review standards in subsection (D) below.¹⁴⁰ The Board of Commissioners’ decision shall be one of the following:

- (a)** Approval of the application and issuance of a Chattahoochee River Development Certificate; or
- (b)** Approval of the application and issuance of a Chattahoochee River Development Certificate subject to modification and/or conditions of approval; or

¹³⁹ Section 134-284(a) of the current Zoning Ordinance states that “the manager of the zoning division, or his designee, shall be authorized to submit to the Atlanta Regional Commission... a request for issuance of a certificate,” but does not provide for staff review of that application. Current practice is for staff to review applications, however, so that has been revised here.

¹⁴⁰ If the Atlanta Regional Commission recommends modification to an application, the Board of Commissioners may vote to approve the original certificate without the modifications following a two-thirds affirmative vote by the Board of Commissioners, and then a second two-thirds affirmative vote following a second public hearing. The reference to O.C.G.A. § 12-5-445(c) reflects this procedure, which has not been set out in this section. The language used here in the current ordinance is “may” and O.C.G.A. § 12-5-445 supports that, stating that the commission’s failure to act within 45 days will result in the nonissue of the certificate. In addition, we did not set out the procedure for approval of a certificate without modifications recommended by the Atlanta Regional Commission because we assume it rarely if ever has occurred, and it is a lengthy provision.

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(c) Denial of the application.

(6) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(7) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9.

(D) Chattahoochee River Development Certification Permit Standards¹⁴¹

The Board of Commissioners shall make a decision on the application in accordance with the standards in O.C.G.A. § 12-5-445.

2.5.13. Sign Permit¹⁴²

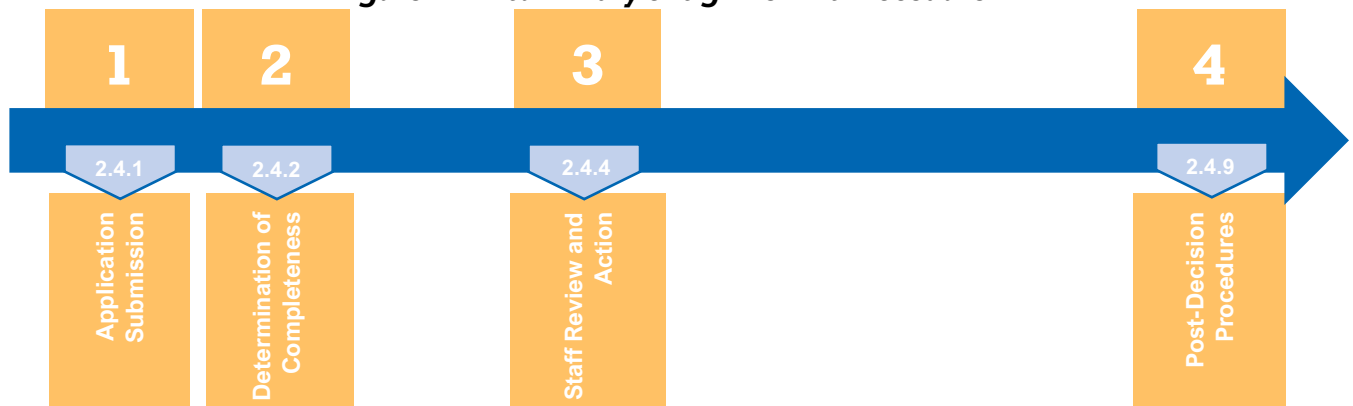
(A) Purpose

The purpose of this section is to establish a uniform mechanism for ensuring that signs that require a permit in accordance with **Section <>, <>**, comply with the standards in Section 5.12, Signs.

(B) Sign Permit Procedure¹⁴³

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Sign Permit. Figure 2-14 identifies key steps in the Sign Permit procedure.

Figure 2-14: Summary of Sign Permit Procedure



(1) Application Submission¹⁴⁴

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

¹⁴¹ This reference to the requirements in state law for the Board of Commissioners' action following the Atlanta Regional Commission's recommendation is new.

¹⁴² This section is new.

¹⁴³ This section carries forward the parts of Section 134-343 that are specific to sign permits.

¹⁴⁴ Section 134-343(c)(a) of the current Zoning Ordinance states that "all applications for sign permits shall include a signed statement from the landowner or possessor of the property giving consent to entry into the property for the purpose of inspection and enforcement of this [sign] article." We recommend that, as with all other application requirements, this application requirement be removed from the UDC.

(3) Staff Review and Action

- (a) Applicable, see Section 2.4.4. Within 45 days of the date a completed application is submitted, the Director shall review the application and make a decision on the application based on the review standards in subsection (D) below. The Director's decision shall be one of the following:
 - (A) Approval of the application;
 - (B) Approval of the application subject to modifications and/or conditions of approval; or
 - (C) Denial of the application. A denial shall include a statement of the reasons for the denial.
- (b) The Director's failure to make a decision on an application within 45 days of the date a completed application is submitted, in accordance with subsection (a) above, shall be deemed an approval of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. A sign permit shall expire if a sign is not installed within six months of the date of the issuance of the sign permit.

(C) Renewal of Oversized Sign Permits¹⁴⁵

- (1) All sign permits for signs classified as oversized signs by Section 5.12, Signs, that were renewed annually under the sign regulations in effect prior to August, 2019, are required to be renewed annually, subject to payment of fees established by the Board of Commissioners.
- (2) If the applicable renewal fee remains unpaid for more than one year, the permit shall expire and the County may undertake enforcement procedures to remove the sign in accordance with Section 8.5, Enforcement, Remedies, and Penalties.

(D) Sign Permit Standards

An application for a sign permit shall be approved only on a finding there is competent substantial evidence in the record that the application complies with Section 5.12, Signs, all other provisions in this Ordinance, the County Code of Ordinances, any other County regulations, and state law.

2.5.14. Electronic Sign Upgrade Permit¹⁴⁶

(A) Purpose

The purpose of this subsection is to establish a uniform mechanism to evaluate the appropriateness of modifying an existing legal nonconforming oversized sign to an electronic sign.

(B) Applicability

An electronic sign upgrade permit shall be required prior to the replacement of a nonconforming oversized sign with an electronic sign in accordance with Section 7.5.3, Reduction in Number of Nonconforming Oversized Signs.

¹⁴⁵ This carries forward Section 134-344 regarding oversized sign permits approved in accordance with a previous version of the County's Zoning Ordinance.

¹⁴⁶ This carries forward Secs. 134-317(b), (d), (e), (f), (g), and (h) of the current Zoning Ordinance.

(C) Electronic Sign Upgrade Permit Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to an Electronic Sign Upgrade Permit. Figure 2-15 identifies key steps in the Electronic Sign Upgrade Permit procedure.

Figure 2-15: Summary of Electronic Sign Upgrade Permit Procedure



- (1) Application Submission**
Applicable, see Section 2.4.1.
- (2) Determination of Completeness**
Applicable, see Section 2.4.2.
- (3) Public Hearing and Notice Procedures**
Applicable if the sign is located within 500 feet of a lot with a residential use, see Section 2.4.5.
- (4) Decision-Making Body Review and Decision**
Applicable, see Section 2.4.7. If the sign is located within 500 feet of a lot with a residential use, the Board of Commissioners shall review the application at a quasi-judicial public hearing and make a decision based on the review standards in subsection (D) above. Otherwise, the Board of Commissioners shall make a decision based on the review standards in subsection (D) above. The Board of Commissioners' decision shall be one of the following:
 - (a)** Approval of the application;
 - (b)** Approval of the application subject to modifications and/or conditions of approval; or
 - (c)** Denial of the application.
- (5) Notification to Applicant of Decision**
Applicable, see Section 2.4.8.
- (6) Post-Decision Limitations and Actions¹⁴⁷**
Applicable, see Section 2.4.9. In addition:

¹⁴⁷ Section 134-317(i) of the current Zoning Ordinance, which states that “Owners of electronic signs allowed pursuant to this section are encouraged to coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to Amber Alerts or emergency management information,” is removed.

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- (a) Upon approval of an application, the County will issue the applicant a provisional permit to upgrade the designated sign to an electronic sign. but will not issue a building permit for the electronic sign until the exchanged signs is removed.
- (b) The final permit shall provide that except for the replacement of the sign face with the electronic sign panel and any associated structural improvements or reconstruction required by current building codes for such signs, the designated sign shall not be moved to another portion of the property, increased in size or height, or otherwise modified in a manner which increases the nonconformity of the structure unless a variance is issued in accordance with Section 2.5.17, Variance.
- (c) An overhead sign permitted in accordance with this section that is on a state-controlled road shall comply with all GDOT rules and regulations applicable to electronic changeable message signs that do not conflict with this Ordinance.

(D) Electronic Sign Upgrade Permit Standards

- (1) An application for an Electronic Sign Upgrade Permit shall be approved only on a finding there is competent substantial evidence in the record that:
 - (a) The electronic sign complies with the requirements set forth in **Section <>, Illumination.**
 - (b) The proposed sign is at least 5,000 feet from another electronic sign on the same side of the road, and at least 1,000 feet from another electronic sign facing the same direction on either side of the road, measured from the geometric center of the base of each sign.
- (2) Notwithstanding subsection (1) above, the Board of Commissioners may deny an application for an Electronic Sign Upgrade Permit if the proposed electronic sign face is located within 500 feet of a lot with a residential use and the Board determines it would be visible from the principal building on the site due to a lack of buffering or screening.

Relief and Interpretation

2.5.15. Administrative Variance¹⁴⁸

(A) Purpose

The purpose of this section is to establish a uniform mechanism to allow for administrative approval of minor adjustments or modifications from certain dimensional or development standards of the Ordinance, based on specific standards, in order to better accomplish the purposes of the Ordinance.

(B) Applicability

Administrative variances may be requested and granted in accordance with this section for the standards identified in Table 2-3: Allowable Administrative , up to the limits set forth in the table.

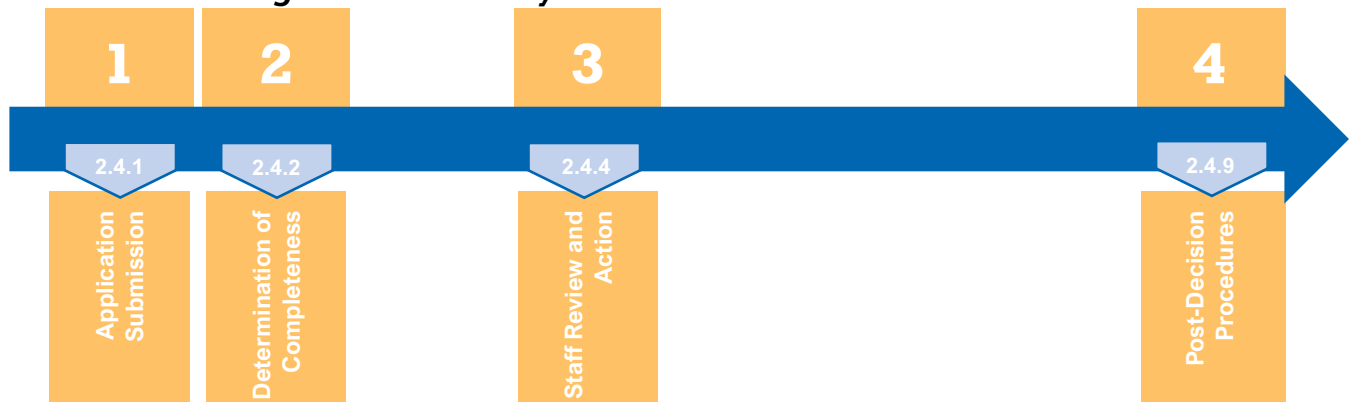
¹⁴⁸ This is a new procedure. As discussed in the Code Assessment (p. II-26), the administrative variance procedure allows for the Director to make minor modifications to some of the dimensional and development standards in this Ordinance. Allowing such flexibility, subject to clear and measurable standards, helps support the community's development goals and better accommodates historic differences in the County's neighborhoods, where existing development may vary from current development standards. The Director's decision may be appealed to the BZA.

Table 2-3: Allowable Administrative Variances	
Standard	Maximum Adjustment (percentage)¹⁴⁹
Lot Width and/or Depth (Minimum)	10
Front Yard Setback (Minimum)	10
Side Yard Setback (Minimum)	10
Rear Yard Setback (Minimum)	10
Height (Maximum)	10
Setback Area Encroachment (Maximum)	10
Off-Street Parking, Loading, or Stacking Space Number (Minimum)	10, or 1 space, whichever is greater
Stacking Lane Distance for Vehicular Surface Area Entrance Driveway	10

(C) Administrative Variance Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to an Administrative Variance. Figure 2-16 identifies key steps in the Administrative Variance procedure.

Figure 2-16: Summary of Administrative Variance Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action

Applicable, see Section 2.4.4. The Director reviews the application and makes a decision based on the review standards in subsection (D) below. The Director’s decision shall be one of the following:

¹⁴⁹ These percentages are provided for discussion purposes. They establish reasonable thresholds for administrative approval of minor changes that would not be expected to have significant impacts on surrounding lands. Based on public feedback, these thresholds may be adjusted, and additional “guardrails” added to ensure these administrative adjustments are applied sparingly and not, for example, to a large number of lots in a residential subdivision.

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- (a) Approval of the application;
- (b) Approval of the application subject to modifications and/or conditions of approval (including but not limited to approval of a lesser modification than requested); or
- (c) Denial of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. In addition

- (a) Unless it expires or is revoked, a recorded development order approving an administrative variance, including any conditions of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.
- (b) Approval of an administrative variance does not exempt the applicant from the responsibility to obtain all other development approvals and permits required by this Ordinance and any other applicable laws, and does not indicate that the development for which the administrative variance is granted should necessarily receive approval of other applications required under the Ordinance unless the relevant and applicable portions of this Ordinance or any other applicable laws are met.

(D) Administrative Variance Standards

An application for administrative variance shall be approved only on a finding there is competent substantial evidence in the record that all of the following standards are met:

- (1) The proposed administrative variance is permitted in Table 2-3: Allowable Administrative Variances.
- (2) The proposed administrative variance:
 - (a) Is required to compensate for some unusual aspect of the development site;
 - (b) Supports an objective from the purpose statement of the zoning district where the adjustment is proposed to be located;
 - (c) Proposes to protect sensitive natural resources or protect water source quality; or
 - (d) Proposes to save healthy existing trees;
- (3) The proposed administrative variance is consistent with the comprehensive plan;
- (4) The proposed administrative variance is consistent with the character of development in the surrounding area, and will not result in incompatible uses or development;
- (5) Any adverse impacts resulting from the proposed administrative variance will be mitigated to the maximum extent practicable; and
- (6) The proposed administrative variance will not substantially interfere with the convenient and enjoyable use and development of adjacent lands, and will not pose a danger to the public health or safety.

2.5.16. Modification Due to Nonconformity¹⁵⁰

(A) Purpose

The purpose of this section is to establish a uniform mechanism to allow administrative modification to specific standards in this Ordinance for certain with nonconforming features.

(B) Applicability

Modification due to nonconformity may be requested and granted in accordance with this section for the standards identified in Table 2-4: Allowable Modifications due to Nonconformity, up to the limits set forth in the table. Modifications may be requested from the standards identified in the first column of Table 2-4, only for the qualifying conditions listed in the second column of Table 2-4, and may be adjusted by the Director up to the maximum percentage listed in the third column of Table 2-4 (adjustments in excess of the amount in the third column of Table 2-4 are only available through an application for a variance in accordance with Section 2.5.17, Variance). The qualifying conditions for which modifications may be requested in accordance with this section are as follows:

(1) Modification Due to Nonconformity Resulting From Eminent Domain

The County or any other entity with the authority of eminent domain condemned or acquired property after December 26, 1972, that creates nonconformities; or

(2) Modification Due to Nonconforming Lot That Existed Prior to December 26, 1972

A lot that existed prior to December 26, 1972 and that is nonconforming in relation to minimum lot size.

Table 2-4: Allowable Modifications due to Nonconformity		
Standard	Qualifying Conditions Section	Maximum Adjustment Allowed without BZA Approval (percentage)¹⁵¹
Total Lot Size	2.5.16(B)(1)	25
Lot Width and/or Depth (Minimum)		25
Front Yard Setback (Minimum)		25
Side Yard Setback (Minimum)		25
Rear Yard Setback (Minimum)		25
Height (Maximum)		25
Setback Area Encroachment (Maximum)		25
Density (Minimum)		[1]
Off-Street Parking, Loading, or Stacking Space Number (Minimum)		25
Stacking Lane Distance for Vehicular Surface Area Entrance Driveway		25

¹⁵⁰ This section carries forward Secs. 134-31(d) and 134-35 of the current Zoning Ordinance, concerning the “continuance of nonconforming lot size” and “variances when property acquired under exercise of eminent domain”, respectively.

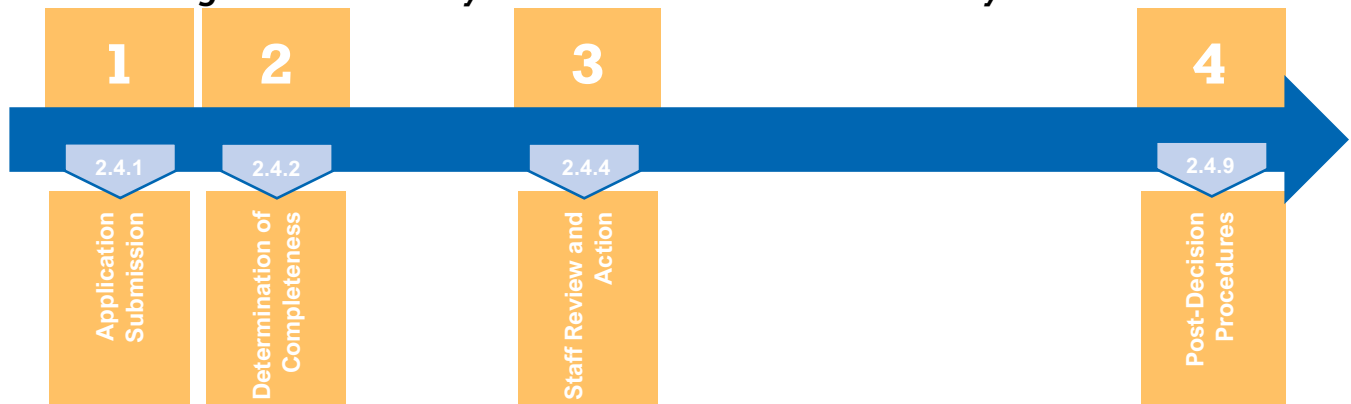
¹⁵¹ This is the maximum standard allowed under Section 134-35 of the current Zoning Ordinance.

Table 2-4: Allowable Modifications due to Nonconformity		
Standard	Qualifying Conditions Section	Maximum Adjustment Allowed without BZA Approval (percentage) ¹⁵¹
Other Modifications		
New Principal Structure, Accessory Structure, or Building Addition on a Nonconforming Lot	2.5.16(B)(1) or 2.5.16(B)(2)	[2]
Reconstruction or Repair after Damage (Structures)	2.5.16(B)(2)	[3]
NOTES:		
[1] Permitted density may be increased by the percentage required for the applicant to develop the same number of lots, units, or Floor Area Ratio on the site as was permitted prior to the condemnation or acquisition of property.		
[2] The new structure or addition shall conform to all regulations in Article 4: Use Regulations applicable to the underlying zoning district and all regulations in Article 5: Development Standards other than those specifically waived or modified by this procedure.		
[3] Modifications to nonconforming structures shall comply with Section 7.3.2, Nonconforming Structure Standards..		

(C) Modification Due to Nonconformity Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Modification due to Nonconformity. Figure 2-17 identifies key steps in the Modification due to Nonconformity procedure.

Figure 2-17: Summary of Modification due to Nonconformity Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Staff Review and Action

Applicable, see Section 2.4.3. The Director reviews the application and makes a decision based on the review standards in subsection (D) below. The Director’s decision shall be one of the following:

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- (a) Approval of the application;
- (b) Approval of the application subject to modifications and/or conditions of approval (including but not limited to approval of a lesser modification than requested); or
- (c) Denial of the application.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. In addition:

- (a) A recorded development order approving a modification due to nonconformity, including any conditions of approval, shall be recorded in the County's property records and shall run with the land, shall be binding on the landowners and their successors and assigns, shall not be affected by a change in ownership, and shall terminate if the land is assigned to a new zoning district or the use on the site changes.
- (b) The Director shall maintain records that identify each approved modification and the rationale for approval.

(D) Modification due to Nonconformity Standards

An application for modification due to nonconformity shall be approved only on a finding there is competent substantial evidence in the record that:

- (1) The modification is necessary to bring the property into conformance with the requirements of this Ordinance or allow it to coexist with the requirements of this Ordinance; and
- (2) In the case of property that was affected by condemnation or acquisition via eminent domain, the property was legally conforming prior to the relevant condemnation or acquisition.

2.5.17. Variance¹⁵²

(A) Purpose

The purpose of this section is to establish a uniform mechanism to allow variances from the terms of this Ordinance that are not contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship. Issuing a variance will allow for the spirit of the Ordinance to be observed, public safety and welfare to be secured, and substantial justice to be done.

(B) Applicability

The procedures and standards in this subsection apply to the review of and decision on applications for a variance where the strict application of this UDC creates unnecessary hardship, in accordance with the following:

¹⁵² This section carries forward Section 134-34(c) and Section 134-94(3), pertaining to variances and to the Board of Zoning Appeals powers relating to variances. The application requirements in Section 134-34(a) have not been carried forward.

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(1) General Relief¹⁵³

An applicant may apply for a variance to secure relief from the regulations contained within this Ordinance.

(2) Variances Not Permitted

(a) The variance procedure shall not be used to modify the following:

(A) The standards of Section 5.13, Flood Damage Prevention (variances from the standards in that section are available in accordance with Section <>, Variances and Appeals).

(B) The use of land or building or structure to a use that is prohibited by this Ordinance in the zoning district where the land is located;¹⁵⁴

(b) The Board of Zoning Appeals shall not approve variances regarding the following:

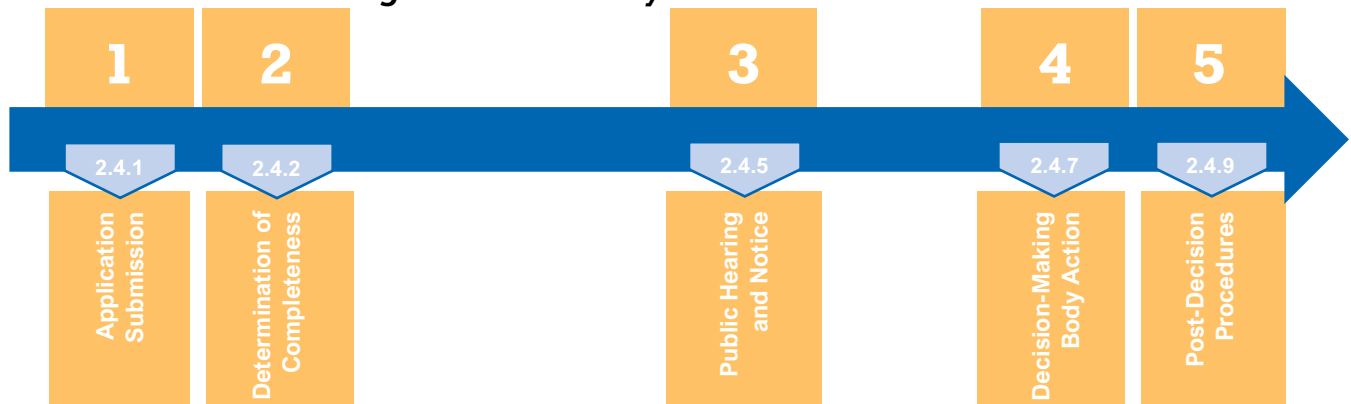
(A) A stipulation or condition imposed by the Board of Commissioners provided that modification to a required setback that does not exceed 25 percent of the requirement may be considered, as long as that modification does not alter the basic intent of any site plan approved as a stipulation.

(B) Lot size for more than 25 percent of the minimum lot size in the RR, R-80, R-40, R-30, R-20, R-15, R-12, RD, FST, RA-4, and RA-5 zoning districts .¹⁵⁵

(C) Variance Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Variance. Figure 2-18 identifies key steps in the Variance procedure.

Figure 2-18: Summary of Variance Procedure



¹⁵³ This list of standards carries forward with revisions for clarity Section 134-94 of the current Zoning Ordinance. The current variance procedure allows for variance of all standards concerning Zoning (Section 134), Land Disturbance Permits (Section 50-75(b)(15)), Subdivisions (Section 110), Floods (Section 58), and Sidewalks (Section 105-III) unless specifically excluded in Section 134-94(3); in this draft, it is generally established as “this Ordinance.”

¹⁵⁴ The current Zoning Ordinance states, at Section 134-94(a)(3), that: “No variance may be granted for a use of land or building or structure that is prohibited by this chapter.” This has been expanded to prevent the BZA from allowing any use that this Ordinance prohibits in the specific zoning district. A modern trend is to prohibit all use variances, which means the BZA could not approve a use that is prohibited in a particular district, even if it is allowed elsewhere in the community, and that approach has been implemented here.

¹⁵⁵ This is preliminary and will be updated when the zoning district section is drafted.

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(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Public Hearing and Notice Procedures

Applicable, see Section 2.4.5.

(4) Decision-Making Body Review and Decision¹⁵⁶

Applicable, see Section 2.4.7, except the following procedure shall apply:

(a) If the variance application is prepared and reviewed with a separate application that is reviewed by the Board of Commissioners, such as a zoning map amendment (Section 2.5.1) or a planned development (Section 2.5.2), or if the application is for a variance that may not be approved by the BZA in accordance with subsection (B)(2)(b) above, the Board of Commissioners shall review and make a decision on the variance application concurrent with the decision on the other application.

(b) The BZA shall review all other variance applications at a quasi-judicial public hearing and make a decision on the application.

(c) The decision shall be based on the review standards in subsection (D) below. The decision shall be one of the following:

(A) Approval of the application;

(B) Approval of the application subject to modifications and/or conditions of approval;
or

(C) Denial of the application.

(5) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(6) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. In addition:

(a) Unless it expires or is revoked, a recorded development order approving a variance, including any conditions of approval, shall run with the land, shall be binding on the landowners and their successors and assigns, and shall not be affected by a change in ownership.

(b) Approval of a variance does not exempt the applicant from the responsibility to obtain all other development approvals and permits required by the Ordinance and any other applicable laws, and does not indicate that the development for which the variance is granted should necessarily receive approval of other applications required under the Ordinance unless the relevant and applicable portions of the Ordinance or any other applicable laws are met.

(D) Variance Review Standards

A variance shall be approved only on a finding there is competent substantial evidence in the record that all of the following standards are met:

¹⁵⁶ Section 1.5.3(g) of the Code Assessment discusses relocating (and recategorizing) the Board of Commissioners' authority to grant special exceptions for minimum public road frontage to the variance section and recategorizing those actions as variances, for consistency with other variance types. It is additionally recommended that that variance be decided by the Board of Zoning Appeals, rather than the Board of Commissioners.

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- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- (2) The application of the Ordinance to this particular piece of property would create an unnecessary hardship;
- (3) Such conditions are peculiar to the particular piece of property involved; and
- (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of the Ordinance.

2.5.18. Interpretation¹⁵⁷

(A) Purpose

The purpose of this section is to provide a uniform mechanism for issuing formal written interpretations of the Ordinance. The provisions of this section are intended to ensure the consistent interpretation and application of the provisions of this Ordinance.

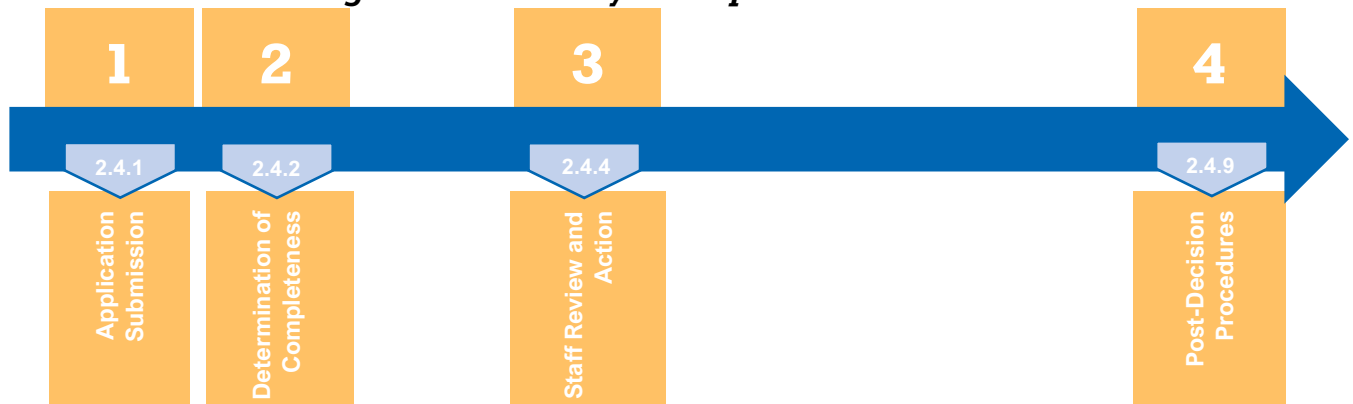
(B) Applicability

The Director shall be responsible for making formal written interpretations of all provisions of the Ordinance, including but not limited to interpretations of the text of the Ordinance, the zoning district boundaries, compliance with conditions of approval, and whether an unspecified use falls within a use classification, use category, or use type allowed in a zoning district. In making written interpretations, the Director may seek guidance from the County Attorney and assistance from other County staff, as appropriate.

(C) Interpretation Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to an Interpretation. Figure 2-19 identifies key steps in the Interpretation procedure.

Figure 2-19: Summary of Interpretation Procedure



(1) Application Submission

Applicable, see Section 2.4.1.

(2) Determination of Completeness

Applicable, see Section 2.4.2, except that an application for a formal written interpretation may be initiated by the Board of Commissioners, BZA, Planning Commission, any resident or landowner, or any person having a contractual interest in land in the County.

¹⁵⁷ This is a new section. As discussed in Section 1.5.3(f) of the Code Assessment, an interpretation procedure allows the Director to issue formal written interpretations of the text of the code, as well as the boundaries of the zoning map.

(3) Staff Review and Action

Applicable, see Section 2.4.4. After receipt of the formal written request for an interpretation, the Director shall review the request, consult with the County Attorney and other County staff as appropriate, and render a formal written interpretation based on the standards in subsection (F) below. The interpretation shall be in a form approved by the County Attorney and shall constitute the formal written interpretation.

(4) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(5) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9. A written interpretation is binding on subsequent decisions by the Director or other County staff and officials in applying the same provision of the Ordinance or the Official Zoning Map in the same circumstance(s), unless the interpretation is modified in accordance with this section, or if the text of the Ordinance or the Official Zoning Map is amended.

(D) Record of Interpretations

The Director shall maintain a complete copy of all written interpretations, which shall be made available to the public.

(E) Amendment of Formal Written Interpretations

The Director may amend or repeal a formal written interpretation on the Director's own initiative, or upon a request for interpretation submitted in accordance with this section, based upon new evidence or discovery of a mistake in the original interpretation, a change in state or federal law, an amendment to the Ordinance, or an amendment to the County Code of Ordinances that relates to the original formal written interpretation.

(F) Interpretation Review Standards

(1) Text Provisions

Interpretation of a provision's text and its application shall be based on Section 9.1, Rules of Construction and Interpretation, and other considerations including, but not limited to, the following:

- (a)** The plain meaning of the provision's wording, considering any terms specifically defined in Section 4.4, Principal Uses, Section 9.3, Definitions; and the common and accepted usage of terms; and
- (b)** The purpose of the provision, as indicated by:
 - (A)** Any purpose statement in the section(s) where the text is located;
 - (B)** The provision's context and consistency with surrounding and related provisions;
 - (C)** Any legislative history related to the provision's adoption;
 - (D)** The general purposes served by the Ordinance, as set forth in Section 1.3, General Purpose and Intent; and
 - (E)** The comprehensive development plan.

(2) Unspecified Uses

Interpretation of whether an unspecified use is similar to a use identified in Article 4: Use Regulations and should be permitted or prohibited in a particular zoning district, shall be based on Section <>, Interpretation of Unlisted Uses, and Section <>, Standards for Allowing Unlisted Accessory Uses and Structures, as appropriate.

(3) Zoning District Boundaries

Interpretation of zone district boundaries shall be based on Section 1.6.3, Interpretation.

2.5.19. Appeal of Administrative Decision¹⁵⁸

(A) Purpose

The purpose of this section is to provide a uniform mechanism for the appeal of administrative decisions under this Ordinance to the Board of Zoning Appeals (BZA).

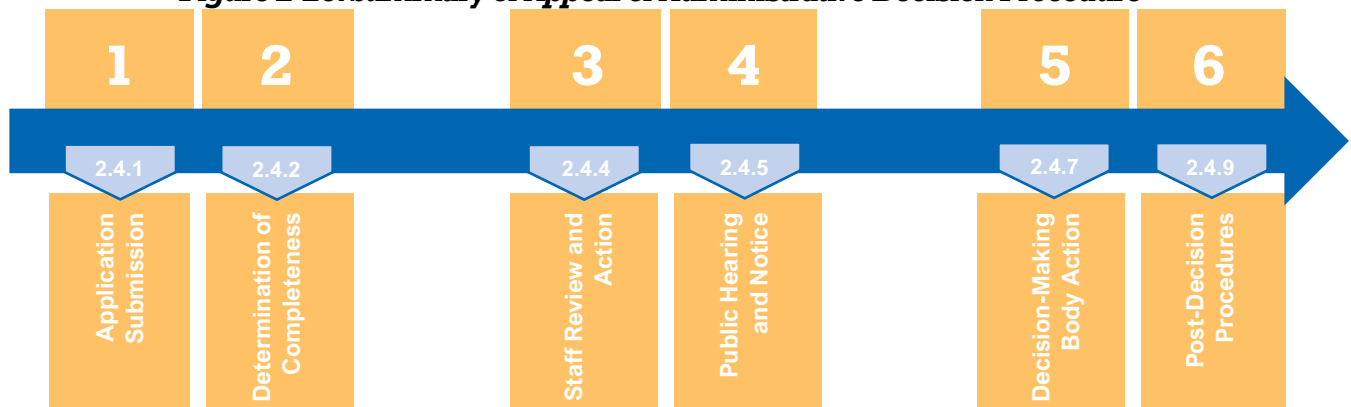
(B) Applicability

Except for appeals of decisions on a land disturbance permit, which are appealed in accordance with Section 50-79 of the County Code of Ordinances, appeals to the BZA may be taken by any person aggrieved or by any officer, department, board or bureau of the County affected by any decision of the Director or the Development Review Committee carrying out a power or duty granted by this UDC, including any final and binding order, requirement, or determination, except as otherwise provided in this Ordinance.

(C) Appeal of Administrative Decision Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to an Appeal of Administrative Decision. Figure 2-20 identifies key steps in the Appeal of Administrative Decision procedure.

Figure 2-20: Summary of Appeal of Administrative Decision Procedure



(1) Application Submission

Applicable, see Section 2.4.1. The appeal application shall be submitted to the Director within 30 days after the applicant has been notified of the final decision being appealed (See 2.4.8, Notification to Applicant of Decision).¹⁵⁹ The application shall include:

- (a) An explanation of the jurisdictional ground for appeal;
- (b) The decision being appealed;
- (c) The reason(s) why such relief should be granted; and
- (d) Any documents related to the issues raised.

¹⁵⁸ This section carries forward Section 134-95 of the current Zoning Ordinance.

¹⁵⁹ The current standard for the appeal window is 30 days after the decision, except in Article IV, Signs of the current Zoning Ordinance, where the window is 15 days. In this draft, the appeal window is set at 30 days, which is common in other communities.

(2) Determination of Completeness

Applicable, see Section 2.4.2.

(3) Public Hearing and Notice Procedures¹⁶⁰

Applicable, see Section 2.4.5.

(4) Decision-Making Body Review and Decision¹⁶¹

Applicable, see Section 2.4.7. The BZA shall review the application at a quasi-judicial public hearing and make a decision based on the review standards in subsection (D) below. The decision shall be one of the following:

- (a) Affirmation of the decision or interpretation being appealed (in whole or in part);
- (b) Modification of the decision or interpretation being appealed (in whole or in part);
- (c) Reversal of the decision or interpretation being appealed (in whole or in part); or
- (d) Remand of the appeal to staff with direction for further action.

(5) Notification to Applicant of Decision

Applicable, see Section 2.4.8.

(6) Post-Decision Limitations and Actions

Applicable, see Section 2.4.9.¹⁶²

(D) Appeal of Administrative Decision Permit Standards

The BZA shall modify or reverse the decision on appeal only if it finds, based upon competent, material, and substantial evidence in the record, that there has been a clear and demonstrable error, abuse of discretion, or denial of procedural due process in the application of the facts in the record to the applicable standards of this UDC, or as otherwise provided by state law.

Other Procedures

2.5.20. Building Moving Permit¹⁶³

(A) Purpose

The purpose of this section is to establish a uniform mechanism for permitting a person to move or transport any house, structure, or other building using public rights-of-way.

(B) Applicability

- (1) A building moving permit is required in order to move or transport any house, structure, or other building within the boundaries of the County on public rights-of-way.
- (2) A building moving permit is not required for moving the following structures, provided that the structure can be moved without specialty house moving equipment¹⁶⁴ and will not require blocking rights-of-way or interfere with the normal movement of traffic:
 - (a) Small temporary structures;

¹⁶⁰ Section 134-95(c) of the current Zoning Ordinance defers hearing procedures for appeals to the procedures manual. This section applies the standard hearing procedures to appeals of administrative decisions.

¹⁶¹ The decision types listed are adapted from Section 12, Main Motion, of the BZA Rules and Procedures, since decision types are not listed in the current Zoning Ordinance.

¹⁶² This section carries forward Secs. 134-127 and 134-128 of the current Zoning Ordinance, with omissions regarding the nature of the appeal, which is codified in state statutes.

¹⁶³ This section carries forward Section 134-276, "Moving buildings", of the current Zoning Ordinance.

¹⁶⁴ Updated from "Normal automotive equipment" in the current Zoning Ordinance.

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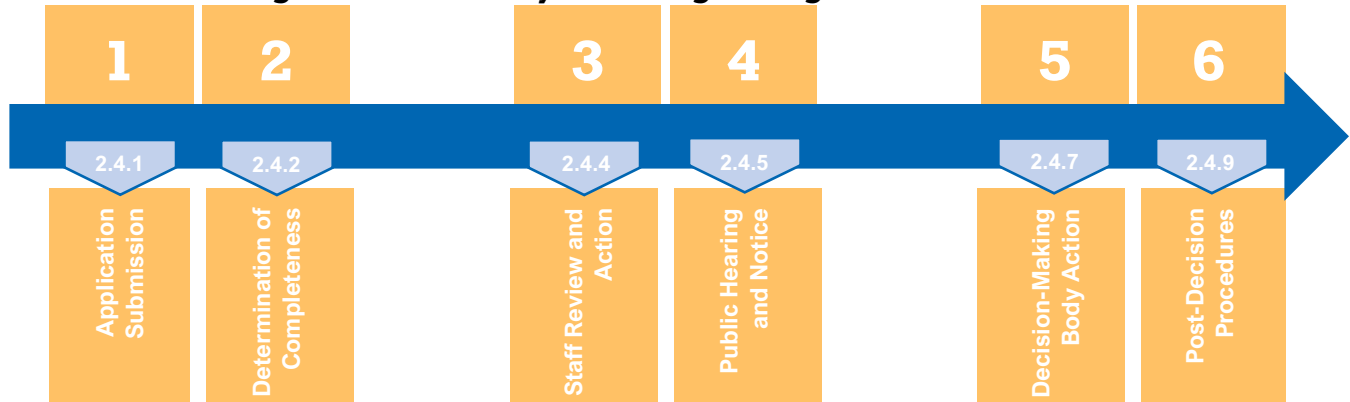
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- (b) Portable buildings;
- (c) Mobile buildings; and
- (d) Mobile homes.

(C) Building Moving Permit Procedure

This subsection identifies additions or modifications to the standard review procedures in Section 2.4, Standard Application Requirements and Procedures that apply to a Building Moving Permit. Figure 2-21 identifies key steps in the Building Moving Permit procedure.

Figure 2-21: Summary of Building Moving Permit Procedure



(1) Application Submission

Applicable, see Section 2.4.1. The application will additionally contain the following:¹⁶⁵

- (a) A description of the structure proposed to be moved, giving the street number, construction materials, dimensions, number of rooms, and condition of exterior and interior (required only on house moving relocation applications within the County).
- (b) A street address or description of the property from which the structure is to be moved, giving a sufficient legal description (required only for applications where the destination of the move is within the County).
- (c) A plat of the portion of the property to be occupied by the structure when moved which shows the origin and destination of the structure (required only for applications where the destination of the move is within the County).
- (d) Approval from the County DOT and Department of Public Safety regarding the number of police officers required to serve as escorts for the move;
- (e) Payment of a fee of \$150 per police officer required to serve as an escort for the move.
- (f) The name of the person(s) performing the moving operation.
- (g) The routing of the streets along and over which the structure is proposed to be moved.
- (h) A workplan for moving the structure that complies with the standards in subsection (D) below.

¹⁶⁵ This carries forward Section 134-276(b)(1) with revisions for clarification. Some of the provisions in Section 134-276(b)(1) relate to standards that the mover is required to meet, and not application requirements, and have been relocated to subsection (D).

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- (i) The name and consent of the owner of the property from which the house, structure, or other building is proposed to be removed.
 - (j) An estimate of the time that will be involved in the moving process, not to exceed four business days between 9 am and 4 pm.
 - (k) Any additional information which the Director deems necessary to evaluate the application.
 - (l) If the house, structure, or other building is being located in the County, consent of the property owner on whose property the structure is being placed and that of the neighboring property owners adjoining the property on which the structure is being placed. In the event that applicant cannot obtain consent from the adjoining property owners, the applicant demonstrates that it has sent a letter via first class mail with a certificate of mailing or certified mail to those adjoining property owners that contains the application for relocating existing structure, a statement of all proposed improvements, and a plat of the property.
- (2) Determination of Completeness**
Applicable, see Section 2.4.2.
- (3) Staff Review and Action**
Applicable, see Section 2.4.4. If the building is being moved out of Cobb County, the Director shall review the application and make a decision on the application based on the review standards in subsection (D) below. The Director should confer with the County DOT and the Operations Division prior to making a decision. The Director's decision shall be one of the following:
- (a) Approval of the application;
 - (b) Approval of the application subject to modifications and/or conditions of approval; or
 - (c) Denial of the application. A denial shall include a statement of the reasons for the denial.
- (4) Public Hearing and Notice Procedures¹⁶⁶**
Applicable, see Section 2.4.5, if the building is being moved out of Cobb County.
- (5) Decision-Making Body Review and Decision**
Applicable, see Section 2.4.7. The Board of Commissioners shall review the application at a quasi-judicial public hearing and make a decision based on the review standards in subsection 2.5.19(D) above. The decision shall be one of the following:
- (a) Approval of the application;
 - (b) Approval of the application subject to modifications and/or conditions of approval; or
 - (c) Denial of the application. A denial shall include a statement of the reasons for the denial.
- (6) Notification to Applicant of Decision**
Applicable, see Section 2.4.8.

¹⁶⁶ The end of Section 134-276(b)(2) states, with regard to the required notice to adjacent property owners: "The certificate of mailing or certified receipts shall be submitted to the code enforcement office two weeks prior to the hearing. The applicant shall post an "Other Business" sign on the property 30 days prior to the hearing." This section carries forward and formalizes the hearing process to be consistent with current practice.

Article 2: Administration

Section 2.5. Application-Specific Review Procedures and Decision Standards

(7) Post-Decision Limitations and Actions¹⁶⁷

Applicable, see Section 2.4.9. In addition:

- (a)** Any structure being moved to a location within the County shall require an approved building permit at the destination site.
- (b)** Houses or structures may be moved on any Monday, Tuesday, Wednesday, and Thursday, except for holidays and other days on which County offices are closed, and only between the hours of 9 am and 4 pm. For purposes of this subsection, holidays are defined as New Year's Day, Martin Luther King Day, Memorial Day, July 4th, Labor Day, Thanksgiving Day, and Christmas Day.
- (c)** The permit shall be valid immediately from the day of issuance and expire six business days from the day of issuance. If a structure is not moved within this period, the applicant must obtain a new permit. All route applications must be submitted at least four business days prior to the requested date of the house move.
- (d)** Any damage done to electronic traffic signal control devices caused by the moving process or by the movers shall be the financial responsibility of the movers and shall be reported immediately to the police escorts or agents of the County DOT.
- (e)** The police officer escorts shall have the final decision as to whether or not the move takes place. (Notwithstanding the escort's decision, the house mover shall not be entitled to a refund of the police officer compensation already paid.) The police officer shall be considered the borrowed servant of the mover, subject to the control of the mover. The police officer escort shall be within the scope of their employment for the house mover at all times during the house moving process. The police officer escort shall be considered the servant of the mover and the County, and shall not be liable to any person for any person or property injured or damaged during the move. It is the intent of this subsection that the County shall not be liable for the acts of the police officer escort while operating under the direction or control of the mover. The mover shall indemnify and hold the County harmless from all conduct of any police officer escorts, and all other liability arising out of the house moving. The mover, by submitting an application for a building moving permit, agrees and consents to this subsection.
- (f)** After the permit is issued and relocation begins, the applicant shall continuously and without interruption work at moving the structure until it reaches the destination shown on the permit. A house move should begin promptly at a time early enough to complete between 9:00 AM and 4:00 PM. If it is determined by the County DOT or the police officer escorts that said move cannot be completed within these hours due to a late start, the move shall not begin, and a new date will need to be set for that move. An applicant's failure to comply with a required rescheduling shall, in addition to the revocation of the permit, form the basis for withholding of future permits.

(D) Building Moving Permit Standards¹⁶⁸

A building moving permit shall be issued only on a finding there is competent substantial evidence in the record that all of the following standards are met:

- (1)** If the structure is being moved within the County, the overall condition of the structure is equal to or better than the structures adjacent to its destination.¹⁶⁹

¹⁶⁷ Section 134-276(k), regarding suspensions and revocations of building moving permits, is removed.

¹⁶⁸ This subsection carries forward Secs. 134-276(d) and 134-276(e) of the current Zoning Ordinance.

¹⁶⁹ This updates Section 134-276(d), which requires that a moved structure "be equal to or better than the adjacent structures within the area."

Article 2: Administration

Section 2.5. Application-Specific Review Procedures and Decision Standards

- (2)** The following operational requirements will be complied with during the move of the building or structure:
- (a)** The structure being moved will not exceed 18 feet in height or 30 feet in width (including overhang), and the overall length of the structure being moved along with the towing vehicle will not exceed 100 feet in length, unless the County DOT allows for an exception for good cause shown and determines that proper clearance can be obtained on the route proposed in the application.¹⁷⁰
 - (b)** The operation will comply with GDOT requirements regarding the number of workers on top of the structure to ensure that the structure will not impact overhanging utilities. In addition, a minimum of two men will be on top of the structure when traveling through traffic signals to ensure signals will not be impacted.
 - (c)** Front and rear escort vehicles will be present at all times during the moving process, in accordance with the following:
 - (A)** All escorts shall be police cars driven by police officers.
 - (B)** The presumptive number of escorts required is four, unless the County DOT and Department of Public Safety determine that fewer escorts are necessary to ensure the safety of the move.
 - (C)** The Director shall coordinate the escorts.
 - (d)** Each vehicle used in the moving process, except for police cars, will be equipped with a revolving amber light at the top of the vehicle which is at least eight inches in diameter and clearly visible from all directions. The light shall have a luminous intensity of at least 35,000 candlepower and shall rotate so as to provide at least 80 revolutions per minute. The operators of each moving vehicles shall have obtained a valid driver's permit from the state Department of Public Safety.
 - (e)** All vehicles involved within the moving process will be plainly marked and display the mover's name. No house, building, or other structure shall be parked on or off the route in the unincorporated areas of the County due to mechanical breakdown for more than 12 hours. Applicants are responsible for notifying appropriate property owners should a mechanical breakdown necessitate the parking of the house on private property. This also includes discontinuing a move due to a safety issue.
 - (f)** At least five individuals and employees of the mover with valid state driver's licenses will be available to assist each vehicle involved in the moving, in case of illness or accident to vehicle operators during the moving process.
 - (g)** The mover will have a wrecker large enough to tow the entire load accompanying the house, building, or structure if there is a breakdown during the move.
 - (h)** The work will comply with the County's noise ordinance (Ch. 50, Art. VII of the County Code).
 - (i)** Any debris or damage caused by the moving process or the movers involved in the moving process shall be removed or corrected at the time of the incident by the mover and their support personnel, and shall be the mover's exclusive financial responsibility.
 - (j)** All masonry will be removed from the structure prior to the move.

¹⁷⁰ This streamlines Section 134-276(e)(1) and removes the references of the availability of appeal of the County DOT's decision to the DOT's operations division manager. It is recommended that since the decision and appeal are handled internally by Cobb DOT, the detail of the internal procedure not be included in the Ordinance.

Article 2: Administration

Section 2.5. Application-Specific Review Procedures and Decision Standards

- (k)** Escort vehicles and the vehicle transporting the house will be equipped with two-way radios in good working order so that all drivers will have constant radio contact with each other. The rear escort vehicle driver shall advise the driver of the load and the front police officer escort as to the traffic conditions behind the movement. Additionally, an agent of the County or the police escort may require that the structure being moved be pulled over to the side of the roadway to relieve traffic backup during the moving process, on both state roads and County roads.
- (l)** Approval and authorization to initiate the planned move will be in the discretion of the off-duty police officer front escort to the house moving, and approval will only follow after inspection and verification that compliance with the items mentioned in this section has been forthcoming.
- (m)** The driver of the front and rear escort vehicles shall maintain sufficient separation between their vehicles and the structure being moved so as to provide adequate warning of the presence of the structure being moved.
- (n)** All vehicles used during the moving process will be roadworthy and in extremely good condition. The truck tractor and dollies attached to the house will be subject to a federal commercial vehicle inspection. If either are placed “out of service” and can not be repaired at the scene within 30 minutes, the house move is deemed denied and a new permit must be obtained.
- (o)** Any structure being moved with a cut-down roof will have plywood covering the structure.
- (p)** No structures will be moved during inclement weather (such as when roads are wet due to rain, sleet, ice, or snow, or when visibility is dangerously reduced by fog). If inclement weather occurs during a move, the mover will seek a safe location to stop. Once the move is stopped, a new permit is required to be obtained.
- (q)** If a move begins in the County, the move must begin within 30 minutes of the start time. A move entering the County must be timely to allow the house move to be completed within the hours stated in subsection (C)(7)(b) above.
- (r)** Every applicant shall secure liability insurance covering all working operations, including loading and unloading buildings upon vehicles, in minimum amounts of \$300,000.00 for bodily injuries to each person, \$500,000.00 for each accident, and \$100,000.00 for property damage. Additionally, each applicant shall secure automobile liability insurance in minimum amounts of \$300,000.00 for each accident and \$100,000.00 for property damage covering all vehicles used in connection with the moving process.

Article 7: Nonconformities

Commentary on Draft

Article 7: Nonconformities, carries forward and consolidates provisions addressing nonconformities (uses, structures, lots, signs, and site features). Changes are minor and limited to small updates in language and the use of different headings to make the provisions more clear. No substantive changes are intended. The article is divided into six sections.

Section 7.1, General Applicability, sets forth the purpose of the article.

Section 7.2, Nonconforming Uses, provides rules for nonconforming uses that address extension, expansion, relocation, change and discontinuance of use, and screening and buffering.

Section 7.3, Nonconforming Structures, provides rules for nonconforming structures that address the relationship to nonconforming uses, the enlargement, alteration, or repair of nonconforming structures, and reconstruction or repair after casualty damage.

Section 7.4, Nonconforming Lots, provides rules for nonconforming lots.

Section 7.5, Nonconforming Signs, provides rules governing nonconforming signs, including the replacement of nonconforming oversized signs with electronic sign faces.

Section 7.6, Nonconforming Site Features, provides rules governing nonconforming site features.

This commentary is provided for reference purposes. It will be deleted in the adopted UDC.

Section 7.1 General Applicability¹⁷⁵

7.1.1. Purpose and Scope

- (A) In the County there exist uses, structures and lots of record that were lawfully established before this Ordinance was adopted or amended that do not conform to the standards or requirements of this Ordinance. It is the general policy of the County to allow such uses, structures, and lots of record to continue to exist with certain limitations to protect adjacent property owners and the public from the inconsistencies created by nonconforming uses.
- (B) The purpose and intent of this article is to recognize the interests of the landowner in continuing to use the land, but over time to eliminate nonconforming uses and structures.

7.1.2. General Standards

Nothing in this Article shall be construed to allow a use that is dangerous to the general public to continue to exist. This Article shall also not be construed to not require changes to buildings or structures to comply with any fire code, life safety code or other safety ordinance or regulation.

Section 7.2 Nonconforming Uses

7.2.1. General¹⁷⁶

A nonconforming use of a building, structure, or land that was legal prior to the to the adoption of this Ordinance or an amendment shall be allowed to legally continue even though the use does not conform with the regulations in this UDC, in accordance with the standards in this Section 7.2.

¹⁷⁵ This subsection builds on Section 134-31(a) of the current Zoning Ordinance

¹⁷⁶ This section carries forward Section 134-31(b) of the current Zoning Ordinance with revisions for clarity.

7.2.2. Nonconforming Use Standards¹⁷⁷

(A) Extension or Expansion

A nonconforming use shall not be expanded or enlarged to occupy a greater area of the land or building area.

(B) No Relocation

- (1) Except as provided in subsection (2) below, a nonconforming use shall continue only in the original structure or lot that was originally occupied by the nonconforming use.
- (2) A nonconforming use in a manufactured home or mobile home may be continued on the same site in a new manufactured home or mobile home, subject to the limitations of O.C.G.A. § 36-66-7(c).¹⁷⁸

(C) Intensification of Use

The nonconforming use of the building, structure, or land shall not be intensified or escalated. For purposes of this paragraph, intensification or escalation of use includes, for example, increasing the number of deliveries, employees, or customers coming to the nonconforming use, or noise, dust, fumes, or other pollutants emanating from the nonconforming use.

(D) No Change to Another Nonconforming Use

A nonconforming use shall not be changed to another nonconforming use.

(E) Abandonment of Use

A nonconforming use cannot be reestablished after it is abandoned. It shall be *prima facie* evidence of abandonment if the owner or operator of the nonconforming use:

- (1) Discontinues it for 12 months;
- (2) Fails to obtain a new or renewed business license for that use as required under the County Code of Ordinances;
- (3) Fails to declare and remit the sales tax required by state law for the use; or
- (4) Fails to follow any other state, federal, or local administrative procedure or regulation that is required for the nonconforming use.

(F) Change of Use

A nonconforming use shall not be changed to another nonconforming use.

(G) Screening and Buffering

A nonconforming use shall maintain any screening or buffering that existed prior to the use becoming a nonconforming use or that was later voluntarily added.

(H) Nuisance

A use that constitutes a nuisance as defined by state law is not and cannot become or be considered a nonconforming use.

¹⁷⁷ This section carries forward Secs. 134-31(b)(1) through 134-31(b)(8) with revisions for clarity and to reflect state law requirements.

¹⁷⁸ This incorporates the requirements of O.C.G.A. § 36-66-7, effective July 1, 2023. Definitions of “mobile home” and “manufactured home,” included in O.C.G.A. § 36-66-7, will be added when the use regulations are drafted.

Article 7: Nonconformities

Section 7.3. Nonconforming Buildings and Structures

Section 7.3 Nonconforming Buildings and Structures¹⁷⁹

7.3.1. General

A building or structure that is nonconforming, or that contains a nonconforming use, that was legal prior to the adoption of this Ordinance or an amendment shall be allowed to continue, subject to compliance with the requirements of this section.

7.3.2. Nonconforming Structure Standards

A nonconforming building or structure shall not be:

- (A) Enlarged, altered, or rebuilt, except for repairs necessary to maintain the structure of building in a safe and sanitary condition; or
- (B) Rebuilt, altered, or repaired after damage or deterioration exceeding 75 percent of its replacement cost at the time of destruction, except in accordance with the standards of this Ordinance.

Section 7.4 Nonconforming Lots¹⁸⁰

7.4.1. General¹⁸¹

No development shall be established on a nonconforming lot except in accordance with the standards in this section.

7.4.2. Continuance of Nonconforming Lot Size¹⁸²

A lot that is nonconforming in relation to minimum lot size may be granted a permit for a principal structure, accessory structure or building addition, in accordance with Section 2.5.16, Modification Due to Nonconformity, if the Director is provided with documentation that the lot size deficiency:

- (A) Is the result of purchase or condemnation by an entity which has the power of eminent domain; or
- (B) Existed prior to December 26, 1972.

Section 7.5 Nonconforming Signs¹⁸³

7.5.1. General¹⁸⁴

A nonconforming sign that was legal prior August 27, 2019, and that was legal in accordance with the sign regulations in effect prior to that date or any approved variance or other agreement, including but not limited to the amount of sign square footage permitted as of August 27, 2019, shall be permitted to continue even though the sign does not conform with the standards of this Ordinance, subject to the standards in this section.

¹⁷⁹ This section carries forward Section 133-31(c) of the current Zoning Ordinance with revisions for clarity.

¹⁸⁰ This section carries forward Section 133-31(d) of the current Zoning Ordinance with revisions for clarity.

¹⁸¹ This is a new section.

¹⁸² This section carries forward Section 134-31(d) of the current Zoning Ordinance and incorporates the administrative variance procedure permitted for property that has been impacted by acquisition due to eminent domain in Section 134-35.

¹⁸³ This section carries forward Section 134-319 of the current Zoning Ordinance with the additions of section breaks for clarity.

¹⁸⁴ This carries forward the first sentence of Section 134-319 with revisions for clarity.

7.5.2. Nonconforming Sign Standards¹⁸⁵

(A) No Alteration of Structure, Dimensions, or Physical Characteristics, Unless in Compliance with Ordinance

The structure, dimensions, location, or physical characteristics of a nonconforming sign shall not be changed without bringing the sign into compliance with this Ordinance.

(B) Maintenance

Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign. No repairs other than normal maintenance and upkeep of nonconforming signs shall be permitted except to make the sign comply with the requirements of this Ordinance.

(C) Relocation or Replacement

A nonconforming sign that is moved, replaced, or structurally altered shall be brought into conformance with this Ordinance.

(D) Reconstruction or Repair After Damage

If a nonconforming sign is damaged as a result of fire, flood, wind, or an Act of God, the sign may be repaired, rebuilt, or restored to the same dimensions, type, shape, location, and size, and at the same height of the original nonconforming sign. Failure to repair, rebuild, or restore a sign within six months of the date of damage shall be deemed an abandonment of the nonconforming sign and any reestablishment shall conform with the standards and requirements of this Ordinance.

7.5.3. Reduction in Number of Nonconforming Oversized Signs¹⁸⁶

(A) Replacement of Nonconforming Oversized Sign with an Electronic Sign Face or Panel

Any nonconforming sign face with an oversized sign face or panel may be modified to an electronic sign face or panel in accordance with Section 2.5.14, Electronic Sign Upgrade Permit if:

- (1)** The applicant removes at least three nonconforming oversized sign faces or panels of equal or greater square footage to the sign that is being converted to an electronic sign in accordance with subsection (B) below;
- (2)** The signs being removed in subsection are located within the County, in either incorporated or unincorporated areas; and
- (3)** The modified sign faces or panels conform with all other provisions of this Ordinance.

(B) Qualifying Signs

The following criteria shall be used to determine if the removed sign faces or panels satisfy the ratio established in subsection (A) above.

- (1)** Multiple sign panels may be combined to satisfy the necessary sign face or panel removals;
- (2)** Two sign faces or panels not less than 300 square feet shall equal one sign face or panel of 672 square feet in size;

¹⁸⁵ This carries forward Section 134-319 of the current Zoning Ordinance, except for the first sentence; the statement about the purpose of the nonconformity provision is duplicative of the general purpose statement for nonconformity and has not been carried forward separately.

¹⁸⁶ This section carries forward Section 134-317 of the current Zoning Ordinance, with minor edits for clarity.

Article 7: Nonconformities

Section 7.6. Nonconforming Site Features

- (3) If the electronic sign face or panel being installed is 672 square feet or greater¹⁸⁷ in size, the applicant may remove five sign panels not less than 300 square feet in size to comply with the removal requirements.
- (4) In order to be eligible for exchange credit, the entire above-ground sign structure upon which the sign faces/panels to be exchanged are located must be removed.

Section 7.6 Nonconforming Site Features

7.6.1. General¹⁸⁸

The purpose of this section is to provide a means whereby the County may require certain nonconforming site features to be brought into compliance with the standards of this Ordinance as part of remodeling or expansion of a structure.

7.6.2. Maximum Compliance Possible¹⁸⁹

To protect the public from inconsistent development zoning requirements and to make nonconforming uses as consistent with conforming uses as possible, nonconforming uses shall comply with zoning requirements such as parking, landscaping, setback, outside storage, screening or buffering requirements for the zoning district or use to the extent that the requirements do not substantially impact the nonconforming use or nonconforming structure.

¹⁸⁷ “Or greater” is an addition. The language in the current Zoning Ordinance states that “for purposes of the installation of an electronic sign face or panel 672 square feet in size, the applicant may remove five sign panels not less than 300 square feet in size....” It is assumed this is intended to include signs greater than 672 square feet in size as well as signs of that exact value and have accounted for this assumption here.

¹⁸⁸ This is a new section.

¹⁸⁹ This section carries forward Section 134-31(f) of the current Zoning Ordinance.

Article 9: Definitions, Rules of Construction and Interpretation, and Rules of Measurement

Commentary on Draft:

Article 9: Definitions and Rules for Construction, Interpretation, and Measurement, will provide background material that is relevant to interpreting the entire UDC.

Section 9.1, Rules of Construction and Interpretation, will include the rules governing the construction of language in the new UDC, supplementing the general rules of construction in Section 1-2 of the County Code.

Section 9.2, Rules of Measurement, will include the rules of measurement in the new UDC.

Section 9.3, Definitions, provides all other applicable definitions. Additional definitions will be included as future modules of the new UDC are drafted.

This commentary is provided for reference purposes. It will be deleted in the adopted UDC.

Section 9.1 Rules of Construction and Interpretation

Section 9.2 Rules of Measurement

Section 9.3 Definitions

A

Accessory Building or Structure

A building or structure subordinate to the principal use or building on a lot or property and serving a purpose customarily incidental to the use of the principal building, provided any such structure or building is built concurrent with or after the construction of the principal building. Where a building or structure is attached to the principal building in a substantial manner, as by an attachment built as enclosed heated floor space, such building or structure shall be considered part of the principal building.²²²

Adjacent/Adjoining

An arrangement where two properties either share a common boundary line or would share a common boundary line but for the fact an alley, easement, drive aisle, or rail line divides the properties.

²²² This carries forward the definition in Section 134-1 of the current Zoning Ordinance, with minor revisions to clarify that a building or structure that is substantially attached is part of the principal building and is not an accessory.

B

Atlanta Regional Commission

The regional planning and inter-governmental coordination agency for Cobb County and the 11-county Atlanta Region, in accordance with O.C.G.A 50-8-30 *et seq.*

Board of Commissioners

The Board of Commissioners of Cobb County, Georgia, in accordance with state statute, the County Code, and Section 2.3.1 of this Ordinance.²²³

Board of Zoning Appeals (BZA)

The County Board of Zoning Appeals, established in accordance with state statute and Section 2.3.2 of this Ordinance.²²⁴

²²³ This definition is new.

²²⁴ This carries forward, with minor revisions, the definition in Section 134-1 of the current Zoning Ordinance.

Building Line²²⁵

A line parallel to the lot line that intersects the point where the foundation wall of a building or structure comes nearest to the property line. The foundation wall of a building shall exclude brick, stucco, stone, or other siding material. However, the lowermost perimeter of any cantilevered portions of a building, excluding roof eaves and overhangs, chimneys, bay windows, and siding material applied, shall be considered part of the foundation wall for the purposes of this definition.

C

Chattahoochee River Development Certificate

The building permit or other written authorization issued in accordance with the Metropolitan River Protection Act (O.C.G.A. § 12-5-440 *et seq.*) which includes the application, all documents supplied in support of the certification, and the Board of Commissioners’ approval together with any conditions of development.²²⁶

Chattahoochee River Stream Corridor

All land in the area in the watercourse, within 2,000 feet of the watercourse, or within the floodplain, whichever is greater.²²⁷

Chattahoochee River Tributary Protection Area

The stream channel and the land area extending outward 25 horizontal feet from the banks on either side of all flowing streams in the drainage basin of all tributaries of the Chattahoochee River from Buford Dam downstream to the Douglas County border.²²⁸

Community Development Director

See “Director.”

²²⁵ This carries forward, with substantial revisions, the definition in Section 134-1 of the current Zoning Ordinance.

²²⁶ This carries forward the definition of “Certificate” in Section 134-284(a) of the current Zoning Ordinance.

²²⁷ This carries forward and updates the definition in Section 50-26 of the County Code.

²²⁸ This carries forward the definition in Section 134-284(a) of the current Zoning Ordinance.

²²⁹ This updates and simplifies the definition in Section 134-1 of the current Zoning Ordinance.

²³⁰ This is a new definition.

Comprehensive Plan

The Cobb County 2030 Comprehensive Plan, as amended or superseded.²²⁹

D

Density

A measure of intensity for land used for predominantly residential purposes, measured as the number of dwelling units to land area.²³⁰

Development Appeals Committee

The committee established for deciding appeals of Construction Plans (see Sec. 2.5.7(D)), in accordance with Section 2.3.6 of this Ordinance.²³¹

Development Review Committee

The committee established for review and approval of certain development applications, in accordance with Section 2.3.5 of this Ordinance.²³²

Development Order

Any order granting, with or without conditions, or denying a development permit including any building permit, zoning permit, zoning map amendment (including planned development amendment), subdivision approval, site plan approval, permitted conditional use, certification, variance, or any official action of the County having the effect of permitting any type, level, nature, density, intensity, or other form of development of land.²³³

Director

The officer in charge of the Community Development Agency who is responsible for the planning and development permitting functions of the County and for administration of this Ordinance.²³⁴

²³¹ This definition is new. It replaces the “Board of Adjustment and Appeals” in DS 101.3 for the purposes of this Ordinance.

²³² This revises the definition in DS 101.15.

²³³ This is a new definition.

²³⁴ This definition is new. It replaces the definition for Zoning Administrator in Section 134-1 of the current Zoning Ordinance and the definition for Director in Section 110-1 of the Subdivision Ordinance. This definition also replaces the definition for “Subdivision administrator” in Section 110-1 and for “Manager” in Section 234-312.

E

Extension of Utilities

An extension of a sewer or water main. Hookups of an individual building or multiple buildings to an existing sewer or water main shall not be considered extension of utilities.²³⁵

Erosion Control

Treatment measures for the prevention of damages due to land surface being worn away by the action of wind, water, ice or gravity.²³⁶

F

Floodplain

An area subject to a one percent or greater chance of flooding in any given year or as may be defined from time to time by the Federal Emergency Management Agency (FEMA) and its successors.²³⁷

Frontage

See “Lot frontage”.

I

Intensity

The degree to which land is used, measured by a combination of the type of land used and the amount of land or floor area devoted to that use. Generally, a particular use may be more intense due to one or more characteristics, such as traffic generated, amount of impervious surface, bulk of the structures, number of employees, density, or external impacts such as noise or light.²³⁸

²³⁵ This is a new definition.

²³⁶ This is a new definition developed from the definition of “Erosion” in Section 50-71 of the current County Code.

²³⁷ This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²³⁸ This is a new definition.

²³⁹ This duplicates the definition for Land Disturbing Activity from Section 50-71 of the County Code.

²⁴⁰ This replaces the existing definitions in Section 134-1 of the current Zoning Ordinance and Section

L

Land Disturbing Activity

Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land. Land disturbing activity does not include agricultural practices as described O.C.G.A. 12-7-17(5) or silvicultural land management activities as described in O.C.G.A. 12-7-17(6) within areas zoned for these activities.²³⁹

Lot²⁴⁰

A tract, plot, or portion of land, whether or not platted, intended as a unit for the purpose of transfer of ownership or for building development.

Lot, corner²⁴¹

A lot fronting on two streets at their intersection. When the frontage of one street exceeds the frontage of the other, the one with the least frontage shall be deemed the front of the lot.

Lot coverage²⁴²

The percentage of a lot which may be covered with permitted or accessory buildings or structures, excluding walks, drives and other similar uses, and recreational facilities which are accessory to a permitted use.

Lot depth²⁴³

The average horizontal distance between the front and rear lot lines.

Lot frontage²⁴⁴

The distance for which the front lot line of the lot and the street line are coincident. See “Lot line, Front”.

110-1 of the current Subdivision Ordinance, for clarity. Lot-related definitions, including setbacks, may be updated during drafting of the zoning districts.

²⁴¹ This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²⁴² This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²⁴³ This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²⁴⁴ This carries forward the definition in Section 134-1 of the current Zoning Ordinance with slight revisions.

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Lot line²⁴⁵

Any boundary or boundary line which provides the legally defined limits of a lot, parcel tract, or plot.

Lot line, Front²⁴⁶

The property line dividing a lot from a street. On a corner lot only one street line shall be considered as a front line, and the shorter street frontage shall be considered the front line. See “Lot, corner”.

Lot of record²⁴⁷

A lot which is part of an approved subdivision, a plat of which has been recorded in the office of the clerk of the Superior Court of the County.

Lot width²⁴⁸

The distance between the side lot lines measured along the front building line of the lot as determined by the prescribed front yard requirement.

M

Manufactured Home, Class I

A single-family dwelling unit that is constructed in accordance with the Federal Manufactured Home Construction and Safety Standards and bears an insignia issued by the U.S. Department of Housing and Urban Development (HUD), or one, if constructed prior to applicability of such standards and insignia requirements, that was constructed in conformity with the state standards in effect on the date of manufacture.²⁴⁹

Manufactured Home, Class II

A unit meeting the requirements of a Manufactured Home, Class I, and bearing an insignia of the Southern Standard Building Code

²⁴⁵ This is a new definition.

²⁴⁶ This is a new definition.

²⁴⁷ This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²⁴⁸ This carries forward the definition in Section 134-1 of the current Zoning Ordinance and removes the redundant reference in Section 110-1 of the current Subdivision Ordinance.

²⁴⁹ This carries forward the definition in Section 134-278(a)(6) of the current Zoning Ordinance.

²⁵⁰ This carries forward the definition in Section 134-278(a)(6) of the current Zoning Ordinance with minor revisions.

Congress International (SSBCCI) of Birmingham, Alabama.²⁵⁰

Major Roads

Interstate 75, Interstate 20, Interstate 285, and Cobb Parkway/U.S. Highway 41.²⁵¹

Maximum Extent Practicable

No feasible or practical alternative exists, as determined by the Director, and all possible efforts to comply with the standards or regulation or minimize potential harmful or adverse impacts have been undertaken by an applicant.

Economic considerations may be taken into account but shall not be the overriding factor determining “maximum extent practicable.”²⁵²

N

Nonconformity

A term applied to uses of land, structures, lots, signs, and other site features which were lawful before the adoption or an amendment of the Ordinance, but which fails by reason of such adoption or amendment to conform to the present standards of the Ordinance related to uses of land, structures, lots, signs, and other site features (as appropriate).²⁵³

Nonconforming Lot

A lot, the area, dimensions, or location of that was lawful prior to the adoption or amendment of the Ordinance, but which fails by reason of such adoption or amendment to conform to the present standards of the Ordinance.²⁵⁴

Nonconforming Site Feature

A site development standard of a development or lot, such as off-street parking spaces or other off-street parking requirements, landscape standards, open space set-aside standards, or

²⁵¹ This carries forward the definition in Section 134-312 of the current Zoning Ordinance. This may be updated or limited to its current use (regarding the placement of oversized signs) as additional sections of this Ordinance are drafted.

²⁵² This is a new definition.

²⁵³ This replaces the definition of “Nonconforming Use” in Section 134-1 of the current Zoning Ordinance.

²⁵⁴ This is a new definition.

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exterior lighting standards, that was lawful prior to the adoption or amendment of the Ordinance, but which fails by reason of such adoption or amendment to conform to the present standards of the Ordinance.²⁵⁵

Nonconforming Structure

A structure or building the size, dimensions, or location of that was lawful prior to the adoption or amendment of the Ordinance, but which fails by reason of such adoption or amendment, to conform to the present requirements of the Ordinance.²⁵⁶

Nonconforming Use

A use or activity that was lawful prior to the adoption or amendment of the Ordinance, but which fails, by reason of such adoption or amendment, to conform to the present use requirements of the Ordinance and the zoning district in which it is located.²⁵⁷

Nonconforming Sign

Any sign whose structure, dimensions, and other physical characteristics were lawful prior to the adoption or an amendment of the Ordinance, but which fails, by reason of such adoption or amendment, to comply with the standards of Section 5.12, Signs.²⁵⁸

O

Ordinary Maintenance

Normal upkeep required to maintain a property or structure in a safe condition or effect only minimal change. Ordinary maintenance includes reroofing, painting, repairing damaged structural components, sealing and striping a parking lot, window/door changes, façade renovation, signage change, and the like, and falls short of the thresholds necessary to qualify as redevelopment.²⁵⁹

²⁵⁵ This is a new definition.

²⁵⁶ This is a new definition.

²⁵⁷ This is a new definition.

²⁵⁸ This is a new definition.

²⁵⁹ This carries forward the routine maintenance element of the definition of “Redevelopment” in Section 134-1 of the current Zoning Ordinance with minor revisions.

²⁶⁰ This revises the definition in Section 134-1 of the current Zoning Ordinance.

P

Planning Commission

The County Planning Commission, established in accordance with state statute and Section 2.3.3 of this Ordinance.²⁶⁰

Planned Development

A tract of land developed initially under single ownership or control, the development of which is unique and of a substantially different character than that of surrounding areas. Such development shall be based on a plan which allows for flexibility of design not available under normal zoning district requirements.²⁶¹

Plat, Final

A plat of a tract of land which meets the requirements of this Ordinance for recording in the office of the clerk of the Superior Court of the County.²⁶²

R

Redevelopment

Development that involves either: demolition of a new building for a proposed new building or structure; a proposed addition that adds 15 percent or more building square footage to an existing building (based on gross building square footage), cumulatively calculated over time; or acquisition of a land disturbance permit that permits disturbance of more than 25 percent of a property. Ordinary Maintenance is not redevelopment.²⁶³

Rezoning

An update to the Official Zoning Map. See Section 2.5.1, Official Zoning Map Amendment, and Section 2.5.2, Planned Development.²⁶⁴

²⁶¹ This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²⁶² This carries forward the definition in Section 110-1 of the current Subdivision Ordinance.

²⁶³ This carries forward with minor revisions the definition in Section 134-1 of the current Zoning Ordinance. Routine maintenance is removed and added as a separate definition.

²⁶⁴ This is a new definition.

S

Setback

The minimum required distance between the property line and the building line.²⁶⁵

Sign

Any device, image, structure, or other conveyance utilized in whole or in part to a visual impression or message. This definition includes, but is not limited to, placards, posters, banners, pennants, pictures, projected images, balloons, streamers, window signs, and painted images.²⁶⁶

Sign Face

The portion of the sign that displays, or is capable of displaying, the message, copy, text, or image.²⁶⁷

Sign, Electronic

A sign the message of which may be changed by computer controller, microprocessor controller, or by remote control, and the message of which is displayed through the use of LED, LCD, plasma, or other similar type panels or screens, including devices known as commercial electronic message signs and similar devices.²⁶⁸

Sign, Nonconforming

See “Nonconforming Sign”.

Sign, Oversized

A permanent sign which exceeds 19 feet in sign height or 49 square feet of sign area on any one face of the sign.²⁶⁹

Street

Streets, avenues, boulevards, roads, highways, expressways, lanes, alleys, and other rights-of-

way which afford the principal means of access to more than one lot of abutting property.²⁷⁰

Structure

That which is built, constructed, erected, or placed, including all temporary, fixed, or movable construction, including, but not limited to tennis courts, fences, swimming pools, and buildings.²⁷¹

Subdivision

All divisions of a tract or parcel of land into two or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes all division of land involving a new street or a change in existing streets, and includes resubdivision. The following are not included within this definition:

1. A division or sale of land by judicial decree; and
2. The sale or exchange of a parcel of land between owners of adjoining properties; provided that additional lots are not thereby created.²⁷²

W

Watercourse

The banks of a major stream, including any impoundments thereon, in the area as defined by the low-water mark of such stream any impoundments and including the entire bed of such stream and any impoundments and all islands therein, from the point where the stream enters the area downstream to a line perpendicular across the flow of such stream at the point, within the area, which is the last downstream water supply intake location for any political subdivision in the area.²⁷³

²⁶⁵ This carries forward the definition in Section 134-1 of the current Zoning Ordinance.

²⁶⁶ This carries forward with minor revisions the definition in Section 134-312 of the current Zoning Ordinance. Sign-related definitions will be updated during the drafting of the sign development standards.

²⁶⁷ This carries forward the definition in Section 134-312 of the current Zoning Ordinance.

²⁶⁸ This carries forward the definition in Section 134-312 of the current Zoning Ordinance.

²⁶⁹ This carries forward the definition in Section 134-312 of the current Zoning Ordinance.

²⁷⁰ This revises the definition in Section 134-68(f) of the current Zoning Ordinance to include a general provision including most rights-of-way.

²⁷¹ This revises the definition in Section 134-1 of the current Zoning Ordinance.

²⁷² This merges the definition in Section 134-68(f) of the current Zoning Ordinance with the more extensive definition in Section 110-1 of the current Subdivision Ordinance.

²⁷³ This carries forward the definition in Section 134-284(a) of the current Zoning Ordinance. The definitions of “flowing stream”, “political subdivision”,

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“plan”, “person”, “governing authority”, “flowing stream”, and “applicant” in Section 134-284(a) are not carried forward in this Ordinance because they are

not used in the regulations, and will be added back during later drafting as needed.