

## ARTICLE 1. INTRODUCTORY PROVISIONS

### Div. 1.1. Legal Requirements

#### Sec. 1.1.1. Introduction

The following districts and standards were designed to preserve existing neighborhoods while promoting predictable urban development that aligns with the vision and policies set forth by The Next Ten Comprehensive Plan. This plan defines a vision for growth that strives for a balance between maintaining the quality of existing neighborhoods and creating urban, mixed-use, walkable, neighborhood-friendly development that contributes to a high-quality public realm.

#### Sec. 1.1.2. Title

This document is the Sandy Springs Development Code and is referred to or cited throughout this document as "this Development Code."

#### Sec. 1.1.3. Effective Date

This Development Code was adopted on August 15, 2017 and became effective on September 15, 2017.

[This Development Code was subsequently updated and adopted on December 5, 2023](#)

#### Sec. 1.1.4. Purpose

- A. This Development Code is intended to guide the future growth of the City of Sandy Springs in alignment with the vision set forth by The Next Ten Comprehensive Plan.
- B. This Development Code was developed to help foster more predictable results and a higher-quality public realm by prescribing the physical form of buildings and addressing the relationship between building facades and the public realm, the form and mass of buildings in relation to one another and the scale and types of streets and blocks.

#### Sec. 1.1.5. Intent

- A. This Development Code is intended to balance conservation and development by:
  - 1. Ensuring conservation of land and natural resources.
  - 2. Promoting the preservation and enhancement of the City's tree canopy.
  - 3. Guiding reinvestment in established neighborhoods that preserves and reinforces their unique characteristics.

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4. Promoting development along transit corridors that enhance their function as mixed-use, walkable centers that serve surrounding residential neighborhoods.
  5. Providing standards for compatible transitions of use, building scale, and height between existing and new development.
  6. Providing clear and consistent procedures for appropriate and effective public involvement in land use and development decisions.
- B. This Development Code is intended to ~~achieve~~encourage design excellence in the built environment by:
1. Providing building and site design standards that address the public aspects of private development and how building form, placement, and uses contribute to the quality of the public realm.
  2. Providing parking and access standards that appropriately balance pedestrian and vehicular needs and result in safe pedestrian environments of the highest quality.
  3. Promoting quality landscape and building design that advance the function and beauty of Sandy Springs.
- C. This Development Code is intended to guide Sandy Springs' prosperous and sustainable future by:
1. Providing clear regulations and processes that result in predictable, efficient, and coordinated development review.
  2. Promoting conservation of land, energy, and natural resources.
  3. Promoting sustainable building and site design practices.
  4. Promoting diverse housing options along the City's major corridors and within its nodes.
  5. Providing standards for interconnected streets and development patterns that support all modes of

### Sec. 1.1.6. Authority

This Development Code is adopted under the authority of the Constitution of the State of Georgia and laws enacted pursuant to the Constitution, including but not limited to:

- A. O.C.G.A. Title 36, Chapter 66. Zoning Procedures; and
- B. O.C.G.A. Title 44, Chapter 2. Recordation and Registration of Deeds and Other Instruments.

### Sec. 1.1.7. Application

- A. **Territorial Application** This Development Code applies to all land, uses, buildings and structures within the corporate boundaries of the City.
- B. **General Application** In their interpretation and application, the provisions of this Development Code are the minimum requirements for the promotion and protection of the public health, safety and welfare.
- C. **Required Conformance** All buildings, structures or land, in whole or in part, must be used or occupied in conformance with this Development Code. All buildings or structures, in whole or in part, must be erected, constructed, moved, enlarged or structurally altered in conformance with this Development Code.
- D. **Control Over Less Restrictive Private Agreements** This Development Code does not nullify any private agreement or covenant. However, where this Development Code is more restrictive than a private

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agreement or covenant, this Development Code controls. The City will not enforce any private agreement or covenant.

- E. **Control Over Less Restrictive Laws and Regulations** If any condition or requirement imposed by this Development Code is more restrictive than a condition or requirement imposed by any other law, rule or regulation of any kind, the more restrictive condition or requirement governs.
- F. **Conflicting Provisions** If any condition or requirement imposed by this Development Code contains an actual, implied or apparent conflict, the more restrictive condition or requirement controls.
- G. **References to Other Laws** Whenever a provision of this Development Code refers to any other part of the Sandy Springs City Code or to any other law, the reference applies to any subsequent amendment of that law.
- H. **Text and Graphics**
  - 1. Illustrations, photographs and graphics are included in this Development Code to illustrate the intent and requirement of the text. In the case of a conflict between the text of this Development Code and any illustrations, the text governs. Where no text describes conditions or arrangements illustrated in graphics, the conditions or arrangements illustrated govern. When subsequent text is developed to describe conditions or arrangements illustrated in the graphics, that text must be consistent with the conditions or arrangements illustrated.
  - 2. If any section, paragraph, subdivision, clause, sentence or provision of this Development Code is adjudged by any court of competent jurisdiction to be invalid, that judgment does not affect, impair, invalidate or nullify the remainder of this Development Code. The effect of the judgment is confined to the section, paragraph, subdivision, clause, sentence or provision immediately involved in the controversy in which judgment or decree was rendered.

### **Sec. 1.1.8. Transitional Provisions**

- A. **Existing Applications and Permits**
  - 1. Any subdivision or other project for which a valid and complete application for a land disturbance permit was received prior to the effective date of this Development Code remains valid and, at the developer's option, may proceed to completion and building permits may be issued under the regulations of the City of Sandy Springs in place immediately prior to the effective date of this Development Code, provided that the land disturbance permit is or can be issued within 90 calendar days of this Development Code's effective date and all time frames associated with the permit are observed.
  - 2. Any project for which a land disturbance permit cannot be issued within 90 calendar days from the effective date of this Development Code must proceed in accordance with these development regulations.
  - 3. Any subdivision or other project for which a modified or conditional land disturbance permit was issued, i.e. any permit which may have been issued for clearing and grubbing or grading only purposes prior to the effective date of this Development Code must be brought into conformance with this Development Code prior to issuance of any other land disturbance permit or permit modification that would authorize additional work on the project.
  - 4. Administrative modifications will be granted as necessary and appropriate where full compliance is not feasible or cannot reasonably be achieved because of the stage of development, limitations imposed by the site, or design parameters.

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- B. **Land Disturbance Permit** This Development Code applies to any land disturbance permit for which an application is received after the effective date of this Development Code.
  - C. **Building Permit** Nothing in this Development Code should be construed to affect the validity of any building permit, fence permit, pool permit, retaining wall permit, sign permit or other similar permit lawfully issued prior to the effective date of this Development Code.

### Sec. 1.1.9. Prior Approval Conditions

- A. The adoption of an Official Zoning Map implementing this Development Code will remove all prior conditions of rezoning, with the exception of:
  - 1. Buffers or setbacks adjacent to Protected Neighborhoods that exceed the requirements in this Development Code;
  - 2. Any provision for preservation or donation of park or open space land; and
  - 3. Development of Regional Impact (DRI) transportation conditions that exceed the requirements imposed by this Development Code.
  - 4. Any conditions that restrict the provision of ballfield or playground lighting or sound amplification.
  - 5. Any provision in an approved condition or site plan that restricts vehicular access to or from a particular direction. This provision does not apply to sites located within Perimeter Center districts that do not directly abut Protected Neighborhood or RU- or RT- districts.
- B. Relief from any prior rezoning condition must be granted through the Planning Commission and City Council under the procedures for Legislative Review (see Div. 11.3.) as a Zoning Map Amendment.
- C. All conditions attached to previously approved Use Permits remain in effect. Relief from any prior use permit condition must be granted through the Planning Commission and City Council under the procedures for Legislative Review (see Div. 11.3.) as a Conditional Use Permit.

### Sec. 1.1.10. Amortization for Vehicle-Related Uses

- A. **Intent** It is the intent of this Section to bring into conformity the parking lot landscaping and perimeter screening, foundation planting, mechanical and other equipment screening, and site lighting of vehicle-related uses. It is the intent of the City Council to protect the investment-backed expectations of property owners, and to accomplish conformity while allowing property owners a reasonable return on their investment.
- B. **Applicability** The requirements of this Section apply to all of the following uses, provided they do not meet the standards referenced in paragraph C. below, where the affected lot abuts Roswell Road, or the lot is visible from the right-of-way of Roswell Road:
  - 1. Fuel pumps;
  - 2. ~~Gas-Fuel~~ stations;
  - 3. Vehicle sales and rental (major and minor); and
  - 4. Vehicle service and repair (major and minor).
- C. **Standards** The following requirements must be met where practicable:
  - 1. Sec. 8.2.2.B<sub>2</sub> regarding perimeter screening of parking lots;
  - 2. Sec. 8.2.4<sub>2</sub> regarding foundation planting;

3. Sec. 8.2.9<sub>2</sub> regarding screening; and
4. Div. 8.4 regarding site lighting.

**D. Time for Compliance**

1. The standards in paragraph C above must be met within 7 years of the effective date of this Development Code.
2. Owners of property subject to this Section may apply for an extension of time at any time prior to or within 30 days after the expiration of the 7-year period. Such application ~~shall~~must contain the following information:
  - a. Name of the property owner making application;
  - b. Address and tax parcel number of affected property;
  - c. A statement from the property owner of how long of an extension is anticipated to be needed to ensure compliance.
3. Upon receipt of the application, the Director will review the request, including any steps taken to ensure compliance, and grant or deny the request. In no case may the extension exceed 6 months.

**E. Alternative Solutions**

1. Where the Director determines compliance with the standards of this Section are infeasible, due to site limitations or otherwise, alternative standards may be considered that meet or exceed the standards of this Section.

## Div. 1.2. Districts

### Sec. 1.2.1. Districts Established

In order to carry out the purpose and intent of this Development Code, the City is divided into the following zoning districts, as established on the Official Zoning Map in Div. 1.3. These districts are intended to implement the specific Character Areas established in the Comprehensive Plan, as set out in the table below.

The creation of new districts must be approved through the Planning Commission and City Council under the procedures for Legislative Review (see Div. 11.3) as a Text Amendment.

<u>Character Areas and Zoning Districts</u>		
<u>Character Area Group</u>	<u>Character Areas Implemented</u>	<u>Zoning Districts Permitted</u>
<u>Protected Neighborhood</u>	<u>Protected Neighborhood</u>	<u>Residential Estate:</u> <u>RE-2, RE-1</u>
		<u>Residential Detached:</u> <u>RD-27, RD-18, RD-15, RD-12, RD-9, RD-7.5</u>
	<u>Conservation Area/Park</u>	<u>Parks:</u> <u>PK</u>
		<u>Conservation:</u> <u>CON</u>
<u>Urban Neighborhood</u>	<u>Urban Neighborhood</u>	<u>Residential Urban:</u> <u>RU-4, RU-3</u>

	<a href="#">Urban Neighborhood, Powers Ferry</a>	<a href="#">Residential Townhouse: RT-3</a>
		<a href="#">Residential Multi-Unit: RM-3, RM-3/8</a>
		<a href="#">Residential Mixed Use: RX-3, RX-3/6, RX-4, RX-5</a>
<a href="#">Corridor &amp; Node</a>	<a href="#">Neighborhood Village</a>	<a href="#">Office Neighborhood: ON-3</a>
	<a href="#">Commercial/Mixed Use, Powers Ferry, Powers Ferry Village</a>	<a href="#">Office Mixed Use: OX-3, OX-4, OX-5, OX-6, OX-8</a>
		<a href="#">Commercial Mixed Use: CX-3, CX-3/6, CX-6, CX-6/8</a>
	<a href="#">Mixed Use, Powers Ferry Village</a>	<a href="#">Shopfront Mixed Use: SX-3, SX-3/6, SX-4, SX-6, SX-6/10</a>
	<a href="#">MARTA Transit-Oriented Development</a>	<a href="#">Transit-Mixed Use: TX-4, TX-6</a>
	<a href="#">City Springs</a>	<a href="#">City Springs: CS-3, CS-4, CS-5, CS-6, CS-6/8</a>
	<a href="#">Commercial/Mixed Use</a>	<a href="#">Industrial Mixed Use: IX-3</a>
	<a href="#">Commercial/Mixed Use, Powers Ferry Village</a>	<a href="#">Commercial Corridor: CC-3</a>
<a href="#">Perimeter</a>	<a href="#">Mixed Use</a>	<a href="#">North End Mixed Use: NEX-5/6, NEX-5/10/12</a>
	<a href="#">Perimeter Center</a>	<a href="#">Perimeter Residential: PR-3, PR-5</a>
	<a href="#">Perimeter Center, Perimeter Medical</a>	<a href="#">Perimeter Mixed Use: PX-3, PX-5, PX-8, PX-10/12, PX-20/35</a>
	<a href="#">Perimeter Medical</a>	<a href="#">Perimeter Medical: PM-5, PM-8, PM-12/15, PM-20/35</a>

<a href="#">Zoning District Categories</a>		
	<a href="#">Established Zoning Districts</a>	<a href="#">Character Areas Implemented</a>
<a href="#">Protected Neighborhood Districts</a>		
	<a href="#">Residential Estate: RE-2, RE-1</a>	<a href="#">Protected Neighborhood</a>
	<a href="#">Residential Detached: RD-27, RD-18, RD-15, RD-12, RD-9, RD-7.5</a>	<a href="#">Protected Neighborhood</a>
	<a href="#">Parks: PK</a>	<a href="#">Conservation Area/Park</a>
	<a href="#">Conservation: CON</a>	<a href="#">Conservation Area/Park</a>
<a href="#">Urban Neighborhood Districts</a>		
	<a href="#">Residential Urban: RU-4, RU-3</a>	<a href="#">Urban Neighborhood</a>
	<a href="#">Residential Townhouse: RT-3</a>	<a href="#">Urban Neighborhood, Powers Ferry</a>

	Residential Multi-Unit: RM-3, RM-3/8	Urban-Neighborhood, Powers Ferry
	Residential Mixed-Use: RX-3, RX-4, RX-5	Urban-Neighborhood, Powers Ferry
<b>Corridor &amp; Node Districts</b>		
	Office-Neighborhood: ON-3	Neighborhood-Village
	Office Mixed-Use: OX-3, OX-4, OX-5, OX-6, OX-8	Commercial/Mixed-Use, Powers Ferry, Powers Ferry Village
	Commercial Mixed-Use: CX-3, CX-6	Commercial/Mixed-Use, Powers Ferry, Powers Ferry Village
	Shopfront Mixed-Use: SX-3, SX-4, SX-6	Mixed-Use, Powers Ferry Village
	Transit Mixed-Use: TX-4, TX-6	MARTA Transit-Oriented-Development
	City Springs: CS-3, CS-4, CS-5, CS-6	City Springs
	Industrial Mixed-Use: IX-3	Commercial/Mixed-Use
	Commercial Corridor: CC-3	Commercial/Mixed-Use, Powers Ferry Village
	North-End Mixed-Use: NEX-5/6, NEX-5/10/12	Mixed-Use
<b>Perimeter Center Districts</b>		
	Perimeter Residential: PR-3, PR-5	Perimeter Center
	Perimeter Mixed-Use: PX-3, PX-5, PX-8, PX-10/12, PX-20/35	Perimeter Center
	Perimeter Medical: PM-5, PM-8, PM-12/15, PM-20/35	Perimeter Center

### Sec. 1.2.2. Frontages Established

In order to carry out the purposes and intent of this Development Code, the following frontages are established on the Official Zoning Map in Div. 1.3. These frontages are intended to implement specific character as established in the Roswell Road and Perimeter Center small area plans of the Comprehensive Plan.

#### A. Corridor and Node Frontages

1. PL Parking Limited

#### BA. Perimeter Center Frontages

1. Standard
2. -UL Urban Limited
3. -UG Urban General
4. -SH Shopfront

## Div. 1.3. Official Zoning Map

### Sec. 1.3.1. Official Zoning Map Established

- A. The boundaries of the zoning districts and frontages established in Div. 1.2 are shown and established on the Official Zoning Map The Official Zoning Map for the City of Sandy Springs is incorporated and made part of this Development Code.
- B. The Official Zoning Map was adopted on August 15, 2017 and became effective on September 15, 2017.
- C. The Official Zoning Map may be kept electronically in a Geographic Information System. Any copy of the Official Zoning Map published on the web or otherwise portrayed electronically does not constitute the original Official Zoning Map.
- D. The Director may make paper copies of the Official Zoning Map available to the public for a reasonable fee.

### Sec. 1.3.2. Interpretation of Map Boundaries

Where uncertainty exists with respect to the boundaries of any zoning district on the Official Zoning Map, the Director is authorized to interpret the boundaries using the following methods.

- A. Where a district boundary line is shown as approximately following the centerline of a street or highway, or an extension of a street or highway, the district boundary is the centerline of that street or highway.
- B. Where more than one district applies to a property, and the district boundary line is shown as running approximately parallel at a distance from a street, the distance from the centerline must be determined by the use of the map scale.
- C. Where a district boundary line is shown as approximately following a lot line, the district boundary is the lot line.
- D. Whenever any street, alley, ~~or~~ other public way, or un-zoned remnant property is vacated, ~~or~~ abandoned, or sold by official action of the City Council, or other state or local entity, the least intense zoning district adjoining ~~each~~ either side of the street, alley, ~~or~~ public way, or public property, will be automatically extended to the center of the street, alley, ~~or~~ public way or public property, as determined by the Director.
- E. Where a boundary line is shown and its location is not fixed by any of the rules of this Division, its precise location is determined by scaling from streets, objects or structures shown on the Map.



## ARTICLE 11. ADMINISTRATION

### Div. 11.1. Review Authority

#### Sec. 11.1.1. Summary of Review Authority

The following table summarizes the review, approval and appeal authority of the various review bodies and officials that implement and administer the Development Code.

APPROVAL PROCESS	Cross-reference	APPROVAL AUTHORITY				PUBLIC NOTICE				
		Director	Board of Appeals	Planning Commission	City Council	Community Meetings	Web	Posted	Mailed	Published
<b>Legislative Review</b>	Div. 11.3.									
Text Amendment		R	—	R-PH	D-PH	—	Y	—	—	Y
Character Area Map Amendment		R	—	R-PH	D-PH	Y	Y	Y	Y	Y
Zoning Map Amendment (Rezoning)		R	—	R-PH	D-PH	Y	Y	Y	Y	Y
Conditional Use Permit		R	—	R-PH	D-PH	Y	Y	Y	Y	Y
<b>Subdivision Review</b>	Div. 11.4									
Preliminary Plat		D	A-PH	—	—	—	—	—	—	—
Final Plat without dedication		D	A-PH	—	—	—	—	—	—	—
Final Plat with dedication		R	—	—	D-PH	—	—	—	—	—
<b>Permit Review</b>	Div. 11.5									
Land Disturbance Permit		D	A-PH	—	—	—	—	Y*	—	—
Building Permit		D	A-PH	—	—	—	—	Y*	—	—
Tree Removal Permit		D	A-PH	—	—	—	—	Y*	—	—
Temporary Use Permit		D	A-PH	—	—	—	—	—	—	—
<b>Relief</b>	Div. 11.6									
Administrative Variance		D	—	—	—	—	—	—	—	—
Variance		R	D-PH	—	—	—	Y	Y	Y	Y
Appeal of an Administrative Decision		R	D-PH	—	—	—	Y	—	—	Y
<b>Beneficial Use Determination</b>		R	—	R-PH	D-PH	—	Y	Y	Y	Y

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**KEY:** R = Review & Recommendation D = Final Decision A = Appeal PH = Public Hearing  
Y = Required Y\* = Plan box posted on site at time of application — = Not Required

### **Sec. 11.1.2. Director**

The Director has those powers and duties expressly identified in this Development Code and the Sandy Springs Technical Manual, including, but not limited to, the following. All other ordinances or regulations referenced in this Development Code such as the fire prevention and life safety codes, building and other technical codes, regulations and ordinances, are administered by the Directors of the Departments responsible for such ordinances, as established by the City Council. The requirements of this Development Code are interpreted by the Director.

- A. **Review and Recommendation** To review and provide recommendations on applications for:
  - 1. Legislative review;
  - 2. Final plats with dedication;
  - 3. Variances; and
  - 4. Appeals of administrative decisions.
- B. **Decision** To review and decide on applications for:
  - 1. All plats without dedication;
  - 2. All permits handled by the Department of Community Development; and
  - 3. Administrative variances.
- C. **Delegation** The Director may delegate any review authority to the Department staff; however, any decisions remain the responsibility of the Director.
- D. **Interpretation** The Director interprets the provisions of this Development Code, and may use opinions of the City Attorney and others in arriving at interpretations.
- E. **Enforcement** The Director enforces the provisions of this Development Code. See also Div. 11.8.

### **Sec. 11.1.3. Board of Appeals**

The Board of Appeals has those powers and duties expressly identified in this Article, including, but not limited to:

- A. **Decision** To review and decide on applications for:
  - 1. Appeals of the Director's administrative decision or interpretation of this Development Code; as it pertains to the issuance of Stop Work Orders (SWO).
  - ~~2. Appeals regarding approval or denial of preliminary plat or final plat without any public dedication; and~~
  - 23. Variance from the standards of this Development Code.

### **Sec. 11.1.4. Planning Commission**

The Planning Commission has those powers and duties expressly identified in this Article, including, but not limited to, the following.

- A. **Review and Recommendation** To review and provide recommendations on applications for:
  - 1. Legislative review.

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### **Sec. 11.1.5. City Council**

The City Council has those powers and duties expressly identified in this Article, including, but not limited to, the following.

- A. **Decision** To review and decide on applications for:
  - 1. Legislative review; and
  - 2. Final plats that include any acceptance of public dedication.

## **Div. 11.2. Common Review Provisions**

### **Sec. 11.2.1. Applicability**

The following requirements are common to the procedures in Div. 11.3 through Div. 11.6 and apply to applications submitted under this Article.

### **Sec. 11.2.2. Consistency with State Law**

- A. This Article is intended to comply with the provisions of the Georgia Zoning Procedures Act, O.C.G.A. § 36-66 et seq., incorporated by reference in its entirety into this Development Code. This Article is also intended to comply with O.C.G.A. § 36-67, pertaining to zoning decisions.
- B. This Article is intended to comply with the provisions of the Georgia Plat Act, O.C.G.A. § 15-6-67 et seq., incorporated by reference in its entirety into this Development Code.
- C. Where any provision of this Article is in conflict with any provision of State law, State law controls.
- D. Where this Article is incomplete in having failed to incorporate a provision necessarily required for the implementation of State law, the provision of State law must be fully met.

### **Sec. 11.2.3. Application Requirements**

- A. **Application Submittal**
  - 1. All applications must be filed with the City on forms and in such numbers as required by the Director.
  - 2. Application forms are found on the City's website (<http://sandyspringsga.gov>) or hard copies may be obtained from the Department.
- B. **Application Deadline** Complete applications must be submitted in accordance with the published schedule. Schedules indicating submittal dates are developed each year and made available on-line on the City's website and to the public at the Department.
- C. **Fee Schedule**
  - 1. Filing fees have been established to help defray the cost of processing applications. The current fee schedule is available on-line on the City's website and kept on file by the Department and is updated and adopted by the City Council.
  - 2. Before review of an application, all filing fees must be paid in full.

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3. If review of an application is postponed or delayed due to the applicant's failure to comply with any of the provisions of this Article, the Director will assess additional fees as may be determined by the Department to be the additional administrative costs associated with such postponement or delay.

**D. Completeness Determination**

1. All applications must be complete before the City is required to review the application.
2. In order to be accepted, all applications may require both electronic format and paper copies, as prescribed by the Director.
3. An application is considered complete when it contains all of the information necessary to decide whether or not the application will comply with all of applicable requirements of this Development Code. Additional application materials may be required of the applicant following the initial submittal where the submittal details are insufficient to make the necessary determination of compliance with this Development Code.
4. The presumption is that all of the information required in the City's application form is necessary to satisfy the requirements of this Article. However, it is recognized that each application is unique, and more or less information may be required according to the specifics of a particular case. The applicant may rely on the Director to determine whether more or less information has to be submitted.
5. Where a Community Meeting is required, no application will be accepted without evidence such Community Meeting has occurred (see Sec. 11.2.5).

**E. Revised Application Materials**

1. All revised application materials must be submitted to the Department, which will route the materials to the appropriate review bodies. No materials may be sent directly to any Board or Commission, or directly to the Mayor or City Council.
2. No revised application materials, either hard copy or electronic, may be submitted to the Director less than 30 days prior to a scheduled public meeting or public hearing.
3. An application amended beyond this deadline will be put on administrative hold until the following regularly scheduled public hearing or public meeting, and the applicant will be responsible for reimbursing the City for re-advertising fees.
4. No revised, additional or supplementary application materials may be submitted at any board or commission meeting or hearing.

**F. Withdrawal of an Application** An applicant may choose to withdraw their application according to the following procedures.

1. If an application has not been advertised for public hearing or public meeting, it may be withdrawn. The applicant must submit a written request for withdrawal stating the reason for the request. The request must be made to and accepted by the Director. No refund of application fees will be made.
2. Where an application has been advertised, it can be withdrawn prior to the public hearing. The item will remain on the agenda and noted as "Withdrawn."
3. A withdrawal is not a final action, however, withdrawal of an application bars resubmission of a similar application for 6 months.

## **Sec. 11.2.4. Public Hearings and Meetings**

**A. Maximum Hearings Scheduled**

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1. **Legislative Review** No more than 5 new and complete applications, of which no more than one may be a Development of Regional Impact as determined by the Atlanta Regional Commission, will be placed on the same Planning Commission regular agenda. Those in excess will be placed on the next available Planning Commission regular agenda, in the order in which they are received.
  2. **Variance Review** No more than 5 new and complete applications will be placed on the same Board of Appeals regular agenda. Those in excess will be placed on the next available Board of Appeals regular agenda, in the order in which they are received.

### Sec. 11.2.5. Community Meetings

- A. **Intent** The intent of the community meeting is to ensure that applicants pursue early and effective public participation in conjunction with their applications, to ensure that the citizens of the City have an adequate opportunity to learn about applications that may affect them, and to ensure ongoing communication between applicants, adjoining property owners, environmentally stressed communities, community associations and other organizations, elected officials and City staff.
- B. **Community Meeting Required**
  1. Where required by this Article, an application must be presented at two community meetings:
    - a. Following the pre-application meeting, but prior to application; and
    - b. Following application, but prior to being placed on the Planning Commission public hearing agenda.
    - c. Where a rezoning follows an amendment to the Character Area Map, only the second community meeting is required.
  2. The location, date and time of the community meeting must be confirmed with the Department prior to advertising.
  3. If the applicant fails to follow the sequence of events or to advertise according to the rules established by the Director, the application will be put on hold until the requirements are fully met.
  4. Where an application is significantly revised following the initial Community Meeting or Planning Commission public hearing, the Director may require an additional community meeting on the revised application prior to placing the application on the Planning Commission or City Council public hearing agenda, respectively.
- C. **Advertisement** The applicant is responsible for organizing and conducting the community meeting, in accordance with rules established by the Director. The community meeting must be advertised by mail and by a sign posted on the subject property.
  1. **Sign Posting** The applicant must prepare and post a sign on the subject property no later than 15 calendar days prior to the meeting date. The sign must contain the time, place and purpose of the scheduled meeting, and must be formatted consistent with rules established by the Director.
  2. **Notice by Mail**
    - a. The applicant must provide notice by regular mail to all property owners within 500 feet of the boundaries of the subject property who appear in the City's Geographic Information System (GIS). Notices must be postmarked at least 15 calendar days prior to the community meeting. Even if the mail is not delivered, proof of mailing will be considered adequate notice.
    - b. Mailed notices must contain the date, time, place and purpose of the scheduled meeting, the location of the subject property, and the nature of the application requested.

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c. Applicant must produce a Certificate of Mailing from the Post Office upon request from staff.

**D. Conduct of Community Meeting**

1. The community meeting must be held after the pre-application meeting.
2. The applicant is responsible for securing a location close to the subject property for the community meeting.
3. The applicant is responsible for collecting the names and addresses of all attendees.
4. The applicant is responsible for conducting the community meeting, allocating at least 30 minutes to address questions and comments from the audience.
5. Reserved.
6. The City will make the project information sheet and the site plan available on the City website once the community meeting is scheduled.
7. The applicant must provide a summary of the community meeting, including attendees, at the time of filing, as part of any application.

**Sec. 11.2.6. Public Notice Requirements**

**A. In General**

1. For public notice requirements, see the summary table in Sec. 11.1.1.
2. The fact that notice is not received due to an error that was not the fault of the City does not prevent the public hearing from being held, change any decision made at the public hearing, or prevent the application from continuing to move forward through the review process.

**B. Web Notice** Where web notice is required, notice of the public hearing or public meeting must be posted on the City's website at least 15 calendar days prior to the date of the public hearing or meeting.

**C. Posted Notice**

1. Where posted notice is required, a sign must be posted by the applicant on the property on each public or private street frontage at a point visible from the nearest public or private street. In the case of multiple lots, sufficient signs must be posted to provide reasonable notice to interested persons. Signs must be posted before 8:30 AM at least 15 calendar days prior to the date of the public hearing.
2. Property that is not posted as required will be administratively removed from the agenda until all sign posting requirements have been met. The applicant will be responsible for publishing a new notice and mailing new notices as required in this Section.
3. It is the applicant's responsibility to remove or cause to be removed any public notice sign required by this Section. All public notice signs must be removed within 48 hours of final action on the petition (any signs not removed within the period will constitute a violation of this Development Code and the Director will issue a citation).
4. The failure of an applicant to post notice on two consecutive occasions will be considered willful disregard of the applicant's obligation to comply with this Development Code. Any related application will be automatically denied, and subject to all provisions of this Development Code regarding denied applications.
5. Posted notice for permit review, when applicable, is only required in the form of a plan box posted on the project lot at the time of application. The plan box must include a conceptual site plan as well as

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any approved building plans (where applicable). Permits for interior construction are exempt from this requirement.

6. Public notice signs regulated in this Section are exempt from the requirements of Div. 8.3.
- D. **Mailed Notice** Where mailed notice is required, the applicant must notify by mail all owners of property included in the proposed application and all owners of property within 500 feet on all sides, as shown on the Fulton County tax records. Notice must be mailed at least 15 calendar days, but not more than 45 calendar days, prior to the date of the public hearing.
- E. **Published Notice**
  1. Where published notice is required, notice of the public hearing must be published by the Director at least once in a newspaper generally circulated within the City at least 15 calendar days, but not more than 45 calendar days, prior to the date of the public hearing. Published notice is not required when a public hearing or meeting is deferred by City Council, Planning Commission or Board of Appeals.
  2. Where the applicant provides revisions after the deadline or does not provide public notice as required in this Division, the applicant will reimburse the City for any additional advertisement costs that result.

### **Sec. 11.2.7. Conduct of Public Hearing**

A required public hearing will be conducted in accordance with the bylaws of the applicable hearing body.

### **Sec. 11.2.8. Notice of Decision**

Within 5 working days after the approval of meeting minutes reporting a decision, an approval letter must be sent to the applicant by the Director. In the case of permit issuance, the permit constitutes written notice of the decision.

## **Div. 11.3. Legislative Review**

### **Sec. 11.3.1. Authority**

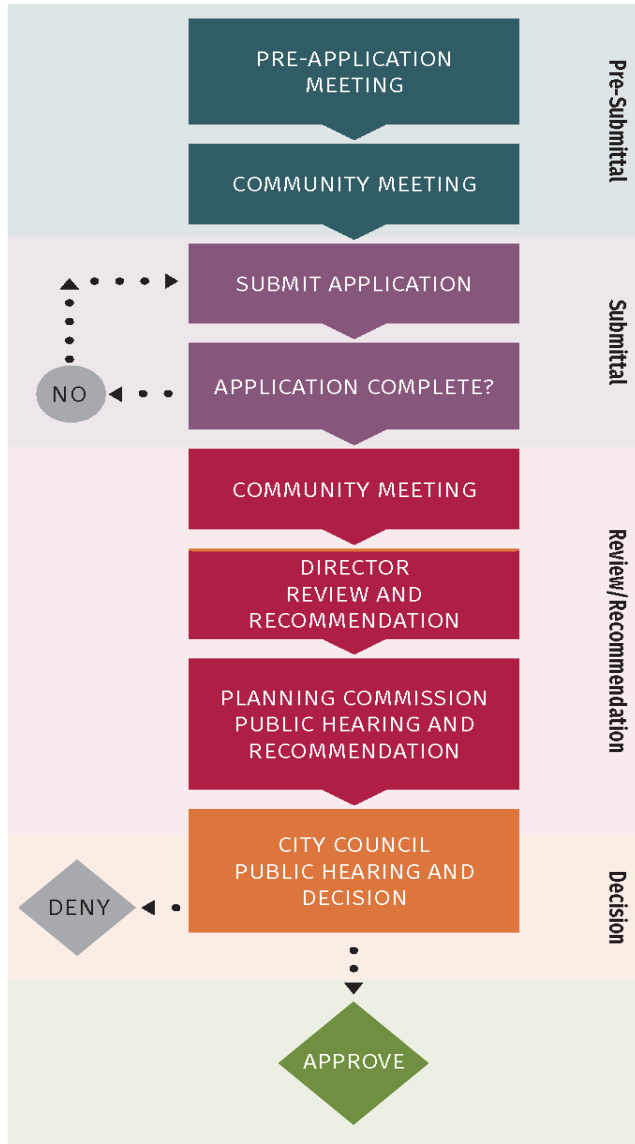
The City Council approves applications for Legislative Review.

### **Sec. 11.3.2. Applicability**

Legislative Review is required for the following.

- A. **Text Amendments** A request to amend the text of this Development Code or the Comprehensive Plan. This process may only be initiated by staff or an elected official, receives the Director's review, and does not require Community Meetings.
- B. **Comprehensive Plan Character Area Map Amendments** A request to amend the Character Area Map of the Comprehensive Plan. Such requests will be considered twice annually, with application in January and July for action in April and October, respectively. A Character Area Map Amendment is required prior to a rezoning application where the proposed zoning is not allowed in the applicable character area. See the District Intent Statement for the proposed district to make this determination.
- C. **Zoning Map Amendments (Rezoning)** A request to amend the Official Zoning Map from one zoning district to another, to change the boundaries of an existing zoning district, or to modify any existing condition of rezoning. If a change to the Character Area Map is required in order to maintain consistency with the

Comprehensive Plan, the Character Area Map Amendment must be approved prior to initiation of the rezoning, and the application for rezoning must be filed within one year of the Character Map decision.



**Legislative Review Generalized Procedure**

- D. **Conditional Use Permits** A request to change or expand an existing use identified as a conditional use in Article 3 through Article 7 or expressly requiring a conditional use permit elsewhere in this Development Code. Conditional use may not be used to allow additional height beyond the allocated district or beyond the maximum bonus height.

**Sec. 11.3.3. Application Initiation**

- A. The City Council, the Planning Commission or the Director may initiate an application for Legislative Review.



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- B. Any person, firm, corporation or agency may initiate a Zoning Map Amendment or Conditional Use Permit application, provided they are the owner or the owner's representative of the subject property.
  - C. Any zoning map amendment must be consistent with the Character Area Map of the Comprehensive Plan. Where a proposed zoning map amendment would be inconsistent with the Character Area Map based on its implementing zoning districts, an amendment of the Character Area Map must be approved by the City Council prior to submittal of the zoning map amendment.

#### **Sec. 11.3.4. Submittal Process**

##### **A. Pre-Application Meeting**

1. Before submitting an application, the applicant must schedule a pre-application meeting to discuss the request, procedures, standards and regulations required for approval.

##### **B. Community Meetings**

1. An applicant or authorized representative must organize and participate in at least two community meetings to discuss the proposed application. See Sec. 11.2.5.
2. The intent of this meeting is to inform and initiate discussion with the community.

##### **C. Application Submittal**

1. A complete application form and any required attachments, along with the required review fee, must be submitted to the Department in accordance with the adopted schedule.
2. Where a Zoning Map Amendment and a Conditional Use Permit are requested simultaneously, two separate applications must be filed but will be treated as one case.

##### **D. Conditions**

1. The City policy is to limit the number of conditions to those deemed essential to the proper development and use of the subject property, and to the safety and quality of life of the community.
2. Applicants for zoning map amendments and conditional use permits may propose conditions. The Director will make a recommendation on their adoption to the Planning Commission and City Council.
3. The Director and Planning Commission may recommend and City Council may adopt any conditions deemed necessary.

#### **Sec. 11.3.5. Application Review**

A. **Initial Distribution of an Application** Upon determination of a complete application, the Director will promptly distribute the application for review by internal City Departments and external agencies.

B. **Public Hearing Notice** Legislative Review requires a public hearing before the Planning Commission and before the City Council. Notice requirements for public hearings are specified in the Summary of Review Authority in Div. 11.1.

##### **C. Director Review**

1. Reserved.
2. If, after the internal and external review, the Director finds that the application meets the approval criteria in Sec. 11.3.6, the application will be certified as complying with all applicable requirements of the Development Code and scheduled for the next available Planning Commission hearing.

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3. Upon certification by the Director that the application complies with the approval criteria in Sec. 11.3.6, no changes to the application are permitted prior to the Planning Commission hearing.
- D. **Text Amendment Analysis** The Director must review the application and make a written recommendation to the Planning Commission, based on an analysis of the criteria in Sec. 11.3.6.
- E. **Character Area Map Analysis**
1. At the time of the request, the applicant must provide a written analysis of the impact of the proposed Character Area Map change with respect to each of the approval criteria in Sec. 11.3.6.
  2. The Director must review any application for a change to the Character Area Map and make a written recommendation to the Planning Commission, based on an analysis of the approval criteria in Sec. 11.3.6.
- F. **Zoning Impact Analysis**
1. At the time of the request, the applicant must provide a written analysis of the impact of the proposed Official Zoning Map change with respect to each of the approval criteria in Sec. 11.3.6.
  2. The Director must review any application for a change to the Official Zoning Map and make a written recommendation to the Planning Commission, based on an analysis of the approval criteria in Sec. 11.3.6.
- G. **Conditional Use Analysis**
1. In the interest of the public health, safety and welfare, the City Council may exercise discretion in evaluating the site proposed for a conditional use.
  2. At the time of the request, the applicant must provide a written analysis of the impact of the proposed conditional use with respect to each of the approval criteria in Sec. 11.3.6.
  3. The Director must review any application for a conditional use permit and make a written recommendation to the Planning Commission, based on an analysis of the approval criteria in Sec. 11.3.6.
  4. In granting such permits, conditions may be attached as are deemed necessary in the particular case for the protection or benefit of neighbors to ameliorate the potential impacts of the proposed conditional use.
- H. **Planning Commission Public Hearing**
1. The Planning Commission will conduct a public hearing and provide a recommendation to the City Council on the application.
  2. The Planning Commission has 65 calendar days from the date of the public hearing to submit their recommendations to the City Council. This time period may be extended if both the applicant and the Planning Commission agree on an extension.
  3. The pre-application meeting and the Planning Commission public hearing must not be more than 6 months apart, unless the Applicant submits a written request to the Director, stating the reasons for the delay. The Director has the discretion to allow a one-time extension of no more than 3 months.
- I. **City Council Public Hearing**
1. Following the recommendation of the Planning Commission, the City Council will conduct a public hearing.

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2. The City Council has 65 calendar days from the date of the public hearing to approve, approve with conditions, deny, or send the application back to the Planning Commission for additional consideration. This time period may be extended if both the applicant and the City Council agree on an extension.
- J. **Concurrent Variances** Concurrent variances to Zoning Map or Character Area Map amendment requests are not allowed. A separate variance application must be submitted to the Board of Appeals following action by the City Council.

### **Sec. 11.3.6. Approval Criteria**

Different legislative approvals have different review criteria. The following lists are not exhaustive, but provide guidance for making decisions on each type of approval.

#### **A. For a Text Amendment**

1. The Text Amendment corrects an error or meets the challenge of some changing condition, trend or fact.
2. The Text Amendment is in response to changes in State law, as established through amendments to the Georgia General Statutes or by court decision.
3. The Text amendment is in response to revised City policies, newly adopted plans, or changes in other City Ordinances.
4. The Text Amendment substantially conforms with the Comprehensive Plan, contemporary planning practices, and local, state and federal laws.
5. The Text Amendment substantially conforms with the stated purpose and intent of this Development Code.
6. The Text Amendment constitutes a benefit to the City as a whole and is not solely for the good or benefit of a particular landowner or owners at a particular point in time.
7. The Text Amendment will not significantly impact the natural environment negatively, including air, water, noise, stormwater management, wildlife and vegetation.
8. The Text Amendment will not significantly impact existing conforming development patterns, standards or zoning regulations.

#### **B. For a Character Area Map Amendment**

1. The Character Area Map Amendment corrects an error or meets the challenge of some changing condition, trend or fact.
2. The Character Area Map Amendment substantially conforms with the remainder of the Comprehensive Plan.
3. The Character Area Map Amendment will reinforce the existing or planned character of the area.
4. The Character Area Map Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife and vegetation.
5. The Character Area Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.

#### **C. For a Zoning Map Amendment**

1. The Zoning Map Amendment corrects an error or meets the challenge of some changing condition, trend or fact.

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2. The Zoning Map Amendment substantially conforms with the Comprehensive Plan.
  3. The Zoning Map Amendment substantially conforms with the stated purpose and intent of this Development Code.
  4. The Zoning Map Amendment will reinforce the existing or planned character of the area.
  5. The subject property is appropriate for the development allowed in the proposed district and the use and development of adjacent properties.
  6. There are substantial reasons why the property must not be used according to the existing zoning.
  7. There is a need for the proposed use at the proposed location.
  8. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.
  9. The Zoning Map Amendment will not significantly impact the natural environment, including air, water, noise, stormwater management, wildlife and vegetation.
  10. The Zoning Map Amendment will not have a significant adverse impact on property in the vicinity of the subject property.

**D. For a Conditional Use**

1. The use is allowed as a conditional use in the respective zoning district (see Div. 7).
2. The use complies with the applicable specific use standard listed in Article 7 without the granting of any variance.
3. The use is compatible with adjacent uses in terms of location, scale, site design, hours of operation and operating characteristics.
4. Any significant adverse impacts resulting from the proposed use in the affected area will be effectively mitigated or offset.
5. The City and other service providers will be able to provide sufficient public facilities and services including schools, roads, recreation facilities, wastewater treatment, water supply and stormwater facilities, police, fire and emergency medical services, while maintaining sufficient levels of service to existing development.

**Sec. 11.3.7. Denied Application**

- A. Decisions of the City Council are final. Anyone not satisfied with a decision may pursue an appeal to Fulton County Superior Court, within 30 calendar days of the decision.
- B. No application for Legislative Review affecting the same or any portion of property that was denied by the City Council will be accepted for filing within 12 months of the date the application was denied.

**Sec. 11.3.8. Action Following Approval**

Approval of an application for Legislative Review allows applicants to move forward with additional approvals applicable to their development.

- A. For information on subdividing property, see Div. 11.4.
- B. Reserved.

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### **Sec. 11.3.9. Modification of Conditions**

Any modification of a condition of approval following City Council approval requires full review under this Section as a rezoning or conditional use permit, as applicable.

## **Div. 11.4. Subdivision Review**

### **Sec. 11.4.1. Applicability**

Subdivision Review is required for any:

- A. Division of land into 2 or more lots;
- B. Combination of 2 or more lots, when the lots are under different ownership;
- C. Revision or reconfiguration of lot lines;
- D. Extension of public utilities (other than individual service lines) or other municipal facilities;
- E. Dedication of public right-of-way;
- F. Abandonment of existing public right-of-way; and
- G. Extension of public [or private](#) streets.

### **Sec. 11.4.2. Approval Authority**

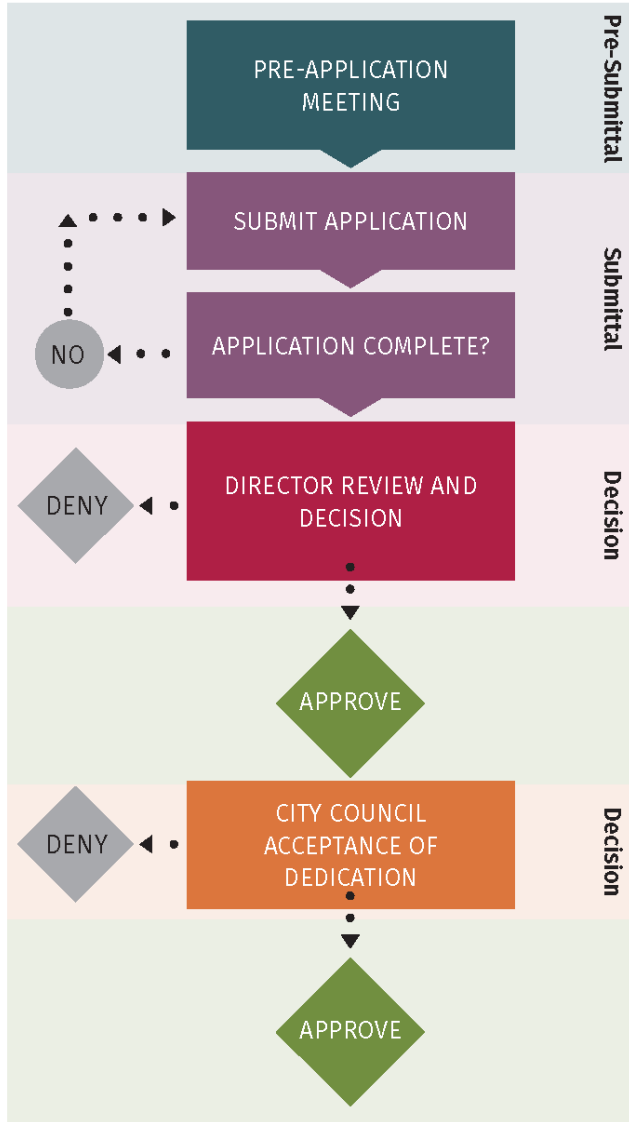
All plats are approved by the Director. Where a final plat includes dedications to the City, they must be accepted by the City Council.

### **Sec. 11.4.3. Lot Size Reduction**

- A. When a lot or property is reduced in area, all resulting subdivided lots and all structures must meet the minimum requirements of this Development Code.
- B. Where a lot or property is reduced in area to less than the minimum lot size as a result of government action (including, but not limited to, right-of-way condemnation), the lot will not be deemed nonconforming.

### **Sec. 11.4.4. Application Initiation**

Any person, firm, corporation or agency may initiate an application for Subdivision Review, provided they are the owner or the owner's representative of the property for which the application is being submitted.



**Subdivision Review Generalized Procedure**

**Sec. 11.4.5. Submittal Process**

- A. **Schedule a Pre-Application Meeting** Before submitting an application, the applicant may schedule a pre-application meeting with the Department to discuss the procedures, standards and regulations required for approval.
- B. **Submit Application** Following the pre-application meeting, the applicant may start the application process. To begin, submit a complete application form and any required attachments, along with the required review fee, to the Department.

**Sec. 11.4.6. Application Review**

- A. **Public Meeting Notice**

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1. A public hearing is not required for approval of a plat without public dedication, therefore, no formal notice of the submittal is published, mailed or posted.
  2. Final Plats with public dedication are advertised on the City Council agenda at least 7 days before the scheduled meeting.

### **Sec. 11.4.7. Preliminary ~~Plat and Conceptual~~ Plan Applicability**

#### **A. Applicability**

1. The Director may consider several existing or proposed parcels as a single development project for the purposes of meeting jointly certain requirements of this Code, upon the following findings:
  - a. The proposed uses are compatible with and complementary to each other, and
  - b. All the parts of the development are interconnected physically by streets, drives, sidewalks or trails; and
  - c. The development is subject to an approved preliminary ~~plat and conceptual~~ plan.

#### **B. Requirements**

1. The review process for the preliminary ~~plat and conceptual~~ plan is the same as for a land disturbance permit.
2. The preliminary ~~plat~~ must show all existing and proposed property lines and rights-of-way, building setbacks and build-to zones, buffers, easements and areas associated with each proposed parcel.
3. a. The ~~conceptual preliminary~~ plan must show all proposed site improvements and identify proposed uses.
  - b. The ~~conceptual preliminary~~ plan must be to scale and include all data and dimensions necessary to demonstrate compliance with this Code. The use of exhibits in addition to the site plan are encouraged.
  - c. Primary and side streets must be designated, and their type and frontage (if applicable) must be identified.
  - d. Conceptual grading and stormwater management strategies must be indicated.
  - e. Construction phasing diagrams must be included, if applicable.
  - f. The submittal must include data demonstrating compliance of the overall site with zoning requirements, in particular, parking, lot coverage, outdoor amenity space, build-to zone and protected neighborhood transition (if applicable).
4. The approval of the preliminary ~~plat and conceptual plan~~ does not constitute approval of a Final Plat or a variance or a waiver from any requirements of this Development Code. Rather, it is approval of a generalized subdivision layout and is to be used as a guide for the preparation of an application for a Land Disturbance Permit.
5. A traffic impact study may be required before the approval of a conceptual plan.
6. The update of the ~~conceptual plan and~~ preliminary ~~plat~~ must proceed in the same manner as the original approval. Such update may be required if the change in the proposed development results in an increase in the size of the building footprint, a reduction in the provision of outdoor amenity space, a change in circulation patterns, or other changes, at the discretion of the Director.
7. Should an amendment to the Development Code render the ~~conceptual preliminary~~ plan nonconforming, the Director may require an update of the ~~conceptual preliminary~~ plan to bring it into compliance.

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### **Sec. 11.4.8. Approval Criteria**

When reviewing or approving a Preliminary Plan~~t~~, the Director considers the following:

- A. Recommendations from internal City Departments and external agencies;
- B. Compliance with the applicable requirements of this Development Code; and
- C. Substantial conformance with the City's applicable adopted plans and policies.

### **Sec. 11.4.9. Action Following Preliminary Approval**

Upon approval of a preliminary ~~plat and conceptual~~ plan, plans and specifications for the installation of improvements required for a land disturbance permit may be prepared and submitted pursuant to Sec. 11.5.1.

### **Sec. 11.4.10. Performance Sureties**

- A. When deemed appropriate by the Director, a performance surety may be required prior to approval of development conformance for those improvements not yet completed. A performance surety meeting the following requirements must be filed by the applicant:
  - 1. Be conditioned upon the faithful performance by the applicant or developer of all work required to complete all improvements and installations for the development, or any approved portion, in compliance with this Development Code, within a specified time;
  - 2. Be payable to, and for the indemnification of, the City;
  - 3. Be in an amount equal to 125% of the cost of construction of the required improvements not yet completed, as calculated by the Director on the basis of yearly contract prices or City contracts, where available. When contract prices are not available, the Director may use cost estimates from any source deemed reasonable by the Director to approximate the cost of the proposed work;
  - 4. Where a surety is acceptable it must be issued by a company entered and licensed to do business in the State of Georgia; and
  - 5. The only acceptable form for a surety is:
    - a. Cashier's check; OR
    - b. Irrevocable letter of credit.
- B. If the applicant fails to complete the work as stated in the surety agreement within the stated time frame the City may call the surety and use the proceeds to complete the work.
- C. Additional surety funds may be required for work that is completed within the right-of-way, City easement or other City property under a right-of-way/utility permit.

### **Sec. 11.4.11. Validity of Preliminary Plat and Conceptual Plan**

- A. An approved preliminary plat expires 2 years after the approval date, unless the applicant has filed a complete application for a final plat.
- B. An approved conceptual plan expires 2 years after the approval date, unless an LDP has been approved in accordance with the conceptual plan.
- C. For phased development, the conceptual plan expires 2 years after a certificate of occupancy is issued for a phase, unless an LDP has been approved in accordance with the conceptual plan for the following phase.



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### **Sec. 11.4.12. Preliminary Plat Revisions**

- A. Minor revisions to an approved Preliminary Plat that reflect the same basic street and lot configurations as the original approval may be approved by the Director.
- B. Any request for a revision to an approved Preliminary Plat that increases the number of building lots, decreases the amount of common open space, or alters a street or block pattern, must be initiated and processed as a new Preliminary Plat application.

### **Sec. 11.4.13. Preliminary Plat Denial**

If unsatisfied with the decision of the Director, the applicant may file an appeal within 30 calendar days of the decision (see Div. 11.6).

### **Sec. 11.4.14. Final Plat Approval**

#### **A. Approval by the Director**

1. Before applying for Final Plat approval, the requirements of Sec. 11.4.8. must be met.
2. Upon determination of a complete application, the Director will promptly distribute the application for review by internal City Departments and external agencies.
3. If, after the internal and external review, the Director finds that the Final Plat does not meet all the applicable requirements of the Development Code or substantially conform with the Preliminary Plat, the Director will notify the applicant in writing of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the Final Plat.
4. If, after the internal and external review, the Director finds that the Final Plat meets all applicable requirements of this Development Code and substantially conforms with the Preliminary Plat, the application will be certified as complying with all applicable requirements of the Development Code.
5. Where an approved final plat does not require public dedication, the applicant will record the Final Plat in the records of the Clerk of the Superior Court of Fulton County and file a copy with the Director.
6. Where the approved final plat includes public dedication, the application will be scheduled for the next available City Council meeting. Upon certification by the Director that the application complies with all applicable requirements of the Development Code, no changes to the application are permitted prior to the City Council meeting.

#### **B. Dedication Acceptance by the City Council**

1. The City Council must accept or decline any dedication of land or public improvements. The Final Plat must be signed by the Mayor.
2. Decisions of the City Council are final. Any party not satisfied with a decision of the City Council may pursue appeals to Fulton County Superior Court within 30 calendar days of the decision.
3. Once a public dedication has been approved by the City Council, the applicant will record the Final Plat in the records of the Clerk of the Superior Court of Fulton County and file a copy with the Director.

## **Div. 11.5. Permit Review**

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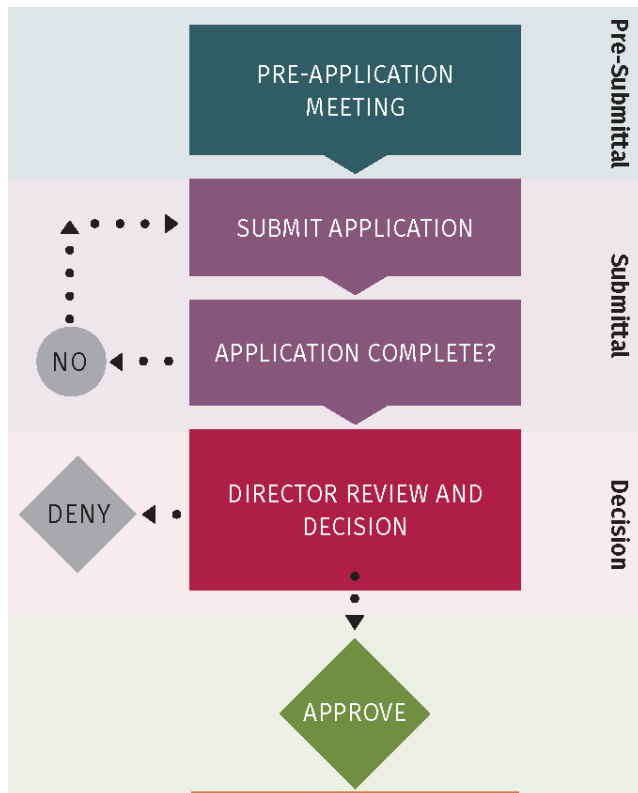
### Sec. 11.5.1. Land Disturbance Permits

A. **Authority** The Director oversees the issuance of Land Disturbance Permits to ensure that site work conforms to federal, state and local regulations.

B. **Applicability**

1. A Land Disturbance Permit is required for land disturbance activity, including, but not limited to, clearing and grubbing, dredging, grading, excavating, filling, tree removal, storage or transporting of materials on or off a site, and the construction of improvements such as streets, surface parking areas and drives, stormwater drainage facilities, sidewalks, or other structures permanently placed on or in the property except for buildings or other structures requiring the issuance of a building permit. A permit is required for all such work, even when it is temporary in nature.
2. Water and sanitary sewer system improvements must be authorized by the utility provider; however, the location and land disturbing activities associated with those facilities will be reviewed and permitted by the City to ensure compliance with applicable tree protection, stream buffer, zoning buffer or other City standards that may be affected by the construction of utilities.
3. A major Land Disturbance Permit is required for projects that:
  - a. Propose more than half an acre of disturbance; or
  - b. Add more than 5,000 square feet of impervious surface; or
  - c. More than 1 acre of grubbing; or
  - d. The maximum height/depth of excavation or fill over 10 feet; or
  - e. The maximum quantity of 50 cy total movement on the site.

Projects meeting these criteria will likely qualify as major land disturbance projects, but the City will consider all factors of the project to make the final determination.



**Permit Review Generalized Procedure**

4. A minor Land Disturbance Permit is required for projects that:
  - a. Do not include any work in the right-of-way; or
  - b. Have less than half an acre of disturbance;
  - c. And/or are adding less than 5,000 square feet of impervious surface;
  - d. And/or have less than 1 acre of grubbing;
  - e. And/or maximum height/depth of excavation or fill over 10 feet;
  - f. And/or maximum quantity of 50 cy total movement on the site;
  - g. And/or less than a 15% slope.

Projects meeting these criteria will likely qualify as minor land disturbance projects, but the City will consider all factors of the project to make the final determination.

5. A land disturbance permit is not required for any proposed ground disturbance that does not exceed 2,500 square feet, does not result in the need for erosion control BMPs, and does not result in changes to topography or stormwater drainage patterns.
6. It is recommended that you contact The City of Sandy Springs to verify a permit is not required before proceeding with any work.
7. The calculation of the area of disturbance applies to the cumulative disturbed area of a project regardless of property boundaries.

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- C. **Application Initiation** Any person, firm, corporation or agency may submit an application for a Land Disturbance Permit, provided they are the owner or the owner's representative of the property for which the application is being submitted.
- D. **Submittal Process**
1. **Schedule a Developer meeting**
    - a. Before submitting an application for a Major Land Disturbance Permit, the applicant must schedule a Developer Meeting with the Director to discuss the procedures, standards and regulations required for approval. If it cannot be clearly determined whether the LDP will be a Major or Minor LDP under the criteria in 11.5.1.B, this initial meeting will establish what type of Land Disturbance Permit is required for the project.
    - b. To schedule a Developer Meeting, call, email, or visit the Department.
  2. **Submit Application**
    - a. Following the Developer Meeting, the applicant may start the application process by completing an application form and providing plan sets along with the required review fees, to the Department.
    - b. ~~Expedited review may be available for an additional fee, as established by the City Council.~~
- E. **Application Review**
1. **Initial Distribution of an Application** Upon determination of a complete application, the Director will promptly distribute the application for review by internal City Departments and external agencies.
  2. **Public Hearing Notice** A public hearing is not required for a Land Disturbance Permit, therefore, no formal notice of the submittal is published, mailed or posted.
  3. **Developer Meeting** The public is allowed to observe the Developer Meeting to enhance the transparency and public awareness of the permitting process.
  4. **Traffic Impact Study** A traffic impact study is required when any development generates 100 or more trips during the peak hour.
  5. **Director Review**
    - a. If, after the internal and external review, the Director finds that the application does not meet all applicable requirements of this Development Code, the Director will notify the applicant in writing of the specific provisions that have not been met and offer the applicant the opportunity to make changes to the application. If revised application materials are required, see Sec. 11.2.3.E.
    - b. If, after the internal and external review, the Director finds that the application meets all applicable requirements of this Development Code, the Director will accept the application as complete.
- F. **Approval Criteria** The approval of or requirement of revisions to a land disturbance permit application are based solely on whether or not the submittal meets or fails to meet the applicable requirements of this Development Code.
- G. **Denied Application** If unsatisfied with the Director's decision, the applicant may file an appeal within 30 calendar days of the decision with the ~~Superior Court of Fulton County~~Board of Appeals.
- H. **Permit Revisions** Revisions to an approved Land disturbance permit may be approved by the Director following review by applicable internal and external agencies consistent with this Section.

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- I. **Application Expiration** An application submitted for a land disturbance permit expires after 6 months from the issuance of the latest letter of permit revisions. At this time, the City will issue a written notice of expiration of permit application to the applicant and require that comments be addressed or permit be resubmitted within 30 days of issuance of the notice.
- J. **Permit Validity** A land disturbance permit remains valid for the duration of the project subject to the following time restrictions:
1. Land disturbance permits expire 6 months from the date of issuance if no inspection has been requested; or
  2. If 1 year elapses between inspection requests.
- K. **Permit Extension**
1. **Extension by Director**
    - a. The Director is authorized to grant, in writing, an extension of a land disturbance permit for a period not more than 180 calendar days, subject to the qualifying conditions set forth in this section. To request an extension by the Director, an application must be submitted to the Department at least 30 days prior to the expiration of the land disturbance permit.
    - b. No more than one 180-calendar-day extension per land disturbance permit may be granted by the Director for any of the qualifying conditions set forth in this section (except a court action delay).
  2. **Extension by the City Council**
    - a. Reserved.
    - b. To request an extension by the City Council, an application must be submitted to the Department at least 30 days prior to the expiration of the 180-calendar-day extension period granted by the Director pursuant to this section.
    - c. The Department must prepare an analysis and recommendation as to whether the documentation in the application is sufficient based on one of the 4 criteria which may validate an extension request by the City Council.
  3. **Qualifying Conditions** In every application for an extension of a land disturbance permit, the applicant ~~shall~~must provide an affidavit documenting at least one of the following:
    - a. A delay resulting from court actions involving the land disturbance permit or a previous extension on the subject property for which an extension is sought. Extensions approved in connection with court action ~~shall~~must remain valid for 1 year beyond the granting of an order or the expiration of an appeal period before any court with jurisdiction;
    - b. Nonavailability of utilities resulting from government and/or private utility inaction. In those instances where wastewater and water facilities are available for a fraction of the desired capacity, or when capacity was available at some time during the one-year period, but not during the 60 days prior to expiration, the City Council ~~shall~~must evaluate such case's qualifications for an extension on its individual merits considering any evidence that might indicate a diligent effort to proceed with development.
    - c. A delay in development resulting from wetlands regulatory procedures requires the applicant to provide a copy of the application acknowledgment letter from the Savannah Regulatory Branch of the Corps of Engineers as documented evidence. The application must have been filed at least 6 months before the expiration of the land disturbance permit.

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- d. An inability to obtain financing, despite documentation of the property owner's efforts during the 3 months prior to the applicant seeking an extension and continuing until 1 week prior to consideration of the extension request to the City Council. Documentation must consist of two official denials signed by officers of 2 different lending institutions who have final jurisdiction over such financial transactions.
  - L. **Lapse in Construction Activity** For the purposes of this Section, a lapse in or suspension of development activity, as authorized by a land disturbance permit, as a direct result of action or inaction on the part of the City which is completely beyond the control of the developer, will not be considered as a lapse in activity causing the development permit to expire. The 180 calendar days within which development activity must begin will exclude any such time period during which the activity is prohibited or has been caused to lapse by said City's action or inaction. Any action or inaction on the part of the developer which results in a suspension of development activity will be counted toward the 12-month time period.
  - M. **Bonding Infrastructure Improvements** Prior to the approval of a Final Plat, a bond is required for right-of-way infrastructure improvements, landscaping and stormwater improvements that have not been installed. The required bond amount will be 125% of the total estimated cost for infrastructure. The City must approve any cost estimate used for bond purposes. The bond will be released upon installation and City approval of the improvements.
  - N. **Action Following Work** Upon completion of the work required under a Land Disturbance Permit, application for Final Plat and Building Permits may be made.

### Sec. 11.5.2. Building Permit

- A. **Building Code** Building permits, including associated certificates of occupancy, are issued consistent with Chapter 105, Article 2 of the City Code.
- B. **Other Applicable Codes** Building permits for all structures or interior finishes are issued after meeting the applicable requirements of the Fire Prevention and Life Safety Codes, and the various health, water, sewer, and building codes of the City or utility providers, as well as the provisions of any certificate approved under the Chattahoochee River Corridor, if applicable and the provisions of this Development Code.
- C. **Sanitary Sewage Disposal**
  - 1. **Septic System** For any structure for which on-site sewage disposal (septic systems) will be provided, a permit issued by the Fulton County Health and Wellness Department must be required prior to issuance of a building permit. The permit may first require approval of a plan showing the location of the sewage disposal system and other site improvements, in accordance with Fulton County Section 34-568, Wastewater Discharge.
  - 2. **Connection to Public Sanitary Sewer** Any structure that requires a connection to or modification of the existing sanitary sewer system requires approval from Fulton County prior to the issuance of a building permit.
- D. **Potable Water Supply** Any structure for which a connection to the potable water system is required must provide proof of payment of all applicable fees to the water provider.
- E. **Single Family**
  - 1. A building permit for a ~~single-family~~ **single unit** residence may only be issued after the recording of a final plat or after the lot on which the building is to be located has otherwise become a buildable lot of record.
  - 2. Reserved.

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F. **Reserved.**

G. **Fee-Simple Townhouse Subdivisions** A building permit may be issued on a buildable lot of record established for each building (containing any number of townhouse dwelling units) through recording of a final plat following completion of all required public improvements. Upon completion of the buildings, the final plat must be re-recorded to establish individual lots for the townhouse units, based on their actual locations, prior to issuance of certificates of occupancy.

H. **Multifamily and Nonresidential Structures**

1. Issuance of a building permit for any principal building other than a single-unit detached (and associated accessory structure) requires issuance of a land disturbance permit for the building site, and the building permit must be consistent with the land disturbance permit.
2. Building plans must be received and approved by the Department prior to permitting for all structures.
3. Fulton County approval may be required prior to the issuance of a building permit for construction activities involving, food service, commercial swimming pools, dumpster pads, hotels or motels, grease traps, and similar uses requiring review by a department of Fulton County.

I. **Demolition Permits** Demolition permits may be required for the partial or complete demolition of the interior or exterior of any structure within the City. Pursuant to the State of Georgia's Asbestos Safety Act, an asbestos survey is required.

J. **Expiration of Building Permits** A building permit remains valid for the time period specified in the building codes adopted by the City.

K. **Expiration of Building Permit Application** An application submitted for a building permit expires after 60 days from the issuance of the latest letter of permit revisions. At that time, the City will issue a written notice of expiration of permit application to the applicant and require that comments be addressed or the permit be obtained within 30 days of issuance of the notice of expiration.

L. **Issuance of Permits Prior to Final Plat** Building permits will only be issued on buildable lots of record, as defined in this Development Code, except under special circumstances limited to and as specifically described in this section.

1. ~~Single-family~~Single unit and two-family residential model homes.
2. Nonresidential subdivisions. Building permits may be issued on the basis of an approved preliminary plat/conceptual plan and after a land disturbance permit has been approved reflecting the site plan and construction drawings for specific buildings and associated site improvements. Issuance of the building permits will be conditioned on the following:
  - a. An approved surety must have been received in a form acceptable to the City Attorney, drawn in favor of the City and in an amount not less than 125% of the cost of completing all public improvements as authorized and required by the land disturbance permit.
  - b. The performance bond or other approved surety must not exceed an aggregate total for all required public improvements of \$12,000.00 per acre for the total acreage included within the subdivision or portion of the subdivision where the improvements are proposed, except by approval of the City Council.
  - c. Fire Marshal approval is required prior to issuance of any building permit, which may include approval of acceptable access and water under pressure for combustible construction.
  - d. Approval of the Fulton County Health and Wellness Department for on-site sewage disposal or the Fulton County Sewer Department for a building to be served by public sewer is required prior to issuance of any building permit.

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- e. Construction of the required public improvements must proceed concurrently with construction of the buildings.
  - f. No certificate of occupancy will be approved for any structure within the subdivision prior to recording of the final plat without the express approval of the Director.
  - g. The Director must find that the public interest is best served and that a public purpose is involved in the acceptance of the surety.

### Sec. 11.5.3. Certificate of Occupancy

- A. A Certificate of Occupancy indicating that a building, lot and use comply with the Building Code and this Development Code is required under provisions of the [Sandy Springs adopted](#) Building Code.
- B. The City provides for multi-phased certificates of occupancy when certain criteria are met, as further described in established Department policy.
- C. The Certificate of Occupancy must be posted on site where it is visible for inspection for a period of 30 days from the date of issuance. After such period, the Certificate of Occupancy must be kept on the premises.
- D. Any owner, authorized agent, or contractor who desires to change the use of a building or structure must apply to the building official, obtain the required permits, and obtain a Certificate of Occupancy prior to occupying the structure.

### Sec. 11.5.4. Other Permits

- A. **Right-of-Way Encroachment/Utility Permit** No person or company may perform construction work in the street right-of-way without a permit issued by the City. The permit must be posted at the construction site at all times. Such construction must conform to the construction/maintenance guidelines and specifications of the City or the State Department of Transportation.
- B. **Tree Removal Permit** When tree removal is anticipated and the activity may result in the removal, damage or destruction of any tree, please see Sec. 9.3.3 for permit requirements.
- C. **Groundwater Well and Septic Permit** No person or company may install or perform construction of groundwater wells or septic systems without prior approval from the Fulton County Department of Health and Wellness and completion of a pre-construction meeting with the City of Sandy Springs.
- D. **Sign Permit**
  - 1. **Applicability** All free-standing signs require a separate building permit.
  - 2. **Application** An application for a sign permit must be completed as required in the Sandy Springs Technical Manual.
  - 3. **Incomplete; False Application** The Director must, within 30 days of receipt of an application, reject any application that is incomplete, that contains false material statements or omissions, or that is for a sign which would violate any standard in Div. 8. The Director may reject at any time prior to the expiration of the 30-day period, if the application is incomplete or contains false material statements or omissions.
  - 4. **Processing Time; Denial** The City will process all complete and accurate sign permit applications within 30 business days of the City's actual receipt of a complete and accurate application and upon remittance of the appropriate sign permit fee. The Director will give notice to the applicant of the decision by email or mail on or before the 30th business day. If the decision of the Director is to deny the application, the decision must state the grounds upon which the denial is based. Failure of the City



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to act within the 30-day period is deemed a denial of the permit. If notice is mailed in conformity with this Section, notice is deemed to have been given upon the date of mailing. Any application meeting the standards of this Div. 8.3 will be granted. Any application not meeting the standards of Div. 8.3 will be denied.

5. **Resubmission** A rejected application later resubmitted in conformity with Div. 8.3 is deemed to have been submitted on the date of resubmission, instead of the original submission date. An application which is resubmitted must meet all the standards for an original application.

**E. Fence or Wall Permit**

**1. Applicability**

- a. A wall that retains earth requires a retaining wall permit (see Sec. 9.4.3). A wall that does not retain earth is considered a fence for permitting purposes.
- b. Fence permits are required when installing a new fence or wall that does not retain earth, non-vehicular gate, or when a replacement of an existing fence results in a change in placement, height, materials or design.
- c. Electronic vehicular gates require a building permit.
- d. A swimming pool enclosure fence will be approved as part of the pool permit.
- e. A fence permit is not required for temporary security purposes during construction.

2. **Application** An application for a fence permit must be completed as required in the Sandy Springs Technical Manual.

**F. Trenching Permit**

1. **Prohibition** No individual, partnership, corporation, or other entity of any kind whatsoever may engage in any excavation or trenching except in compliance with the provisions of this Development Code and in compliance with any applicable laws of the State of Georgia or of the United States or any rules and regulations of the U.S. Department of Labor, Occupational Safety and Health Administration, or any other state or federal governmental entity or Department promulgating rules and regulations applicable to excavating and trenching.
2. **Adoption of Federal Regulations** All safety and health regulations adopted by OSHA with regard to excavating and trenching operations, particularly Part 1926, Subpart P-Excavations, Trenching, and Shoring, Section 1926.650, 1926.651, 1926.652, 1926.653 of the Code of Federal Regulations, as the same now exist or may be amended, are adopted as a part of this Development Code as if quoted verbatim here.
3. **Permit Required** No excavation or trenching may be performed until a permit or authorization for the work has been obtained from the City in accordance with this Article. Applicants are required to acknowledge receipt and understanding of safety requirements before any permit will be issued.
4. **Certificate Required** No equipment operator or supervisory personnel may participate in any excavation or trenching or in any way work in an excavation or trench unless such person holds a valid certificate evidencing satisfactory completion of a required educational program on safe trench/excavation practices. No other person may participate in or work in any excavation or trenching site unless a certificate holder is present at the excavation or trench site where work is being performed.
5. **Inspection** The City will periodically inspect trench/excavation sites. Such inspectors will, among other things, verify the presence of the required permit, verify existence of required certificates, and verify

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compliance to OSHA safety standards adopted in paragraph B. The inspectors may operate pursuant to a contract between the City and a third-party entity.

G. **Swimming Pool Permit** Issuance of a permit for a swimming pool as an accessory use to a ~~single-family~~single unit residence, whether to be issued at the same time or subsequent to the permitting or construction of the house, requires approval of a swimming pool site plan. The plan must show the proposed location of the swimming pool, associated deck, pool equipment, pool enclosing fence and gate details, the property boundaries, setback lines, topography lines, septic tank and septic tank drain field (if any), and any easements on the site, and all requirements of this Development Code and the swimming pool code found in the International Swimming Pool & Spa Code. A certificate of occupancy or a certificate of completion will not be issued until conformance to the swimming pool site plan and all applicable building codes has been field verified by the Department. Additionally, all permitted swimming pools must conform to the swimming pool discharge policy.

H. **Administrative Use Permit**

1. **Intent** Administrative use permits are intended to be used where complex or unusual technical determinations are involved and/or in conjunction with temporary uses and structures where the matter is not of such a nature as to require public notice and hearing. Such permits ~~shall~~will be processed by the community development department.
2. **Authority** The Director ~~shall~~will be responsible for processing administrative use permits, making or causing to be made all necessary studies and referrals, and deciding thereon.
3. **Conditions** In granting administrative use permits, such conditions may be attached as are deemed necessary in the particular case to protect the public interest and surrounding properties. Such conditions ~~shall~~must generally be of a nature as stated below, in addition to policy or regulations specific to the use otherwise required by the City:
  - a. Ingress and egress to the property and proposed structure or uses thereon, with particular reference to automotive and pedestrian safety and convenience, traffic flow and control, and access in case of fire or other catastrophe.
  - b. Off-street parking and loading areas where required, with particular attention to the items in a. above.
  - c. Refuse and service areas.
  - d. Appropriate buffering or screening to alleviate such potentially adverse effects as may be created by noise, glare, odor, lighting, signs or traffic congestion.
  - e. Hours and manner of operations.
  - f. Length of time regarding the duration of such permit, if any.
  - g. Tree preservation and replacement in accordance with the requirements of the City of Sandy Springs Tree Conservation Ordinance (Div. 9.3.).
4. **Applications** A property owner, or any other person with notarized written consent of the property owners, may file with the Director an application for an administrative use permit on such property, provided that such permit is generally authorized in the district in which such purpose is so designated. The application ~~shall~~must be filed on a form provided for such purposes and ~~shall~~must be accompanied by plans, reports or other information, exhibits or documents as may reasonably be required by the Director to make the necessary findings in the case.
5. **Action by Director** The Director ~~shall~~must examine the application and supporting materials for conformance with the requirements and stated intent of this Code, make such referrals as are called for in the circumstances of the case, and within 30 days (unless a longer period is mutually agreed

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upon) decide on the application.

The Director may issue the permit as applied for, issue a permit conditional upon changes to the application, set forth in writing, as necessary to assure conformance with the requirements and stated intent of this Code, or deny the application, with written reasons for such denial.

6. **Withdrawal of application** An application for an administrative use permit may be withdrawn at any time without limitation on resubmittal.
7. **Appeals of decision made by the Director** Appeals of decisions made by the Director must be submitted to the Board of Appeals Superior Court of Fulton County, as provided in Sec. 11.6.3.
- ~~8. **Appeals of decision made by the Board of Appeals** Appeals of a decision made by the Board of Appeals under the provisions of this section shall be as provided for in Sec. 11.6.3.~~

#### **Sec. 11.5.5. Reserved Temporary Use Permit**

- ~~A. **A. The Director may approve a Temporary Use Permit in accordance with the standards of 7.9.10.**~~

### **Div. 11.6. Relief**

#### **Sec. 11.6.1. Administrative Variance**

- A. **Authority** The Director is authorized to approve Administrative Variances for up to 10% of any measurable standard in this Development Code.
- B. **Limitations** Variances are not allowed for any of the following:
  1. Minimum lot area, minimum lot frontage on a street or minimum lot width;
  2. Building height;
  3. Sign height, sign area allocation or individual sign area;
  4. Fence and building materials;
  5. Standards for Conditional Use Permits;
  6. Elimination of frontage improvement requirements; and
  7. Permitted or accessory uses.
- C. **Application Initiation** Any person, firm, corporation or agency may submit an application for an Administrative Variance, provided they are the owner or the owner's representative of the property for which the application is being submitted.
- D. **Submittal Process** The process begins with the submittal of fees, plans and supporting documents in the application checklist to the Department.
- E. **Director Review**
  1. If after review, including consideration of any public objections filed, the Director finds that the request meets the criteria for approval below, the Director will approve the application.
  2. The Director must issue a decision no later than 21 working days after the date of filing of a complete application.

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- F. **Approval Criteria** The Director will approve an administrative variance where all of the following conditions exist:
1. There are practical (not financial) difficulties pertaining to the particular piece of property in question because of its size, shape or topography;
  2. The requested variance will be in harmony with the purpose and intent of this Development Code and will not be injurious to the neighborhood or to the general welfare; and
  3. The variance requested is the minimum variance that will make possible the proposed use of the land, building or structure.
- G. **Denied Application** If the Director denies the request, the applicant may file an application for a variance with the Superior Court of Fulton County Board of Appeals under Sec. 11.6.32, within 30 calendar days of the decision.
- H. **Validity** An administrative variance runs with the land and remains valid in perpetuity, until such time as the land is redeveloped.

### Sec. 11.6.2. Variances

A variance is a request for relief from the provisions of this Development Code.

- A. **Approval Authority** Variances are approved or denied by the Board of Appeals.
- B. **Limitations** Variances are not allowed for any of the following:
1. Minimum lot area, minimum lot frontage on a street or minimum lot width at the time of subdivision (this does not include a nonconforming lot of record platted prior to the effective date of this Development Code — see Sec. 11.7.4.);
  2. Building height;
  3. Sign height, sign area allocation or individual sign area;
  4. Fence, wall and building materials;
  5. Standards for Conditional Use Permits;
  6. Elimination of frontage improvement requirements; and
  7. Permitted or accessory uses; and
  8. Construction classification and building height requirements provided in Sec. 6.6.3.
- C. **Application Initiation** Any person, firm, corporation or agency may submit an application for a Variance, provided they are the owner or the owner's representative of the property for which the application is being submitted.
- D. **Submittal Process**
1. To begin, submit a complete application form, along with the required review fees, to the Department.
  2. The general submittal requirements for all development review applications are listed in Sec. 11.2.3 and must be followed.
- E. **Director Review**
1. After review, the Director will schedule the application for the next available Board of Appeals hearing.
  2. Upon certification by the Director that the application complies with all applicable requirements of the Development Code, no changes to the application are permitted prior to the Board of Appeals hearing.

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F. **Board of Appeals Public Hearing** Following the recommendation of the Director, the Board of Appeals will conduct a public hearing.

G. **Approval Criteria**

1. Variances will only be granted upon showing that:

~~a. The variance request would not result in negating the general intent of this Development Code or with the Comprehensive Plan policies;~~

~~b. The variance if granted will not be detrimental to the public safety, health, or welfare of the public or injurious to other property;~~

~~c. The conditions on which the request is based are unique to the property for which the relief is sought and are not applicable generally to other property;~~

~~d. Because of the particular physical surroundings, shape, size, or topographical conditions of the specific property involved, an extraordinary hardship would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out;~~

~~e. The variance requested is the minimum necessary to accomplish the development or building;~~

~~f. In the case of an amendment to a buffer or setback required by this Code, the variance application shows how equal or greater protection will be achieved of the adjacent property or natural resource affected by the proposed development, should the variance be granted; and.~~

~~g. Such conditions are not the result of action or inaction of the current property owner; and~~

~~a. The application of this Development Code would create an unnecessary hardship, and not merely an inconvenience to the applicant; or~~

~~b. There are extraordinary and exceptional conditions due to the size, shape, or topography, which are specific to the subject property and not generally found in similar properties that prohibits the proposed scope of work from being able to comply with the Development Code.~~

2. ~~Failure of an applicant to obtain a land disturbance, building or any other permit required by this Code must not in and of itself constitute a justification for a variance absent a showing of the criteria listed under Section 1 above. Further, the application must demonstrate that:~~

~~a. Such conditions are not the result of action or inaction of the current property owner; and~~

~~b. The variance request would provide the minimum relief necessary to make possible the reasonable use of the property; and~~

~~c. The variance request would result in development that is consistent with the general intent of this Development Code, with the Comprehensive Plan policies, and would not be detrimental to the public good, safety and welfare.~~

H. **Denied Application** Decisions of the Board of Appeals are final. Those not satisfied with a decision of the Board of Appeals may pursue an appeal by filing a writ of certiorari with the Fulton County Superior Court within 30 calendar days of the decision. Denial of an application bars resubmittal of the application for 1 year.

I. **Validity** A variance runs with the land and remains valid in perpetuity, until such time as the land is redeveloped.

J. **Noise Variance** A noise variance may be requested. See Sandy Springs City Code Article III, Division 2, Noise, Sec. 38-86.

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### Sec. 11.6.3. Administrative Appeals

- A. **Authority** The ~~Board of Appeals~~ Superior Court of Fulton County has the authority to hear and decide on appeals regarding administrative decisions made by the Director. For appeals off Stop Work Orders, which are heard by the Board of Appeals, see process requirements below.
- B. **Application Initiation** Any applicant or immediate neighbor unsatisfied with a decision by the Director on an application may file ~~an appeal with~~ with a writ of certiorari with the Fulton County Superior Court, or if the appeal is in regards to a Stop Work Order, it must be heard by the Board of Appeals.
- C. **Submittal Process**
  - 1. To begin the appeal process, submit a complete application form, along with the required review fees, to the Department. The appeal application must be filed within 30 calendar days of the date of decision of the Director.
  - 2. The general submittal requirements for all development review applications are listed in Sec. 11.2.3 and must be followed.
- D. **Notice** Notice of a public hearing before the Board of Appeals is required as shown in Div. 11.1.
- E. **Review by Board of Appeals** Any appeal received and all papers constituting the record relating to the action appealed will be transmitted by the Director to the Board of Appeals. The review by the Board of Appeals is conducted on the record established as part of the Director's decision.
- F. **Board of Appeals Public Hearing** The Board of Appeals will conduct a public hearing, make findings, and render a decision at the public hearing. Alternatively, only once, the Board of Appeals may choose to defer the appeal to a future date.
- G. **Other Approvals** The filing of an appeal means the applicant may no longer move forward with any other approvals related to their development project, unless the Director certifies to the Board of Appeals that in the Director's opinion, not moving forward would cause immediate peril to life or property.
- H. **Approval Criteria** The criteria for approving or denying the request are the same used for the original decision by the Director.
- I. **Denied Application** Decisions of the Board of Appeals are final. Those not satisfied with a decision of the Board of Appeals may pursue an appeal by filing a writ of certiorari with the Fulton County Superior Court within 30 calendar days of the decision.

### Sec. 11.6.4. ~~Reserved~~ Stream Buffer Variance

- ~~B.~~ **Variance Procedures** Variances from ~~paragraph A~~ Stream Buffer requirements as provided in Div. 9.2. above may be granted in accordance with the following provisions:
  - 1. Where a parcel was platted prior to December 12, 2005, and its shape, topography or other existing physical condition prevents land development consistent with this Division, and the City finds and determines that the requirements of this Division prohibit the otherwise lawful use of the property by the owner, the Board of Appeals may grant a variance from paragraph A. above, provided such variance requires mitigation measures to offset the effects of any proposed land development on the parcel.
  - 2. The Board of Appeals will follow the procedure set forth in Sec. 11.6.2.
  - 3. Variances will be considered only in the following cases:

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- a. When a property's shape, topography or other physical conditions existing on December 12, 2005 prevents land development unless a buffer or setback variance is granted.
  - b. Unusual circumstances when strict adherence to the minimal buffer and setback requirements in this Division would create an extreme hardship.
4. Variances will not be considered when actions of any property owner of a given property after December 12, 2005 have created conditions of a hardship on that property.
  5. At a minimum, a variance request must include the following information:
    - a. A site map that includes locations of all state waters, wetlands, floodplain boundaries and other natural features, as determined by field survey;
    - b. A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
    - c. A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer and setback to be affected is accurately and clearly indicated;
    - d. Documentation of unusual hardship should the buffer and setback be maintained;
    - e. At least one alternative plan that does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
    - f. A calculation of the total area and length of the proposed intrusion;
    - g. A stormwater management site plan, if applicable; and
    - h. Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
  6. The following factors will be considered in determining whether to issue a variance:
    - a. The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
    - b. The locations of all state waters, wetlands, floodplain boundaries and other natural features on the property, including along property boundaries, as determined by field survey;
    - c. The location and extent of the proposed buffer or setback intrusion;
    - d. Whether alternative designs are possible which require less intrusion or no intrusion;
    - e. The long-term and water quality impacts of the proposed variance; and
    - f. Whether issuance of the variance is at least as protective of natural resources and the environment.

## **Div. 11.7. Nonconformities**

When a structure, site element or lot of record becomes nonconforming as a direct result of government acquisition of real property through eminent domain or threat of eminent such as of right-of-way, said structure, site element or lot of record will be considered conforming. This applies solely to the specific parameters impacted by the government action. The application of the requirements of this Code will be based on the original condition of the property immediately prior to the government action.

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### Sec. 11.7.1. Nonconforming Use

- A. **Defined** Any use of a building or land lawfully occupied at the time of passage of this Development Code, or any amendment to this Development Code, that does not conform with the use regulations of the zoning district in which it is situated.
- B. **Continuance** A nonconforming use is allowed to continue legally even though such use does not conform with the provisions of this Development Code, subject to the following provisions:
1. The nonconforming use must not be expanded to occupy a greater area of land or building.
  2. The nonconforming use must continue in the original building, structure or on land area that was originally occupied by the nonconforming use.
  3. The nonconforming use will not be reinstated after it has been abandoned. It is considered prima facie evidence of abandonment for the owner and/or operator of the nonconforming use to:
    - a. Discontinue the nonconforming use for 12 months; or
    - b. Fail to obtain a new or renew an existing business license, as required under the City Code, for the operation of such nonconforming use; or
    - c. Fail to declare and remit the sales tax required by State law for the nonconforming use.
    - d. Failure to follow any state, federal or local administrative procedure or regulation that is required for the nonconforming use.
  4. The nonconforming use must not be changed to another nonconforming use.
  5. The nonconforming use must maintain any screening or buffering that existed prior to the use becoming a nonconforming use or that was later voluntarily added.
  6. If the use constitutes a nuisance as defined by state law, the City may revoke the certificate of occupancy or business license if the nuisance cannot be extinguished.
  7. Nothing in this Section will be construed to allow a use that is dangerous to the general public to continue to exist.
  8. Nothing in this Section will be construed not to require changes to buildings and structures to comply with any fire code, life safety code or other safety ordinance or regulation.
  9. Notwithstanding anything in this Div. 11.7 to the contrary, the amortization of any lawful, nonconforming adult establishment use ~~shall~~must continue to be governed by Sec. 26-37 of the City Code. As established in prior judicial decisions, however, there are no lawful, nonconforming adult establishments in the City as of the adoption of this Development Code.

### Sec. 11.7.2. Nonconforming Structure

- A. **Defined** A building or structure that does not conform with the requirements of this Development Code. For the purposes of this Section, any building legally constructed prior to the adoption of this Development Code that exceeds the zoning district height limit established in this Development Code will be considered a conforming structure, and not subject to the requirements of this nonconforming structure Section.
- B. **Continuance** A nonconforming structure is allowed to continue legally even though the structure does not conform with the provisions of this Development Code, subject to the following provisions:
1. Regular maintenance and repairs to a nonconforming structure are allowed.



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2. A nonconforming structure may be expanded, altered or rebuilt where such expansion, alteration or rebuilding conforms with all the applicable requirements of this Development Code.
  3. No new nonconformity may be created by any expansion, alteration or rebuilding.
  4. Expansion on the vertical plane, such as the addition of another story to a nonconforming structure that does not meet the district setback, is considered an expansion of the nonconformity and therefore prohibited. Expansion on the vertical plane in conformance with all the applicable requirements of this Development Code is allowed.
  5. The nonconforming structure may not be rebuilt, altered or repaired after damage or deterioration exceed 75% of its replacement cost at the time of destruction, except in conformity with this Development Code. Where a residential structure is damaged or destroyed through natural catastrophe, the Director may allow it to be reconstructed without regard to the extent of damage, provided that the extent of any prior structure nonconformity remains the same or is reduced for the new structure.
  6. A permit to begin such restoration ~~shall~~must be applied for no later than 6 months from the date the damages were incurred. At the request of the applicant, the Director may grant one extension of a maximum of 6 months, upon demonstration of extenuating circumstances outside of the owner's control. The applicant must request an extension in writing, no later than 30 days prior to the expiration of the grace period.
  7. This section does not apply to signs. See Sec. 11.7.5.
  8. A request to expand, alter or rebuild an existing nonconforming structure may be brought before the Board of Appeals as a request for a variance.

### Sec. 11.7.3. Nonconforming Site Element

Where a lot does not conform with the requirements of Article 8, Site Development, the following requirements apply:

- A. When a new principal structure is constructed on the lot, the area of the lot that accommodates the building, any required stormwater facility, and any parking area must be brought into conformance. On a lot with multiple buildings, only that portion of the lot associated with the new construction must be brought into conformance with Article 8.
- B. The following requirements apply when the scope of work on a project (~~façade modification~~) involves a ~~structural~~ change of the building which requires a building permit. Minor upgrade, repair or maintenance such as painting, ~~shingling of a roof~~ reroofing, replacing windows or doors do not trigger this requirement.
  1. Short-term bicycle parking;
  2. Parking lot perimeter landscaping;
  3. Foundation planting;
  4. Screening;
  5. Fences and walls (if any are installed);
  6. Signs (all), including elimination of any prohibited signs; and
  7. Site lighting for any new fixtures installed, along with elimination of any prohibited lighting.
- C. When an existing principal structure is increased in floor area by less than 50% cumulatively over 5 years from the effective date of this Development Code, the area of the lot that accommodates the expanded

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building, any required stormwater expansion, and any expanded parking area must be brought into conformance with Article 8.

- D. When an existing principal structure is increased in floor area by 50% or more cumulatively over 5 years from the effective date of this Development Code, the entire lot, including any building, any required stormwater facility, and any parking area must be brought into conformance with Article 8.
- E. When an existing fence or wall is reconstructed or repaired along at least 50% of its length, the entire fence or wall must be brought into conformance with Article 8.
- F. When 25% or more of an existing parking lot is reconstructed (excavated or milled and repaved) for any reason, the entire parking lot must be brought into complete conformance with the parking and landscaping provisions.
- G. Resealing or restriping an existing parking lot does not trigger conformance with Article 8, except with regard to the minimum dimensions for striping.

#### **Sec. 11.7.4. Nonconforming Lot of Record**

- A. **Defined** A lot that was legally platted and recorded in the deed records of Fulton County that no longer meets the standards of this Development Code.
- B. **Buildable**
  - 1. A nonconforming lot of record that is inadequate in area or width is considered buildable under this Development Code, provided it meets all of the other remaining standards of the Code, including setbacks. Where relief is necessary to make an existing nonconforming lot of record buildable, a variance may be considered by the Board of Appeals.
  - 2. Where a nonconforming lot of record adjoins another vacant lot of record, it must either:
    - a. Be used as a nonconforming lot of record without resorting to a variance of any kind; OR
    - b. Be combined with the adjacent lot to create a conforming lot.

#### **Sec. 11.7.5. Nonconforming Sign**

- A. **Defined** A sign that does not comply with the requirements of this Development Code.
- B. **Maintained**
  - 1. All nonconforming signs must be maintained in good repair.
  - 2. A nonconforming sign must not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards, or dismantlable material on nonconforming signs is permitted, provided that the replacement does not constitute a material change to the sign.
- C. **Repairs**
  - 1. Minor repairs and maintenance of nonconforming signs are permitted; provided that no structural repairs or changes in the size or shape of a nonconforming sign are permitted except to make the sign comply with the standards of this Development Code.
  - 2. To the extent that any sign allowable under this Development Code is damaged or destroyed by Act of God or by other circumstances beyond control of the owner of the sign, then such sign may be repaired without regard to the restrictions of this paragraph B.

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3. The replacement of an existing sign face utilizing LED, plasma or similar technology is expressly prohibited.
- D. **Continuance** Nonconforming signs may stay in place until one of the following conditions occurs:
1. The advertised business ceases at that location;
  2. The facade of the associated principal building is modified;
  3. The deterioration of the sign or damage to the sign makes it a hazard or renders it dilapidated, unsightly, or unkempt; OR
  4. The sign has been damaged to such extent that more than minor repairs or a material change is required to restore the sign.
  5. No structural repairs or change in shape or size are permitted except to make the sign comply with all standards of this Development Code.

### **Sec. 11.7.6. Burden of Proof.**

The owner of the property upon which exists a nonconforming use, nonconforming structure or nonconforming sign carries the burden of demonstrating that the nonconformity was established legally prior to the adoption of this Development Code, and, for nonconforming uses, that the use has been continuous since that time.

## **Div. 11.8. Violations and Enforcement**

### **Sec. 11.8.1. Enforcement**

- A. It is the duty of the Director to enforce the provisions of this Development Code.
- B. In addition, it is the duty of all officers and employees of the City, especially members of the Code Enforcement, Police and Fire Departments, to assist the Director by reporting any seeming violations, including violations in new construction, redevelopment or land use.

### **Sec. 11.8.2. Violation**

- A. Any person, firm, partnership or corporation prosecuted for violating any of the provisions of this Development Code may be deemed guilty of an ordinance violation, punishable as prescribed in Section 1-10 of the City of Sandy Springs Code of Ordinances.
- B. Each day's continuance of a violation may be considered a separate offense.
- C. The prosecution of any owner and tenants of any buildings or premises, or parts of buildings or premises, where anything in violation of this Development Code is placed or exists, and any architect, design professional, builder, contractor or agent, or the owner or tenants who may have assisted in the commission of any such violation may each be deemed guilty of a separate offense.

### **Sec. 11.8.3. Work in Violation**

In any case in which activities are undertaken in violation of this Development Code, not in compliance with the provisions of a permit issued under the authorization of this chapter, or without authorization of a permit which would otherwise be required, the Director is authorized to:

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- A. Suspend or invalidate such permits;
  - B. Order that all unauthorized or improper work be stopped;
  - C. Direct correction of deficiencies;
  - D. Issue summonses to any court of competent jurisdiction; or
  - E. Take any other legal or administrative action appropriate to the severity of the violation and degree of threat to the public health, safety and welfare.

## ARTICLE 12. DEFINITIONS

### Div. 12.1. General

#### Sec. 12.1.1. Rules of Interpretation

- A. Words used in this Development Code are defined by their general dictionary meaning unless specifically defined in this Article.
- B. The words must, will and ~~shall~~must are mandatory and not discretionary.
- C. When appropriate to the context, words used in the singular include the plural, and the plural the singular; words used in the present tense include the future tense, and vice versa.

#### Sec. 12.1.2. Abbreviations

The following abbreviations appear in this Development Code.

Abbreviation	Full Term
AASHTO	American Association of State Highway Transportation Officials
ADA	Americans with Disabilities Act
AMI	Area Median Income
avg	Average
CPESC	Certified Professional in Erosion and Sediment Control
DBH	Diameter at Breast Height
FEMA	Federal Emergency Management Agency
max	Maximum
min	Minimum
MUTCD	Manual for Uniform Traffic Control Devices
NPDES	National Pollutant Discharge Elimination System
O.C.G.A.	Official Code of Georgia Annotated
OSHA	Occupational Safety and Health Administration
SF	Square feet
STCP	Site/Tree Conservation Plan

### Div. 12.2. Defined Terms

A
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**Abutting.** To share a common border with.

ARTICLE 12. - DEFINITIONS

Div. 12.2. Defined Terms

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**Access improvement.** Any improvement or facility that is planned and designed to provide service or access for a particular project and which is necessary for the use and convenience of the occupants or users of the project and is not a system improvement. A project access improvement includes but is not limited to: pedestrian access improvements; site driveways; new streets; median cuts; right turn lanes, left turn lanes, acceleration lanes, and deceleration lanes made necessary to serve site driveways or new streets leading to or from the project; traffic control measures made necessary to serve site driveways or new streets; intersection improvements whose primary purpose at the time of construction is to provide access to the project; and, necessary right-of-way dedications required for any project access improvement.

**Accessory structure.** A structure on the same property as the principal structure and the use of which is incidental to the use of the primary structure.

**Accidental discharge.** Discharge prohibited by this chapter that occurs by chance and without planning or thought prior to occurrence.

**Addition.** Any walled and roofed expansion to the perimeter or height of a building.

**Adjoining.** To share a common border with [\(See also, Abutting\)](#).

**Alley.** A minor public or private accessway used primarily for vehicular service access to the back or the side for properties otherwise abutting on a street.

**Appeal.** See Sec. 11.6.3.

**Area Median Income (AMI).** The amount that divides the income distribution of an area into two equal groups, half having income above that amount, and half having income below that amount. The US Department of Housing and Urban Development (HUD) establishes area median income every fiscal year.

**Area of future-conditions flood hazard.** The land area that would be inundated by the one-percent-annual-chance flood based on future-conditions hydrology (100-year future-conditions flood).

**Area of shallow flooding.** A designated AO or AH zone on a community's flood insurance rate map (FIRM) with a one percent or greater chance of flooding to an average depth of one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**Area of special flood hazard.** The land area subject to a one percent or greater chance of flooding in any given year. This includes all floodplain and flood prone areas at or below the base flood elevation designated as zones A, A1-30, A-99, AE, AO, AH, and AR on a community's flood insurance rate map (FIRM).

**Arterial.** A principal arterial, major arterial, or minor arterial street as defined and designated in the City's Transportation Master Plan.

**As-built survey or plan.** A sealed survey or other drawing based on a field survey that shows existing features or components and horizontal or vertical information (grades or location of improvements).

<b>B</b>
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**Barrel.** A volume of alcoholic beverage that does not exceed 31 gallons.

**Base flood.** The flood having a one percent chance of being equaled or exceeded in any given year, e.g., the 100-year flood.

ARTICLE 12. - DEFINITIONS

Div. 12.2. Defined Terms

**Base flood elevation.** The highest water surface elevation anticipated at any given location during the base flood.

**Basement.** For the purposes of Article 9, any area of a building having its floor subgrade (below ground level) on all sides.

**Best management practices (BMPs).** Sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

**BikeBicycle path.** A path that serves to separate [bikebicycle](#) riders from vehicle and pedestrian traffic. [BikeBicycle](#) paths may meander through wooded areas, traverse the edge of open areas, and may (in many instances) parallel existing roadways or walks.

**Blank wall.** See Sec. 6.1.4.B.

**Block.** A piece or parcel, or several parcels of land comprising an area entirely surrounded by public streets, other than alleys.

**Brewery/distillery/winery.** An industrial facility where malt beverages, wine, or distilled spirits are produced (in spaces in excess of the micro-producer limits) on the premises and then sold or distributed for off premises consumption in compliance with state law and Department of Revenue licensing requirements.

**Brewpub.** A restaurant in which malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O.C.G.A. § 3-5-36.

**Buffer.** A natural undisturbed portion of a lot, except for approved access and utility crossings, that is set aside to achieve a visual barrier between the use on the lot and adjacent lots or uses. See also State waters buffer.

**Buildable area.** The area of a lot within a given zoning district located outside the minimum required setbacks.

**Building.** A type of structure intended for occupancy and enclosed by exterior walls on at least three sides and a roof. Several buildings otherwise independent but connected by a breezeway or other partially unenclosed structure are consider a single building for the purposes of this Code. Buildings include, as examples, dwellings, garden sheds, detached garages. For the purposes of Article 9, the term building has the same meaning as structure.

**Building setback.** The required minimum distance a building must be set back from a lot line.

**Build-To Zone.** See Sec. 6.1.2.C.

<b>C</b>
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**Cabana.** A small building for use as a changing room, accessory to a hot tub or swimming pool.

**Caliper.** The trunk diameter measurement of nursery stock trees measured at 6 inches above the ground for trees with a trunk diameter up to 4 inches and measured at 12 inches above the ground for trees with a trunk diameter of greater than 4 inches.

**Canopy mitigation.** Any tree used to meet the minimum canopy requirement or mitigation for landmark trees. Trees used for canopy mitigation must be a minimum of 2.5 inches in diameter.

## ARTICLE 12. - DEFINITIONS

### Div. 12.2. Defined Terms

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**Canopy requirement.** The percentage of tree canopy coverage as set forth in the canopy requirement table contained in Sec. 9.3.2. The canopy percentage on any property is the square footage of the total existing tree canopy on a property, divided by the total square footage of the property.

**Certified arborist.** An arborist certified by the International Society of Arboriculture as possessing the minimum level of competency required to practice arboriculture.

**Certified personnel.** For the purposes of Div. 9.7 a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

**Channel.** A natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

**City Arborist.** The individual authorized by the Director to administer and enforce the requirements and standards of Div. 9.3.

**City separate storm sewer system.** Any facility designed or used for collecting and/or conveying stormwater, including but not limited to any roads with drainage systems, highways, City streets, curbs, gutters, inlets, ~~catchbasins~~ catch basins, piped storm drains, pumping facilities, structural stormwater controls, ditches, swales, natural and manmade or altered drainage channels, reservoirs, and other drainage structures, and which is: (1) Owned or maintained by the City; (2) Not a combined sewer; and (3) Not part of a publicly owned treatment works.

**Clean Water Act.** The Federal Water Pollution Control Act (33 USC section 1251 et seq.), and any subsequent amendments thereto.

**Commission.** For the purposes of Div. 9.7 the Georgia Soil and Water Conservation Commission (GSWCC).

**Conceptual Plan.** A [conceptual](#) site plan for a proposed development showing the location of improvements, including infrastructure, buildings and common space.

**Connection, Illegal.** Either of the following:

1. Any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any non-stormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or
2. Any pipe, open channel, drain or conveyance connected to the city separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Conservation easement.** An agreement between a landowner and the City or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

**Construction activity.** Activities subject to the Georgia Erosion and Sedimentation Control Act of 1975 (O.C.G.A. § 12-7-1 et seq.) or NPDES general construction permits. These include construction projects resulting in land disturbance. Such activities include but are not limited to clearing and grubbing, grading, excavating, ~~and~~ demolition, [and construction](#).

**Cut.** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to the excavated surface.

**Comprehensive Plan.** The adopted City of Sandy Springs Comprehensive Plan.



ARTICLE 12. - DEFINITIONS

Div. 12.2. Defined Terms

**Construction, existing.** For the purposes of Div. 9.5, any structure for which the start of construction commenced before July 5, 2006.

**Cottage court.** See Div. 6.3.

**County.** Fulton County, Georgia.

**Critical root zone.** The minimum rooting volume of a tree necessary to sustain the tree's life, generally defined as a circle on the ground corresponding to the tree's drip line or 1.25 feet for every inch DBH, whichever is greater. The critical root zone depth is 3 feet.

**D**

**Damage , substantial.** For the purposes of Div. 9.5, damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred. This term also includes repetitive loss.

**Department.** The Community Development Department of the City of Sandy Springs.

**Design professional.** A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by EnviroCert, Inc. Design professionals shall must practice in a manner that complies with applicable Georgia law governing professional licensure.

**Detention.** The temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge.

**Detention, Extended.** The detention of stormwater runoff for an extended period, typically 24 hours or greater.

**Detention facility.** A detention basin or structure designed for the detention of stormwater runoff and gradual release of stored water at controlled rates.

**Developer.** A person who undertakes land development activities.

**Development.** Any manmade change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, and any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

**Development, new.** A land development activity on a previously undeveloped site.

**Development, ~~single-family~~ single unit residential.** For the purposes of Div. 9.6, development or redevelopment of a lot containing a single one- or two-family dwelling or accessory structures.

**Development, stand-alone residential.** For the purposes of Div. 9.6, development or redevelopment of a ~~single-family~~ single unit dwelling and associated accessory structures on an individual parcel where proposed disturbance is less than one acre and not part of a larger common development for which an active NPDES general permit is in place.

**Development agreement.** A written contract between the City and a property owner or developer, that specifies the system improvements to be provided by the developer for a specific project.

**Development of Regional Impact (DRI) Study.** A review by the Atlanta Regional Commission and the Georgia Regional Transportation Authority of large scale projects that are of sufficient size that they are likely to create impacts beyond the jurisdiction in which each project will be located.

ARTICLE 12. - DEFINITIONS

Div. 12.2. Defined Terms

**Development plan.** The detailed and professional plan showing the layout and design, site work and construction activities proposed for a project (other than architectural building plans) and including the preliminary plat or site plan (as applicable), grading plan, tree preservation/replacement plan, erosion and sediment control plan, buffer and landscape plan, and construction drawings for streets, stormwater drainage facilities, sanitary sewers, water supply facilities, and other site improvements.

**Development Site.** See Sec. 6.1.1.

**Diameter at breast height (DBH).** The diameter of a tree's trunk measured at 4.5 feet above the ground. For multi-trunk trees, the diameter is measured at the narrowest point beneath the point of attachment of the multiple trunks.

**Director.** The Director of the Community Development Department.

**Discharge, accidental.** A discharge prohibited by this chapter that occurs by chance and without planning or thought prior to occurrence.

**Discharge, illicit.** Any direct or indirect nonstormwater discharge to the City separate storm sewer system, except as exempted in Div. 9.8.

**Discharge, non-stormwater.** Any discharge to the storm drain system that is not composed entirely of stormwater.

**District.** For the purposes of Article 9, the Region 3 Soil and Water Conservation District.

**Drainage easement.** An easement appurtenant or attached to a tract or parcel of land allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

**Drainage structure.** A device composed of a virtually non-erodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

**Drainage structure, roadway.** A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one side of a traveled roadway consisting of one or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

**Driveway.** A vehicular access way in private ownership, other than a private street, providing access primarily to only one property or project, or to no more than 3 single-unit detached residences.

**Dwelling/Dwelling Unit.** One (1) or more rooms of a building constructed with cooking, sleeping and sanitary facilities designed for and limited to use as living quarters for one (1) housekeeping unit for periods of more than thirty (30) consecutive days.

**E**

**Easement.** Recorded authorization by a property owner of a designated area of real property to another entity for a specified purpose or use.

**Ecological compatibility.** The suitability and functionality of a given tree species for its growing site based on its potential size, slope, exposure, soil, and drainage preferences; growth and structural characteristics; and use in the landscape.

ARTICLE 12. - DEFINITIONS

Div. 12.2. Defined Terms

**Elevated building.** A non-basement building which has its lowest elevated floor raised above the ground level by foundation walls, shear walls, posts, piers, pilings, or columns.

**Elevation, ground .** The original elevation of the ground surface prior to grading, cutting or filling.

**Erosion and sedimentation control plan.** A plan that is designed to minimize the accelerated erosion and sediment runoff at a site during land disturbance activities.

**Erosion, sedimentation and pollution control plan.** A plan required by the Georgia Erosion and Sedimentation Act, that includes, as a minimum, protections at least as stringent as the state general permit, best management practices, and requirements in the Development Code of Sandy Springs and amendments to the manual approved by the Georgia Soil and Water Conservation Commission, as specified in O.C.G.A. § 12-7-6, adopted herein and commonly referred to as the "Green Book."

**Excavation.** Any man-made cavity or depression in the earth's surface, including its sides, walls, or faces, formed by earth removal and producing unsupported earth conditions as results of the excavation. If installed forms or similar structures reduce the depth to width relationship, an excavation may become a trench.

**Existing construction.** Means for the purposes of determining rates, structures for which the 'start of construction' commenced before the effective date of the Flood Insurance Rate Map (FIRM) (May 7, 2001) or before January 1, 1975 for FIRMs effective before that date. "Existing construction" may also be referred to as "existing structures."

**F**

**Fill.** A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

**Finished grade.** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

**Flood or flooding.**

- (a) A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - (1) The overflow of inland or tidal waters.
  - (2) The unusual and rapid accumulation or runoff of surface waters from any source.
  - (3) Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph (a)(2) of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
- (b) The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph (a)(1) of this definition.

**Flood elevation, future-conditions.** The highest water surface elevation anticipated at any given location during the future-conditions flood.

ARTICLE 12. - DEFINITIONS

Div. 12.2. Defined Terms

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**Flood, future-conditions.** The flood having a one percent chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the 100-year future-conditions flood.

**Flood insurance rate map or FIRM.** An official map of a community, issued by FEMA, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

**Flood insurance study or FIS.** The official report by FEMA providing an examination, evaluation and determination of flood hazards and corresponding flood profiles and water surface elevations of the base flood.

**Flood protection, extreme.** Measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of 100 years or more.

**Floodplain or flood prone area.** Any land area susceptible to being inundated by water from any source (see definition of 'flooding')

**Floodplain, Future-conditions.** Any land area susceptible to flooding by the future-conditions flood.

**Floodproofing.** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduces or eliminates flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

**Floodway or regulatory floodway.** The channel of a stream, river, or other watercourse and the adjacent areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

**Floodway boundaries.** The width of a floodway is determined from the FIS or FEMA-approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway is provided by the City. If floodway data is not available from the City, then it is determined by a licensed professional engineer using a method approved by FEMA and the City.

**Floor Area or Gross Floor Area.** The sum of all floors of a structure as measured to the outside surfaces of exterior walls. Gross floor area is used to determine required parking when floor area is the designated measure for a use.

**Floor Area, Heated.** The sum of all heated areas of a dwelling or dwelling unit, as appropriate, measured to the inside surfaces of exterior walls, excluding porches, balconies, attics, basements (finished or unfinished), garages, patios and decks.

**Freeboard.** The distance between the 100-year base flood elevation and the top of a stormwater detention structure.

**Front wall plane.** The building facade facing the primary street right-of-way. If the facade is articulated, the front wall plane is the wall of a conditioned space closest to the right-of-way.

**Frontage.** Additional standards that apply to a zoning district, as illustrated on the Official Zoning Map.

**Fully enclosed.** Located within an enclosed structure. May or may not included conditioned space.

**Functionally dependent use.** A use which cannot perform its intended purpose unless it is located or carried out in close proximity to water. The term includes only docking facilities, port facilities that are necessary for the loading and unloading of cargo or passengers, and ship building and ship repair facilities, but does not include long-term storage or related manufacturing facilities.

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Div. 12.2. Defined Terms

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**Gazebo.** A roofed structure open on all sides (may include screening or lattice-work). Often includes seating.

**Grading.** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination of the above, and including land in its cut or filled condition.

**Ground elevation.** The original elevation of the ground surface prior to cutting or filling.

**Ground floor elevation.** See 6.1.3.D.

**Groundcover.** Any of a series of dense, low-growing, spreading, herbaceous plants that form a layer and provide protection for topsoil from erosion and drought. Sod, mulch, pine straw and stone do not count as groundcover.

**Grubbing.** The removal of stumps or roots from a property.

<b>H</b>
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**Habitable space.** An area within a building, typically a residential occupancy, used for living, sleeping, eating or cooking purposes. Those areas not considered to meet this definition include bathrooms, closets, hallways, laundry rooms, storage rooms and utility spaces. It is not necessary that a room or area be finished in order to be considered habitable space, such as an unfinished basement.

**Height, bonus.** See Div. 6.7.

**Height, building.** See Sec. 6.1.3.A.

**Height, story.** See Sec. 6.1.3.E.

**Highest adjacent grade.** The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**Historic structure.** Any structure that is:

- (a) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (b) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (c) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (d) Individually listed on a local inventory of historic places by communities with historic preservation programs that have been certified either:
  - (1) By an approved state program as determined by the Secretary of the Interior or
  - (2) Directly by the Secretary of the Interior in states without the approved programs.

**Hotspot.** An area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.

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**Hydrologic soil group (HSG).** A natural resource conservation service classification system in which soils are categorized into four runoff potential groups. The groups range from group A soils, with high permeability and little runoff produced, to group D soils, which have low permeability rates and produce much more runoff.

**Hydrology, future-conditions.** The flood discharges associated with projected land-use conditions based on a community's zoning maps, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of stormwater management (flood detention) structures or projected future hydraulic modifications within a stream or other waterway, such as bridge and culvert construction, fill, and excavation.

I

**Illegal connection.** Either of the following: any pipe, open channel, drain or conveyance, whether on the surface or subsurface, which allows an illicit discharge to enter the storm drain system including but not limited to any conveyances which allow any nonstormwater discharge including sewage, process wastewater, and wash water to enter the storm drain system, regardless of whether such pipe, open channel, drain or conveyance has been previously allowed, permitted, or approved by an authorized enforcement agency; or (2) Any pipe, open channel, drain or conveyance connected to the City separate storm sewer system which has not been documented in plans, maps, or equivalent records and approved by an authorized enforcement agency.

**Illicit discharge.** Any direct or indirect nonstormwater discharge to the City separate storm sewer system, except as exempted in Section 9.8

**Impervious cover or impervious surface.** Any man-made paved, hardened or structural surface, regardless of material, that significantly impedes or prevents the natural infiltration of water into soil. The term impervious cover includes, but is not limited to, rooftops, buildings, streets, parking lots, driveways, sidewalks, uncovered decks and patios, swimming pools and any concrete or asphalt.

**Industrial activity.** Activities subject to NPDES industrial permits as defined in 40 CFR 122.26 (b)(14).

**Industrial stormwater permit.** A National Pollutant Discharge Elimination System (NPDES) permit issued to an industry or group of industries that regulates the pollutant levels associated with industrial stormwater discharges or specifies on-site pollution control strategies.

**Infiltration.** The process of percolating stormwater runoff into the subsoil.

**Inspection and maintenance agreement.** A written agreement providing for the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

J

**Jurisdictional wetland.** An area that is inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.

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Div. 12.2. Defined Terms

**L**

**Land development.** Any land change, including, but not limited to, clearing, digging, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving, and any other installation of impervious cover.

**Land development project.** A discrete land development undertaking.

**Land disturbing activity:** Alteration of the land surface by:

- (1) Any grading, scraping, excavating, dredging, transporting or filling of land;
- (2) Any clearing of vegetation;
- (3) Any construction, rebuilding, or alteration of a building, road, driveway, parking area, or other structure, not including routine maintenance such as painting or repair of existing structures or surfaces;
- (4) Any substantial activity or use which may result in soil erosion from water or wind and the movement of sediments into waters or onto adjacent lands.
- (5) Land disturbing activity ~~shall~~**must** not include activities such as ordinary maintenance and landscaping operations, individual home gardens, repairs of an existing single-family dwelling.

**Larger common plan of development.** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development.

**Light fixture, full cutoff.** A luminaire where the emission does not exceed 2.5% of the lamp lumens at an angle of 90 degrees above nadir and does not exceed 10% at a vertical angle of 80 degrees above nadir.

**Limited Use.** See Sec. 7.1.5.

**Local issuing authority (LIA).** The governing authority of any county or municipality which is certified pursuant to subsection O.C.G.A. § 12-7-8(a).

**Lot.** See Sec. 6.1.1.A.

**Lot Coverage.** See Sec. 6.1.1.H.

**Lot Frontage.** See Sec. 6.1.1.F.

**Lot line.** See Sec. 6.1.1.B.

**Lot width.** See Sec. 6.1.1.E.

**Lowest floor.** For the purposes of Div. 9.5, the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of Div. 9.5.

**M**

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**Manufactured home.** A structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term 'manufactured home' does not include a 'recreational vehicle' [or modular construction.](#)<sup>1</sup>

**Manufactured home park or subdivision.** A parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**Manufactured home park or subdivision, existing.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before July 5, 2006.

**Manufactured home park or subdivision, expansion to existing.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**Manufactured home park or subdivision, new.** [For the purposes of Article 9, a manufactured home park completed on or after July 5, 2006.](#)

**Manufactured home park or subdivision, substantially improved.** [Means when the repair, reconstruction, rehabilitation, or improvement of streets, utilities, and pads equals or exceeds 50 percent of the value of the streets, utilities, or pads.](#)

**Mean sea level.** The datum to which base flood elevations shown on a community's flood insurance rate map (FIRM) are referenced. For purposes of this Division, the term is synonymous with National Geodetic Vertical Datum (NGVD) of 1929 or the North American Vertical Datum (NAVD) of 1988.

**Metropolitan River Protection Act (MRPA) Chattahoochee Corridor Plan.** State law referenced as O.C.G.A. § 12-5-440 et seq. that addresses development impacts within 2,000 feet of the Chattahoochee River and its impoundments.

**Minor land disturbance activity - exempt.** For the purposes of Article 9, activities such as home gardens and individual home landscaping, minor repairs, maintenance work, fences, and other related activities, which do not require permits for soil and erosion control purposes.

**N**

**National Pollutant Discharge Elimination System (NPDES).** Stormwater discharge permit means a permit issued by the state EPD under authority delegated pursuant to 33 USC 1342(b) that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.

**Natural ground surface.** The ground surface in its original state before any grading, excavation or filling.

**Neighborhood transition.** See [Div. 6.4.Sec. 8.2.6.](#)

**Nephelometric turbidity units (NTU).** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided parts of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloidally dispersed or suspended parts are present.

**New construction.** For the purposes of determining insurance rates, structures for which the 'start of construction' commenced on or after the effective date of an initial FIRM (May 7, 2001) or after December 31, 1974, whichever



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is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on July 5, 2006, as adopted by the Mayor and City Council, and includes any subsequent improvements to such structures.

**New development.** A land development activity on a previously undeveloped site.

~~**New manufactured home park or subdivision.** For the purposes of Article 9, a manufactured home park completed on or after July 5, 2006.~~

**Nonpoint source pollution.** A form of water pollution that does not originate from a discrete point such as a sewage treatment plant or industrial discharge, but involves the transport of pollutants such as sediment, fertilizers, pesticides, heavy metals, oil, grease, bacteria, organic materials and other contaminants from land to surface water and groundwater via mechanisms such as precipitation, stormwater runoff, and leaching. Nonpoint source pollution is a byproduct of land use practices such as agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.

**Nonstormwater discharge.** Any discharge to the storm drain system that is not composed entirely of stormwater.

**Nonstructural stormwater management practice or nonstructural practice.** Any natural or planted vegetation or other nonstructural component of the stormwater management plan that provides for or enhances stormwater quantity and/or quality control or other stormwater management benefits, and includes, but is not limited to, riparian buffers, open and greenspace areas, overland flow filtration areas, natural depressions, and vegetated channels.

**Notice or official notice.** For the purposes of Div. 9.7, a written communication by the City to the owner, operator, or person conducting land-disturbing activity, including a notice to comply, a stop work order and/or a fine, as authorized by this Development Code in Div. 9.7. Notice ~~shall~~**must** be deemed official when it meets one of the following requirements: (1) Communicated in writing to the owner or operator via U.S. mail; (2) Hand-delivered to the owner, operator, or person conducting land-disturbing activity; (3) Posted in a conspicuous location on the site; or (4) Electronic communications such as email or phone text messages. NOI means a notice of intent form provided by EPD for coverage under the state general permit. NOT means a notice of termination form provided by EPD to terminate coverage under the state general permit.

O

**Off-site facility.** A stormwater management facility located outside the boundaries of the site.

**On-site facility.** A stormwater management facility located within the boundaries of the site.

**Operator.** The party or parties that have (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with an erosion, sedimentation and pollution control plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the erosion, sedimentation and pollution control plan or to comply with other permit conditions.

**Outdoor amenity space.** See Sec. 6.1.1.1.

**Outfall.** The location where stormwater in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

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**Overbank flood protection.** Measures taken to prevent an increase in the frequency and magnitude of out-of-bank flooding (i.e., flow events that exceed the capacity of the channel and enter the floodplain), and that are intended to protect downstream properties from flooding for the two-year through 25-year frequency storm events.

**Owner.** The legal or beneficial owner of a site, including, but not limited to, a mortgagee or vendee in possession, receiver, executor, trustee, lessee or other person in control of the site.

**P**

**Parcel.** ~~A piece of land that has not yet been subdivided and recorded as a lot of record in the Fulton County deed records~~ A contiguous portion of land that is assigned a unique identification number by the Fulton County deed records.

**Parking structure, commercial.** Structure means a building or structure principally used for the parking of motor vehicles and includes a building or structure where motor vehicles are stored.

**Path:** A pathway physically separated from motor vehicles designed to accommodate the movement of pedestrians and bicyclists.

**Permit.** The authorization necessary to conduct a land-disturbing activity under the provisions of this Development Code.

**Person.** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

**Phase or phased.** Subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site. Phased construction is not intended to be used in stand-alone residential development.

**Plan, approved.** For the purposes of Div. 9.7, an erosion and sedimentation control plan approved in writing by the City of Sandy Springs or the Fulton County Soil and Water Conservation District.

**Plat.** A map indicating the subdivision, re-subdivision, or recombination of land.

**Plat, final.** A finished drawing of a subdivision showing completely and accurately all legal and boundary information and certifications required by this Development Code.

**Plat, minor.** A finished drawing of a subdivision of no more than three lots that, at the time of subdivision, does not necessarily, but may involve a land disturbance permit, new streets, the extension of a utility or other municipal facility and depicts all legal and engineering information required by this Development Code.

**Plat, Preliminary.** A plat intended to show existing and proposed property lines, in conjunction with a conceptual plan.

**Pollutant.** Anything that causes or contributes to pollution. Pollutants may include, but are not limited to, paints, varnishes, and solvents; petroleum hydrocarbons; automotive fluids; cooking grease; detergents (biodegradable or otherwise); degreasers; cleaning chemicals; nonhazardous liquid and solid wastes and yard wastes; refuse, rubbish, garbage, litter, or other discarded or abandoned objects and accumulations, so that same may cause or contribute to pollution; floatables; pesticides, herbicides, and fertilizers; liquid and solid wastes; sewage, fecal coliform and pathogens; dissolved and particulate metals; animal wastes; wastes and residues that result from constructing a building or structure; concrete and cement; and noxious or offensive matter of any kind.

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**Pollution.** The contamination or other alteration of any water's physical, chemical or biological properties by the addition of any constituent and includes, but is not limited to, a change in temperature, taste, color, turbidity, or odor of such waters, or the discharge of any liquid, gaseous, solid, radioactive, or other substance into any such waters as will or is likely to create a nuisance or render such waters harmful, detrimental or injurious to the public health, safety, welfare, or environment, or to domestic, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life.

**Postdevelopment.** The time period, or the conditions that may reasonably be expected or anticipated to exist, after completion of the land development activity on a site as the context may require.

**Predevelopment.** The time period, or the conditions that exist, on a site prior to the commencement of a land development project and at the time that plans for the land development of a site are approved by the plan approving authority. Where phased development or plan approval occurs (preliminary grading, roads and utilities, etc.), the existing conditions at the time prior to the first item being approved or permitted ~~shall~~must establish pre-development conditions.

**Premises.** Any building, lot, parcel of land, or portion of land, whether improved or unimproved, including adjacent sidewalks and parking ~~strips~~.

**Primary street.** See Sec. 6.1.1.C.

**Project.** The entire proposed development project regardless of the size of the area of land to be disturbed.

**Properly designed.** Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal or issuance of a building permit or land disturbance permit.

**Protected Neighborhood.** A character area described and mapped in the City's Comprehensive Plan.

**Protection area or stream protection area.** The combined areas of all required buffers and setbacks applicable to such stream.

Q

**Qualified professional.** For the purpose of Div. 9.3, any individual possessing a degree in forestry, urban forestry, landscape architecture, or horticulture, trained in the implementation of Div. 9.3 and tree protection in building construction.

R

**Redevelopment.** A land development project on a previously developed site, but excludes ordinary maintenance activities, remodeling of existing buildings, resurfacing of paved areas, and exterior changes or improvements which do not materially increase or concentrate stormwater runoff, or cause additional non-point source pollution.

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**Regional stormwater management facility or regional facility.** Stormwater management facilities designed to control stormwater runoff from multiple properties, where the owners or developers of the individual properties may assist in the financing of the facility, and the requirement for on-site controls is either eliminated or reduced.

**Repetitive loss.** Flood related damage sustained by a structure on two separate occasions during a ten-year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

**Responsible party.** The owner or owner's agent.

**Road.** See "Street, public".

**Roadway.** The paved portion of a street from back of curb to back of curb (or edge to edge of pavement for streets not having curbs), excluding driveway aprons, bridges, and large single and multicell culverts which in a hydrologic sense may be considered to function as a bridge.

**Runoff reduction.** The interception, evaporation, evapotranspiration, infiltration or capture and reuse of stormwater runoff.

**S**

**Sandy Springs Tree Bank.** The account established by the City for fines and penalties associated with loss of or damage to the tree canopy. Tree bank funding is restricted to the planting of trees and preservation of the Sandy Springs tree canopy.

**Setback.** See Sec. 6.1.2.A.

**Shed.** A simple roofed structure typically made of wood or metal and used for additional storage space.

**Sheet flow.** Diffused water running overland to a defined watercourse.

**Side street.** See Sec. 6.1.1.C.

**Sign.** Any device, fixture, placard, or structure affixed to, supported by, or suspended by a stationary object, building or the ground that uses any color, form, graphic, illumination, symbol, or writing to communicate information of any kind to the public. See additional details in Div. 8.3.

**Site.** The parcel of land being developed, or the portion thereof, on which the land development project is located.

**Site work.** Development activity to prepare a property for construction of buildings or finished structures, including clearing, grubbing, grading and installation of soil sedimentation and erosion control facilities.

**Site/tree conservation plan (STCP).** A plan as required in Div. 9.3 for a Boundary Tree, Setback Tree, Landmark Tree or Protected Tree.

**Sketch plan.** See Conceptual plan.

**Soil and Water Conservation District approved plan.** An erosion, sedimentation and pollution control plan approved in writing by the Region 3 Soil and Water Conservation District.

**Stabilization.** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

## ARTICLE 12. - DEFINITIONS

### Div. 12.2. Defined Terms

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**Stabilization, final.** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent or greater, or landscaped according to the Plan (uniformly covered with landscaping materials in planned landscape areas) or equivalent permanent stabilization measures as defined in the Manual (excluding a crop of annual vegetation and seeding of target crop perennials appropriate for the region). Final stabilization applies to each phase of construction.

**Standard details.** Illustrative minimum standards for land development activities authorized under this Development Code or other codes of the City. These standards do not supersede more restrictive or prudent design requirements or good engineering practices as applied to specific situations on a case-by-case basis. All construction must meet or exceed the standards established in this Development Code or those adopted by the State Department of Transportation.

**Start of construction (includes substantial improvement).** Means the date the permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of the structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include initial land preparation, such as clearing, grading, and filling; nor does it include installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**State General Permit.** The National Pollution Discharge Elimination System (NPDES) general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251 et seq., and O.C.G.A. § 12-5-30(f).

**State waters.** State waters include any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural and artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation, except as may be defined in O.C.G.A. § 12-7-17(8) (O.C.G.A. § 12-7-3(16)).

**State waters buffer.** Buffer means the area of land immediately adjacent to the banks/points of wretched vegetation of state waters in its natural state of vegetation, which facilitates, when properly vegetated, the protection of water quality and aquatic habitat (O.C.G.A. § 12-7-3(2)). Also includes stream buffer(s).

**Stormwater better site design.** Nonstructural site design approaches and techniques that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. The term "stormwater better site design" includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

**Stormwater management facility.** Any infrastructure that controls or conveys stormwater runoff.

**Stormwater management.** The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, stream bank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

**Stormwater management measure.** Any stormwater management facility or nonstructural stormwater practice.

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**Stormwater management plan.** A document describing how existing runoff characteristics will be affected by a land development project and containing measures for complying with the provisions of this Division.

**Stormwater management site plan.** A drawing depicting how and where stormwater management facilities and practices will be installed on the site.

**Stormwater management system.** The entire set of structural and nonstructural stormwater management facilities and practices that are used to capture, convey and control the quantity and quality of the stormwater runoff from a site.

**Stormwater retrofit.** A stormwater management practice designed for a currently developed site that previously had either no stormwater management practice in place or a practice inadequate to meet the stormwater management requirements of the site.

**Stormwater runoff or stormwater.** Any surface flow, runoff, and drainage consisting entirely of water from any form of natural precipitation, and resulting from such precipitation.

**Stream.** Any stream, beginning at:

1. The location of a spring, seep, or groundwater outflow that sustains stream flow;
2. A point in the stream channel with a drainage area of 25 acres or more; or
3. Where evidence indicates the presence of a stream in a drainage area of other than 25 acres, the Department may require field studies to verify the existence of a stream.

**Stream bank.** The sloping land that contains the stream channel and the normal flows of the stream.

**Street, collector.** [A through street having the primary function of connecting subdivisions or other areas to arterial streets or other major thoroughfares, or functioning as a central route within a subdivision channeling traffic from the local streets to an abutting major thoroughfare or another collector street. For the purposes of this Development Code, a central but non-through route within a subdivision or other project will be considered as a collector if the average daily traffic generated by the development on the route will exceed 4,000 trips.](#)

**Street, private.** An accessway similar to and having the same [construction and](#) function as a public street, providing access to more than one property, but held in private ownership (as distinct from a "driveway").

**Street, public.** A right-of-way dedicated to and accepted by the City for vehicular traffic over which the City may hold a prescriptive easement for public access, and including designated and numbered U. S. and State highways. For the purposes of this Development Code, the term "public street" is limited to those which afford or could afford a direct means of vehicular access to abutting property, and exclude limited access roadways which abut a property but from which direct access is not allowed.

**Streetscape.** The design of a street, including the sidewalks, landscape planting, [lighting and other](#) furnishings along the street and street furniture.

**Structural erosion, sedimentation and pollution control practices.** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Approved practices can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

**Structural stormwater control.** A structural stormwater management facility or device that controls stormwater runoff and changes the characteristics of that runoff including, but not limited to, the quantity and quality, the period of release or the velocity of flow.

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**Structure.** Any construction attached to the ground or a building, whether permanently or temporarily. Structures include, as examples, fences, kiosks, mechanical equipment, pergolas, gazebos, monument signs, gas or liquid storage tanks, and swimming pools.

**Subdivision.** Any division or re-division of a lot, tract or parcel, regardless of its existing or future use, into two or more lots, tracts or parcel.

1. The term subdivision means the act or process of dividing property. Lots that do not abut or are not directly across a public street from other subdivided lots ~~shall~~must be considered a separate distinct subdivision with a separate name.
2. Where appropriate to the context, the term subdivision also may be used in reference to the aggregate of all lots held in common ownership at the time of division.

**Subdivision entrance.** A public street, or publicly approved private street, that provides access to subdivided lots.

**Substantial Improvement.** Means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure before the 'start of construction' of the improvement. This term includes structures which have incurred 'substantial damage,' regardless of the actual repair work performed. The term does not, however, include either:

- (1) Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or
- (2) Any alteration of a 'historic structure,' provided that the alteration will not preclude the structure's continued designation as a 'historic structure.'

**System improvement.** Any improvement or facility such as streets, bridges, paths, trails or rights-of-way identified ~~on the long range road classification map in the Capital Improvements Element~~ (i.e. "the System"), and any traffic control measures, landscaping or other related features, that is included in the Comprehensive Plan and which is further designed to provide service to the community at large.

**T**

**Thoroughfare, major.** Any public street, existing or proposed, that carries the functional classification of arterial or collector.

**Trail.** An extended and usually continuous strip of land established independently of other routes of travel and dedicated, through ownership or easement, to recreational travel including hiking, horseback riding, and similar activities.

**Transparency.** See Sec. 6.1.4.A.

**Tree.** A self-supporting woody plant material capable of reaching a minimum DBH of 6 inches and a height of 15 feet.

**Tree canopy.** The square footage of the aggregate of the canopy of all trees 18 inches DBH or larger contained on a property.

**Tree, boundary.** A tree 10 inches DBH or larger located on a property adjacent to a permitting property whose critical root zone or canopy extends into that permitting property.

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**Tree, canopy.** A large or medium tree with a crown size and shape that will typically provide at maturity significant shade and beneficial effects on temperature, air quality, water quality, and other environmental conditions. A canopy tree is also referred to as a "shade tree," and includes, but is not limited to Oak, Birch, Elm and Ash.

**Tree, damaged.** A tree that has 25% or more of the critical root zone disturbed.

**Tree, destroyed.** A tree which has damage to any of its parts causing, as determined by the City Arborist, the tree's survival beyond 3 growing seasons to be unlikely.

**Tree, hardwood.** The botanical group of trees that have broad leaves, produce a fruit or nut, and generally go dormant in the winter. Hardwood Trees include, but are not limited to, oak, maple, magnolia, beech, ash and cherry tree species.

**Tree, hazardous.** A tree that is at risk for failure because it is dead or structurally defective, and where that failure could result in personal injury or property damage.

**Tree, landmark.** Landmark tree means:

1. Hardwood tree 27 inches DBH or larger;
2. Pine tree 30 inches DBH or larger; or
3. Dogwood or redbud tree ten inches DBH or larger being in fair or better condition.

**Tree, protected.** A tree 18 inches DBH or larger, other than a landmark tree or setback tree, in fair or better condition.

**Tree, setback.** A tree 18 inches DBH or larger located in the minimum required yards/setbacks of any property.

**Treehouse.** A structure built at least 8 feet above the ground within the branches of a tree. May or may not use the tree for support.

**Tree removal permit.** A permit as required pursuant to Div. 9.3 issued by the City Arborist for land disturbance or the removal of trees.

**Trout streams.** All streams or portions of streams within the watershed as designated by the Wildlife Resources Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20, in the Rules and Regulations for Water Quality Control, Chapter 391-3-6. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

U

**Urban Neighborhood.** A character area described and mapped in the City's Comprehensive Plan.

V



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**Variance.** See Div. 11.6.

**Vegetative erosion and sedimentation control measures.** Technical measures approved within the Georgia Manual for Erosion and Sediment Control for the stabilization of erodible or sediment-producing areas.

**Vehicle.** As used in this Development Code, vehicle may include not just motor vehicles, but also non-motorized vehicles such as bicycles used for transport, based on the context of the specific code section.

**Vehicle, recreational.** A vehicle which is:

1. Built on a single chassis;
2. 400 square feet or less when measured at the largest horizontal projection;
3. Designed to be self-propelled or permanently towable by a light-duty truck; and
4. Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Violation.** A violation is any failure to comply with the Development Code.

**W**

**Watercourse.** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation due to overflow or floodwater.

**Y**

**Yard.** The land area located between the property line and the principal structure.