



City Council Meeting & Public Hearing

DECEMBER 16, 2024

OFFICIAL MINUTES

Office of the City Clerk

ALPHARETTA CITY HALL
COUNCIL CHAMBERS | 2 PARK PLAZA | 6:30 PM

OFFICIAL MINUTES

The public is advised that the following minutes are not a verbatim transcription of business presented at the Council Meeting of the date shown; but are a synopsis of pertinent information. The public is further advised that the video recording for said meeting is a matter of public record and is available to be viewed at the City Clerk's office during normal business hours or viewed online at <https://www.youtube.com/user/alpharettagov>.

1. CALL TO ORDER

- Mayor Gilvin called the meeting to order at 6:30 p.m.
- Mayor Gilvin announced that CLUP-24-05/Z-24-17/PH-24-20 Mayfair on Haynes Bridge was deferred by staff to January 27, 2025 and PH-24-16 Road Abandonment – Manning Street and Z-24-09/E-24-03/V-24-14 Wells Fargo Redevelopment/21 North Main Street were deferred by staff to February 24, 2025.
- City Administrator, Chris Lagerbloom, requested to remove New Business Item B Resolution and Contract Approval: North Point Parkway Right of Way Acquisition.

2. ROLL CALL

- Council Members
 - Mayor Jim Gilvin
 - Mayor Pro Tem Dan Merkel
 - Brian Will
 - Donald F. Mitchell
 - John Hipes
 - Fergal M. Brady
 - Douglas J. DeRito
- Staff
 - Chris Lagerbloom, City Administrator
 - Molly Esswein, City Attorney
 - Lauren Shapiro, City Clerk
 - Adam Montgomery, Director of Information Technology
 - Charlie Jewell, Director of Economic Development
 - John Robison, Director of Public Safety

- Kathi Cook, Director of Community Development
- Morgan Rodgers, Director of Recreation, Parks & Cultural Arts Services
- Pete Sewczwicz, Director of Public Works
- Tom Harris, Director of Finance
- Deanna McKay, Public Communication & Engagement Manager

3. PLEDGE TO THE FLAG

4. CONSENT AGENDA

A. City Council Meeting Minutes (Meeting of 12/2/2024)

Consideration of approval of the City Council meeting minutes from the meeting of December 2, 2024.

B. Financial Management Report (Month Ending October 31, 2024)

Consideration of approval of the Financial Management Report for the month ending October 31, 2024.

C. Conflict Waiver: Jarrard & Davis, LLP for North Fulton SWAT Team Memorandum of Understanding

Consideration of approval of a Waiver of Conflict regarding legal representation by Jarrard & Davis, LLP in representing the City of Alpharetta and the City of Milton for the purposes of entering into a new Memorandum of Understanding related to the North Fulton SWAT Team and with authorization for the Mayor to execute all necessary documents.

D. Ratification of Consent Order and Final Judgment: Parcel 66A of McGinnis Ferry Road Widening Project

Council ratification of Consent Order and Final Judgment (CAFN:2022CV363849) in the total amount of \$61,150.00 regarding Parcel #66A of the McGinnis Ferry Road Widening Project (Owners: Ricardo R. Victorio and Victoria P. Victorio).

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Mitchell offered a motion to approve the Consent Agenda.
 - Council Member Brady seconded the motion.
 - The motion was approved unanimously (7-0).

5. PUBLIC HEARING

A. CLUP-24-05/Z-24-17/PH-24-20 Mayfair on Haynes Bridge

DEFERRED: This item has been deferred by Staff to the January 27, 2025 City Council Meeting. This item will not be heard or considered on December 16, 2024.

Consideration of a comprehensive land use plan amendment, rezoning, change of conditions, and public hearing to allow for a 2nd phase of a residential development including 10 single-family detached homes on 1.53 acres in the Downtown. A comprehensive land use plan amendment is requested from Medium Density Residential to High Density Residential and a rezoning is requested from O-I (Office-Institutional) to DT-R (Downtown Residential). Changes to conditions of zoning is requested for the adjoining 2.83-acre property (Phase 1) approved for a single-family residential subdivision. A public hearing is requested to bring the subject property into the Downtown Overlay. The property is located at 0 Norcross Street and is legally described as being located in Land Lot 747, 1st District, 2nd Section, Fulton County, Georgia.

B. PH-24-16 Road Abandonment – Manning Street

DEFERRED: This item has been deferred by Staff to the February 24, 2025 City Council Meeting. This item will not be heard or considered on December 16, 2024.

Consideration of a request for road abandonment of Manning Street. The property is located within the Manning Street right-of-way and is legally described as being located in Land Lots 1253 & 1268, 2nd District, 2nd Section, Fulton County, Georgia.

C. Z-24-09/E-24-03/V-24-14 Wells Fargo Redevelopment/21 North Main Street

DEFERRED: This item has been deferred by Staff to the February 24, 2025 City Council Meeting. This item will not be heard or considered on December 16, 2024.

Consideration of a rezoning, parking special exception, exception, and variance to allow a 5-story mixed-use building on 1 acre in Downtown. A rezoning is requested from C-2 (General Commercial) to DT-C (Downtown Core) and a parking special exception is requested to allow off-site parking. An exception is requested from Unified Development Code (UDC) Appendix A: Alpharetta Downtown Code Subsection 3.5.5(A) to increase the building height from 4 to 5 stories and variances are requested to UDC Appendix A: Alpharetta Downtown Code Subsection 3.5.5 to increase the maximum building footprint and UDC Subsection 3.2.8(D) Landscape Strips to eliminate the landscape strip on the east side of the property. The property is located at 21 North Main Street and is legally described as being located in Land Lot 1268, 2nd District, 2nd Section, Fulton County, Georgia.

D. Announcement of Public Hearing Procedures

- City Attorney, Molly Esswein, announced the city's public hearing procedures.

E. Z-24-15 McManus/350 Brady Place

Consideration of a rezoning to allow an existing commercial building to be re-used for a single-family residence or an office in the future. A rezoning is requested from O-I (Office-Institutional) to DT-MU (Downtown Mixed-Use). The property is located at 350 Brady Place and is legally described as being located in Land Lot 693, 1st District, 2nd Section, Fulton County, Georgia.

- Planning and Development Services Manager, Michael Woodman came forward to present this item.
- The applicant, Kristina McManus, is requesting a rezoning to allow an existing structure to be used for a single-family residence and an office in the future on approximately 0.31 acres in the Downtown. The structure was most recently occupied by Bloomin' Bouquets florist and event design. The property owner would like to convert the structure into her primary residence. A rezoning is requested from O-I (Office-Institutional) to DT-MU (Downtown Mixed-Use). The subject property is located at 350 Brady Place at the southwest corner of Maxwell Road and Brady Place.
- This item was considered at the December 5, 2024 Planning Commission meeting. There were no public comments. After discussion, Planning Commission recommended approval subject to Staff's recommended conditions (vote 5-0).
- Staff is recommending that Mayor and Council approve Z-24-15 McManus / 350 Brady Place, subject to the following conditions:
 1. Approximately 0.31 acres shall be zoned DT-MU. Uses shall be limited to one (1) 'Dwelling, 'For-Sale, Detached, Residential' unit or Office. Site shall be developed substantially similar to the submitted site plan, except for modifications required to comply with the conditions below and subject to meeting all City code requirements and conditions of zoning.
 2. Exterior changes to the structure shall require final approval by DRB.
 3. Existing parking lot and curb cut/driveway on Maxwell Road shall be removed, except to provide a driveway from Brady Place and parking for the residence. If the structure is converted to an office, at least 3 and no more than 4 parking spaces shall be provided on the property, including the required parking lot landscape screening from public streets.
 4. Landscape strips shall be provided along Brady Place and Maxwell Road with existing healthy trees saved where possible, as approved by Staff.
 5. Residential accessory structures shall be located to the side or rear of the primary structure and screened from the public street behind a fence, except that a detached garage may be placed in the front yard to either side of the existing structure with a garage door facing away from the street.
 6. Fences and walls visible from the public right-of-way shall be decorative, as approved by Staff. Unfinished wood fences and decks shall not be visible from the street.
- The property is developed with a one (1) story, approximately 1,100 square foot structure previously used as a florist. Surrounding properties are zoned C-2 (General Commercial) and C-1 (Neighborhood Commercial) to the north, AG (Agriculture) to the west, and C-2 and R-8A (Dwelling, 'For-Sale', Attached) to the east and south. Sonia's Hair Studio and Nedrick Gavin Jewelers are located to the north, an undeveloped lot is

located to the west, Comcast is located to the east, and Briargate is located to the south. The comprehensive land use plan designation of the property is 'Mixed Use', which supports the proposed zoning and uses.

- The subject property is located in the South Main Street Livable Centers Initiative (LCI) with Brady Place designated as a Cottage Commercial district. The vision for this area is to build on the existing market condition by adding compatible infill structures that resemble detached homes and used for commercial and residential uses. Key to the redevelopment of this area is the redesign of Brady Place as a Living Street, which encourages a mix of pedestrian and vehicle traffic.
- The site plan depicts re-use of the existing one (1) story, 1,100 square foot structure for a single-family residence. The submitted application states that the conversion of the structure to a residence would include interior renovations, a new metal roof, painting of the exterior, and complete landscape design. The applicant has also stated that the existing parking lot would be removed and that she would like to remove the curb cut on Maxwell Road in order to stop cut-through traffic. The applicant does not propose any tree removal on the subject property.
- Staff estimates that the single family detached home would generate one (1) AM Peak Hour trip and one (1) PM Peak Hour trips. Should the structure be converted to an office in the future, the 1,100 square foot office building would generate three (3) AM Peak Hour trips and three (3) PM Peak Hour trips.
- Fulton County Schools does not provide an impact assessment for residential developments with less than four (4) dwelling units. Impacts to area schools would be negligible with the applicant's proposal.
- The Citizen Participation Plan Report submitted by the applicant states that property owners within 500' were contacted regarding the applicant's intent. The report states that one (1) email in support of the request was received.
- A Community Zoning Information Meeting was held on November 13, 2024. There were no public comments.
- Staff has reviewed the applicant's proposal against the review criteria for a rezoning. The zoning proposal is consistent with the South Main Street LCI and comprehensive land use plan designation of the property, which envision a walkable, mixed-use environment consisting of smaller buildings resembling detached homes. The 'Mixed Use' future land use designation of the property allows for single use development (residential, commercial, or office), as well as a mixed-use development.
- Kristina McManus (6606 Webb Bridge Court, Alpharetta, GA 30009) came forward to speak on behalf of this application.

PUBLIC COMMENTS:

- There were no public comments.

- ❖ Mayor Pro Tem Merkel offered a motion to approve Z-24-15 McManus/350 Brady Place, subject to the following conditions:

1. Approximately 0.31 acres shall be zoned DT-MU. Uses shall be limited to one (1) 'Dwelling, 'For-Sale, Detached, Residential' unit or Office. Site shall be developed substantially similar to the submitted site plan, except for modifications required to comply with the conditions below and subject to meeting all City code requirements and conditions of zoning.
2. Exterior changes to the structure shall require final approval by DRB.
3. Existing parking lot and curb cut/driveway on Maxwell Road shall be removed, except to provide a driveway from Brady Place and parking for the residence. If the structure is converted to an office, at least 3 and no more than 4 parking spaces shall be provided on the property, including the required parking lot landscape screening from public streets.
4. Landscape strips shall be provided along Brady Place and Maxwell Road with existing healthy trees saved where possible, as approved by Staff.
5. Residential accessory structures shall be located to the side or rear of the primary structure and screened from the public street behind a fence, except that a detached garage may be placed in the front yard to either side of the existing structure with a garage door facing away from the street.
6. Fences and walls visible from the public right-of-way shall be decorative, as approved by Staff. Unfinished wood fences and decks shall not be visible from the street.
 - Council Member Brady seconded the motion.
 - The motion was approved (7-0).

F. PH-24-23/Z-24-18 Wexler/172 & 182 Marietta Street

Consideration of a change to conditions of zoning and rezoning to allow a detached garage with accessory dwelling on 0.58 acres in the Downtown. A change to conditions of zoning is requested at 182 Marietta Street and a rezoning is requested from C-2 (General Commercial) to DT-R (Downtown Residential) at 172 Marietta Street. The property is located at 172 & 182 Marietta Street and is legally described as being located in Land Lots 694 & 1270, 1st District, 2nd Section, Fulton County, Georgia.

- Planning and Development Services Manager, Michael Woodman, came forward to present this item.
- The applicants, Andrew and Kourtney Wexler, are requesting changes to conditions of zoning and a rezoning to allow for the construction of a detached garage with accessory dwelling unit on 0.58 acres in the Downtown. The applicant is constructing a 'For-Sale' single-family detached home on the adjacent property located at 182 Marietta Street and intends to combine the two (2) properties. A change to a condition

of zoning is requested at 182 Marietta Street and a rezoning from C-2 (General Commercial) to DT-R (Downtown Residential) is requested at 172 Marietta Street. The subject property is located at 172 & 182 Marietta Street on the south side of Marietta Street and just west of Marjean Way.

- This item was considered at the December 5, 2024 Planning Commission meeting. There were no public comments. After discussion, Planning Commission recommended approval subject to Staff's recommended conditions (vote 5-0).
- Staff is recommending that Mayor and Council approve PH-24-23/Z-24-18 Wexler/172 & 182 Marietta Street, subject to the following conditions:
 1. Approximately 0.58 acres located at 172 Marietta Street shall be zoned DT-R and limited to a detached garage with accessory dwelling unit. Site shall be developed substantially similar to the submitted site layout, except for modifications required to comply with the conditions below and subject to meeting all City code requirements and conditions of zoning.
 2. Building elevation shall be substantially similar to the submitted renderings, with final approval by Staff.
 3. Landscape strip along Marietta Street shall be planted with shade trees as a continuation of what has been planted or designed in the Downtown and outside of utility easements and overhead utilities, as approved by Staff.
 4. A decorative low wall, metal fencing or hedge with columns shall frame the front yard.
 5. A 10' planted buffer shall be provided along the east and south property lines and planted with a mix of evergreen trees and shrubs. Existing trees within the 10' buffers identified to be in 'Good' condition shall be saved, with final approval by Staff.
 6. Property owner shall improve Marietta Street frontage with a 6' planter planted with street trees, 6' sidewalk and decorative pedestrian lighting, as approved by Staff.
 7. Tree #6 (14" Water Oak) shall be saved.
 8. Fences and walls visible from the public right-of-way shall be decorative, as approved by Staff. Unfinished wood fences and decks shall not be visible from the street.
 9. If the 172 & 182 Marietta Street are combined, access shall be consolidated to a single access point (driveway) for both lots.

Change to conditions of zoning related to file# Z-22-01/V-22-03 Wexler/182 Marietta Street:

6. A 10' planted buffer shall be provided along the south and west property lines and planted with a mix of evergreen trees and shrubs. Existing trees within the 10' buffers identified to be in 'Good' condition shall be saved, with final approval by Staff.

- The properties are developed with single-family detached homes that have been converted to commercial uses. Surrounding properties are zoned C-2 to the east and south, O-P (Office-Professional) to the west and R-8A (Dwelling, 'For-Sale' Attached) to the north. Windsong townhomes are located to the north, Homeschool Hangout Bookstore is located to the east, 204 Marietta Street (recent approved for a 2-story office building) is located to the west and Alpharetta Beach House offices are located to the south. The comprehensive land use plan designation of the property is 'Mixed Use', which allows the proposed detached garage with accessory dwelling unit.
- To allow the two (2) lots to be used as one, the applicant requests the following change to the conditions of zoning related to file #Z-22-01/V-22-03 Wexler/182 Marietta Street:
 6. A 10' planted buffer shall be provided along the east, south and west property lines and planted with a mix of evergreen trees and shrubs. Existing trees within the 10' buffers identified to be in Good condition shall be saved, with final approval by Staff.
- The site plan depicts redevelopment of the existing structure with a two (2) story, detached garage with accessory dwelling unit. The three (3) car garage will be side loaded with the garage doors facing the primary residence at 182 Marietta Street. The 2nd floor accessory dwelling unit includes a living room, kitchen, bathroom, and bedroom. The detached garage is depicted on the site plan overtop of the existing home footprint, which is currently setback approximately 70' from Marietta Street. A separate driveway is not depicted on 172 Marietta Street. The applicant has indicated that the driveway at 182 Marietta Street would connect over to the detached garage located on 172 Marietta Street.
- There are very few trees located on 172 Marietta Street. The City Arborist conducted a site visit and recommended that the applicant save tree #6 (14" Water Oak), which is a boundary tree located on 182 Marietta Street. Trees identified to be in 'Good' condition along the rear and east property lines should be saved within a 10' planted buffer.
- The applicant submitted renderings of the detached garage and previously approved home at 182 Marietta Street, which depict a Neoclassical or Beaux Arts style. The City's Downtown Consultant reviewed the renderings and believes the style of the detached garage complies with the Downtown Overlay architectural regulations and is compatible with the home approved at 182 Marietta Street.
- The Citizen Participation Plan Report submitted by the applicant states that property owners within 500' were contacted regarding the applicant's intent. The report states that positive feedback has been provided as a result of the public outreach. The applicant was able to obtain four (4) letters of support.
- A Community Zoning Information Meeting was held on November 13, 2024. There were two (2) public comments in support of the request.

- Staff has reviewed the applicant's proposal and finds that the request for rezoning and change of conditions do not conflict with the established review criteria. The zoning proposal is consistent with the vision of the Downtown Master Plan and future land use plan designation of the property. The 'Mixed Use' future land use designation allows for single use development, residential and commercial, as well as mixed-use development.
- Andrew and Kourtney Wexler (12051 Orchid Lane, Alpharetta, GA 30009) came forward to speak on behalf of this application.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve PH-24-23/Z-24-18 Wexler/172 & 182 Marietta Street, subject to the following conditions:
1. Approximately 0.58 acres located at 172 Marietta Street shall be zoned DT-R and limited to a detached garage with accessory dwelling unit. Site shall be developed substantially similar to the submitted site layout, except for modifications required to comply with the conditions below and subject to meeting all City code requirements and conditions of zoning.
 2. Building elevation shall be substantially similar to the submitted renderings, with final approval by Staff.
 3. Landscape strip along Marietta Street shall be planted with shade trees as a continuation of what has been planted or designed in the Downtown and outside of utility easements and overhead utilities, as approved by Staff.
 4. A decorative low wall, metal fencing or hedge with columns shall frame the front yard.
 5. A 10' planted buffer shall be provided along the east and south property lines and planted with a mix of evergreen trees and shrubs. Existing trees within the 10' buffers identified to be in 'Good' condition shall be saved, with final approval by Staff.
 6. Property owner shall improve Marietta Street frontage with a 6' planter planted with street trees, 6' sidewalk and decorative pedestrian lighting, as approved by Staff.
 7. Tree #6 (14" Water Oak) shall be saved.
 8. Fences and walls visible from the public right-of-way shall be decorative, as approved by Staff. Unfinished wood fences and decks shall not be visible from the street.
 9. If the 172 & 182 Marietta Street are combined, access shall be consolidated to a single access point (driveway) for both lots.

Marietta Street:

6. A 10' planted buffer shall be provided along the south and west property lines and planted with a mix of evergreen trees and shrubs. Existing trees within the 10' buffers identified to be in 'Good' condition shall be saved, with final approval by Staff.

- Council Member DeRito seconded the motion.
- The motion was approved (7-0).

A. Z-24-16/V-24-25 Hampton Hall/Southvine Homes

Consideration of a rezoning and variance to allow 9 'Dwelling, 'For-Sale', Detached' lots on 5.05 acres in the Hampton Hall subdivision. A rezoning is requested from AG (Agriculture) to R-15 (Dwelling, 'For-Sale', Residential) and variances are requested to Unified Development Code (UDC) Subsection 2.2.5(D) R-15 District Regulations to reduce lot widths and reduce building setbacks. The property is located at 0 Blake Road and is legally described as being located in Land Lot 917, 1st District, 2nd Section, Fulton County, Georgia.

- Planning and Development Services Manager, Michael Woodman, came forward to present this item.
- The applicant, Southvine Homes, LLC, is requesting a rezoning and variances to allow for nine (9) single-family detached lots on 5.05 acres. The proposed density is 1.78 dwelling units per acre. A rezoning is requested from AG (Agriculture) to R-15 (Dwelling 'For-Sale', Residential) and variances are requested to reduce lot width and reduce building setbacks. The subject property is located at 0 Blake Road on the south side of High Hampton Chase, west of Haven Bluff in the Hampton Hall subdivision.
- This item was considered at the December 5, 2024 Planning Commission meeting. There were two (2) public comments with concerns over stormwater runoff. After discussion, Planning Commission recommended approval subject to Staff's recommended conditions and accepting changes from the applicant (vote 5-0).
- Staff is recommending that Mayor and Council approve Z-24-16/V-24-25 Hampton Hall/Southvine Homes, subject to the following conditions:
 1. The site, consisting of approximately 5.05 acres, shall be rezoned to R-15 and developed substantially similar to site plan prepared by Foresite Group, revised 9/20/24, except for modifications required to comply with the conditions below. However, lot yield depicted is not guaranteed and subject to meeting all City code requirements and conditions of zoning.
 2. Homes shall be similar in size, massing, and style to Hampton Hall homes and limited to 2 stories above grade with elevations approved by Staff. Homes shall be

no less than 3,000 square feet (heated space) nor more than 5,000 square feet (heated space).

3. Minimum lot width and building setbacks shall be as depicted on the site plan prepared by Foresite Group, revised 9/20/24. Side setback shall be 5' with a minimum 20' separation between foundations.
4. Minimum 40' landscape buffers shall be provided along the east, west, and south boundaries of the site. As depicted on Exhibit A, the green area shall include a 30' undisturbed buffer (exterior) and 10' replanted buffer (interior) and the orange area shall be a 40' replanted buffer, with the exception of 20' storm and sanitary sewer easements depicted on the rezoning plan. Additionally, encroachment of up to 10' into the south buffer for the footing of the detention pond wall is allowed but must be replanted above the footing. Landscape buffers shall be replanted prior to the 1st Certificate of Occupancy. Landscape buffer shall be depicted on the final subdivision plat and developer shall disclose to home purchasers that no structures are permitted within the undisturbed buffer such as pools and fences.
5. Minimum 10' landscape strip shall be required along High Hampton Chase and existing vegetation supplemented with evergreen screening material, as approved by Staff.
6. New street shall be public and comply with the City's standard details for a 50' local street and cul-de-sac.
7. In lieu of the 10' landscape strip along the new street, developer shall provide a residential front yard planting for each home that includes at least 2 trees with a minimum of 1 overstory canopy tree and 1 large ornamental tree spaced appropriately and coordinating between lots, as approved by Staff.
8. Trees shall be saved as depicted on the site plan prepared by Foresite Group, revised 9/20/24.
9. A non-access easement shall be recorded on the final plat along High Hampton Chase and behind Lots 3 & 4 adjacent to Carverton Lane.
10. Developer shall not open-cut public streets to extend an off-site sanitary sewer connection.
11. Developer shall install lighting to match style and spacing of existing Hampton Hall neighborhood.
12. Unfinished wood decks, fences or porches shall not be visible from High Hampton Chase or the new street.
13. For the benefit of emergency services, this development shall not be given a separate name, but shall be developed and platted as an additional Hampton Hall phase (Phase VIII). Because the site will become part of Hampton Hall, additional signage,

or separation of the property, including entrance walls or gates, shall require Staff approval.

14. Pursuant to a private agreement between Applicant and the Hampton Hall HOA, it is agreed that once the grading and tree removal is complete (collectively, "Grading Activities"), contractor vehicles and equipment shall not park on the streets within the Hampton Hall Community or on any Common Property without the prior written approval of the Hampton Hall Board. While Grading Activities are under way, the Association and the Developer shall agree upon limited periods of time and specific locations where the Developer and its contractors may use street parking for their vehicles.
 15. A downstream analysis of the pipe system, receiving stream and detention pond in Waters Landing subdivision shall be performed to ensure no negative impact on the drainage system in accordance with City Stormwater Ordinance. Offsite storm sewer to be designed and constructed to meet City of Alpharetta ordinances.
 16. Any installation of off-site pipes shall require approval and easements from private property owners prior to issuance of LDP.
 17. A 20' drainage easement shall be required on all storm pipes outside of the right-of-way.
 18. To the maximum extent practicable, as determined by staff, all impervious improvements shall drain to the stormwater management facilities for quality and quantity treatment. This shall require the use of berms, swales, pipes, or alternative means approved by staff to direct the water to facilities. If not practicable, the design engineer must provide specific design information showing post development condition causes no increased runoff rates or volume to offsite perimeter properties.
 19. Stormwater structures or walls visible from adjacent properties shall be faced with decorative stone or brick and shall be maintained by the established HOA, as approved by Staff.
 20. Per private agreement, the developer shall complete the annexation process with the Hampton Hall HOA.
 21. No more than 10% of the residential units shall be permitted to be rented, as recorded in the HOA's declarations and covenants.
- The undeveloped, wooded property is zoned AG. Surrounding properties are zoned CUP (Community Unit Plan) to the north, east and west and R-12 (Dwelling, 'For-Sale', Residential) to the south. Hampton Hall is located to the north, east and west; Oak Mills is located to the east and Waters Landing is located to the south. The comprehensive land use plan designation of the property is 'Low Density Residential' which supports the proposed rezoning to R-15.
 - Surrounding subdivisions were developed with the development regulations as identified in the table below. The surrounding area is predominately zoned CUP with minimum lot

sizes ranging between 12,000 to 16,000 square feet and minimum lot widths ranging between 80' and 94'. A minimum lot width is not specified on the final plats for the surrounding subdivisions since they were developed and/or approved in unincorporated Fulton County. Minimum lot reflects the minimum lot width as measured in the applicable subdivision.

- The submitted site plan depicts nine (9) single-family detached lots oriented to a new cul-de-sac street off High Hampton Chase in the Hampton Hall subdivision. Residential lots range in size from 15,011 to 26,272 square feet with an average lot size of 18,375 square feet. Each lot has a minimum lot width of 80'. Building setbacks are 30' along the new street and High Hampton Chase, five-foot (5') side setback with minimum 20' separation between foundations, and 40' rear setback.
- A five-foot (5') sidewalk exists along High Hampton Chase. The new street is depicted with a 50' right-of-way with five-foot (5') sidewalks and two-foot (2') planters on both sides of the street. Ten-foot (10') landscape strips are required along High Hampton Chase and the new street. 40' landscape buffers are depicted along the west, south, and east property lines to screen the proposed development from surrounding properties.
- The property primarily consists of hardwoods. The tree survey and assessment identify six (6) specimen trees and several trees of quality on the property. The applicant's site plan depicts nineteen (19) tree saves, including the three (3) specimen trees and several trees of quality.
- A stormwater pond is proposed on a 0.70-acre parcel in the southwest corner of the property. The pond is depicted with walls on two (2) sides due to the topography in the area. The site plan depicts the stormwater pond discharging through a pipe to a nearby just south and east of the proposed development.
- The applicant submitted renderings of six (6) different home elevations depicting two (2) story homes in a traditional style, with brick and/or stone exteriors. Home renderings should be consistent with the size, massing, height, style, and materials of the existing homes in Hampton Hall.
- The applicant calculated anticipated project trips, which estimates that the proposed nine (9) lot subdivision would generate eleven (11) AM Peak Hour trips and ten (10) PM Peak Hour trips.
- Fulton County calculated the potential maximum number of children who may live on the property by using the Fulton County Schools standard calculation to identify the number of children that a residential development will generate. Based on the total figure for all three school levels, it can be assumed that the proposed development could house approximately 1 – 9 school age children. Numbers provided by Fulton County Schools show that all three (3) schools have enrollments below capacity.

- The applicant notified surrounding property owners of their application and intent for the property. The report states that the applicant maintains regular contact with the Hampton Hall HOA regarding their request and the applicant has not received any public comments. The applicant provided an email from the Hampton Hall HOA indicating that the Hampton Hall membership had approved the annexation of the proposed development into Hampton Hall HOA.
- The Community Zoning Information Meeting was held on November 13, 2024. Three (3) nearby residents signed-in with comments regarding stormwater and no open cut in street for sewer tie-in. A resident from the adjacent subdivision to the south, Waters Landing, provided a list of concerns, including how stormwater runoff will be addressed during and after construction, request that the developer provide a grading plan for the site, request a guarantee that further erosion will be indemnified, did not receive public notice, location of stormwater pond, and what rights concerned citizens have to oppose the development.
- Staff has reviewed the applicant's proposal against the review criteria for a rezoning and variance. The proposal is supported by the comprehensive land use plan designation of the property and is consistent with the use and development of adjacent and nearby properties. Phases VI and VII of Hampton Hall also rezoned to the R-15 zoning district.
- The property has exceptional conditions due to its topography, as well as peculiar conditions due to surrounding development. Hampton Hall and surrounding subdivisions were approved and/or developed in unincorporated Fulton County, which allowed development regulations (min. lot size and setbacks) similar to the applicant's proposal. The applicant proposes to increase the rear setback from 25' to 40' and provide a 40' landscape buffer along the west, south and east property lines to lessen impacts to surrounding properties.
- Don Rolader (200 Foothills Parkway, Marble Hill, Georgia 30148), attorney for the applicant, came forward to speak on behalf of this application.
- Alex Tetterton (3010 Royal Boulevard South, Alpharetta, GA), owner of Southvine Homes, came forward to speak on behalf of this application.

PUBLIC COMMENTS:

- **In Favor:**
 - Frank Schwing (8390 High Hampton Chase, Alpharetta, GA 30022)
- **In Opposition:**
 - Alkarim Thawer (170 Starboard Way, Alpharetta, GA 30022)
- ❖ Mayor Pro Tem Merkel offered a motion to approve Z-24-16/V-24-25 Hampton Hall/Southvine Homes, subject to the following conditions and also adding the 3 conditions from Mr. Thawer's email dated December 12, 2024:

1. The site, consisting of approximately 5.05 acres, shall be rezoned to R-15 and developed substantially similar to site plan prepared by Foresite Group, revised 9/20/24, except for modifications required to comply with the conditions below. However, lot yield depicted is not guaranteed and subject to meeting all City code requirements and conditions of zoning.
2. Homes shall be similar in size, massing, and style to Hampton Hall homes and limited to 2 stories above grade with elevations approved by Staff. Homes shall be no less than 3,000 square feet (heated space) nor more than 5,000 square feet (heated space).
3. Minimum lot width and building setbacks shall be as depicted on the site plan prepared by Foresite Group, revised 9/20/24. Side setback shall be 5' with a minimum 20' separation between foundations.
4. Minimum 40' landscape buffers shall be provided along the east, west, and south boundaries of the site. As depicted on Exhibit A, the green area shall include a 30' undisturbed buffer (exterior) and 10' replanted buffer (interior) and the orange area shall be a 40' replanted buffer, with the exception of 20' storm and sanitary sewer easements depicted on the rezoning plan. Additionally, encroachment of up to 10' into the south buffer for the footing of the detention pond wall is allowed but must be replanted above the footing. Landscape buffers shall be replanted prior to the 1st Certificate of Occupancy. Landscape buffer shall be depicted on the final subdivision plat and developer shall disclose to home purchasers that no structures are permitted within the undisturbed buffer such as pools and fences.
5. Minimum 10' landscape strip shall be required along High Hampton Chase and existing vegetation supplemented with evergreen screening material, as approved by Staff.
6. New street shall be public and comply with the City's standard details for a 50' local street and cul-de-sac.
7. In lieu of the 10' landscape strip along the new street, developer shall provide a residential front yard planting for each home that includes at least 2 trees with a minimum of 1 overstory canopy tree and 1 large ornamental tree spaced appropriately and coordinating between lots, as approved by Staff.
8. Trees shall be saved as depicted on the site plan prepared by Foresite Group, revised 9/20/24.
9. A non-access easement shall be recorded on the final plat along High Hampton Chase and behind Lots 3 & 4 adjacent to Carverton Lane.
10. Developer shall not open-cut public streets to extend an off-site sanitary sewer connection.
11. Developer shall install lighting to match style and spacing of existing Hampton Hall neighborhood.

12. Unfinished wood decks, fences or porches shall not be visible from High Hampton Chase or the new street.
13. For the benefit of emergency services, this development shall not be given a separate name, but shall be developed and platted as an additional Hampton Hall phase (Phase VIII). Because the site will become part of Hampton Hall, additional signage, or separation of the property, including entrance walls or gates, shall require Staff approval.
14. Pursuant to a private agreement between Applicant and the Hampton Hall HOA, it is agreed that once the grading and tree removal is complete (collectively, "Grading Activities"), contractor vehicles and equipment shall not park on the streets within the Hampton Hall Community or on any Common Property without the prior written approval of the Hampton Hall Board. While Grading Activities are under way, the Association and the Developer shall agree upon limited periods of time and specific locations where the Developer and its contractors may use street parking for their vehicles.
15. A downstream analysis of the pipe system, receiving stream and detention pond in Waters Landing subdivision shall be performed to ensure no negative impact on the drainage system in accordance with City Stormwater Ordinance. Offsite storm sewer to be designed and constructed to meet City of Alpharetta ordinances.
16. Any installation of off-site pipes shall require approval and easements from private property owners prior to issuance of LDP.
17. A 20' drainage easement shall be required on all storm pipes outside of the right-of-way.
18. To the maximum extent practicable, as determined by staff, all impervious improvements shall drain to the stormwater management facilities for quality and quantity treatment. This shall require the use of berms, swales, pipes, or alternative means approved by staff to direct the water to facilities. If not practicable, the design engineer must provide specific design information showing post development condition causes no increased runoff rates or volume to offsite perimeter properties.
19. Stormwater structures or walls visible from adjacent properties shall be faced with decorative stone or brick and shall be maintained by the established HOA, as approved by Staff.
20. Per private agreement, the developer shall complete the annexation process with the Hampton Hall HOA.
21. No more than 10% of the residential units shall be permitted to be rented, as recorded in the HOA's declarations and covenants.
22. The new developer (Southvine Homes) shall ensure and commit that the release of additional water from the RETENTION POND shall not directed to 170 STARBOARD WAY as 170 Starboard is on a lower land.

23. All of the new dwelling homes and driveways run off water shall not directed to 170 Starboard Way

24. Only allow if necessary the water from the grass/landscape and trees towards 170 Starboard Way.

- Council Member Will seconded the motion.
- The motion was approved (7-0).

B. PH-24-24 Unified Development Code Text Amendments – ‘Recreation Facilities, Indoor’, Historic Preservation Incentive Flag Lots, and Procedures

FIRST READING

Consideration of text amendments to Subsection 2.2.14(C) C-1 Neighborhood Commercial, Conditional Uses and Table 2.2 List of Permissible and Conditional Uses of Article II of the Unified Development Code (UDC) to add ‘Recreation Facilities, Indoor’ as a conditional use in the C-1 zoning district. Consideration of text amendments to Subsection 2.3.1(E) General Exemptions, Flag Lots and Subsection 2.9.5 Incentives Available to Historic Properties Following Designation of Article II of the UDC to add regulations allowing flag lots as an incentive for saving a historic structure. Consideration of text amendments to Article IV Procedures of the UDC to amend various fees associated with the public hearing process.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Director of Community Development, Kathi Cook, came forward to present this item.
- This item was considered at the December 5, 2024 Planning Commission meeting. There were no public comments. After discussion, the Planning Commission recommended approval (vote 5-0).
- Staff recommends text amendments to Unified Development Code (UDC) Article II and IV related to ‘Recreation Facilities, Indoor’ use, flag lots as an incentive for historic preservation, and procedures.
- If approved, this ordinance would amend:
 - Amend UDC Subsection 2.2.14(C) C-1 Neighborhood Commercial, Conditional Uses and Table 2.2 List of Permissible and Conditional Uses to add ‘Recreation Facilities, Indoor’ as a conditional use in the C-1 zoning district.
 - Amend UDC Subsection 2.3.1(E) General Exemptions, Flag Lots and Subsection 2.9.5 Incentives Available to Historic Properties Following Designation to add regulations allowing flag lots as an incentive for saving a historic structure subject to approval of an exception by City Council. Amend UDC Subsection 4.5.5(A)(2) to add incentives available to historic properties following designation as an allowable exception approved by City Council.

- Amend UDC Article IV Procedures related to fees associated with the public hearing process, campaign contribution amounts, and general cleanup. Delete specific re-advertisement fee amounts and replace with a general statement indicating a “non-refundable re-advertising fee as fixed from time to time by the Community Development Director”. Increase the minimum campaign contribution requiring disclosure with a public hearing request. Consolidation of the Developments of Regional Impact subsection and clean up building code references.
- The draft of the Ordinance is attached hereto as “Exhibit A.”

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve PH-24-24 Unified Development Code Text Amendments – ‘Recreation Facilities, Indoor’, Historic Preservation Incentive Flag Lots, and Procedures.
 - Council Member Mitchell seconded the motion.
 - The motion was approved (7-0).

C. PH-24-18 Unified Development Code (UDC) Text Amendments - Signs

SECOND READING: The first reading of this item occurred during the December 2, 2024 City Council Meeting.

Consideration of text amendments to Section 2.6 of the Unified Development Code (UDC) to amend regulations pertaining to Signs.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Director of Community Development, Kathi Cook, came forward to present this item.
- There have been no changes to the proposed ordinance since the first reading.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to approve text amendments to Section 2.6 of the Unified Development Code (UDC) to amend regulations pertaining to Signs.
 - Council Member DeRito seconded the motion.
 - The motion was approved (7-0).

D. PH-24-17 Unified Development Code (UDC) Text Amendments – Short Term Rentals

SECOND READING: The first reading of this item occurred during the December 2, 2024 City Council meeting.

Consideration of text amendments to Section 1.4 Definitions of Article I, Table 2.2 List of Permissible and Conditional Uses of Article II, Section 2.7 Miscellaneous Regulations of

Article II, and Section 4.5.5 Exceptions of Article IV of the Unified Development Code (UDC) to add regulations pertaining to Short Term Rentals.

- City Attorney, Molly Esswein, read the Ordinance title aloud.
- Director of Community Development, Kathi Cook, came forward to present this item.
- Since the last reading, there was an amendment to the definition of Short-term rentals and CUP Zoning District was added as a conditional use.
- The amended draft of the Ordinance is attached hereto as "Exhibit B."

PUBLIC COMMENTS:

- **In Favor:**
 - Valerie Manley (5140 Southlake Drive, Alpharetta, GA 30005)
- ❖ **Mayor Pro Tem Merkel offered a motion to defer PH-24-17 Unified Development Code (UDC) Text Amendments – Short Term Rentals.**
 - **Council Member Will seconded the motion**
 - **The motion was approved (7-0).**
- This item will be moved to the January 6, 2025 City Council Meeting.

E. The Code of the City of Alpharetta Text Amendments – Short Term Rental Regulations and Licensing

SECOND READING: The first reading of this item occurred during the December 2, 2024 City Council meeting.

Consideration of text amendments to the Code of the City of Alpharetta to establish a Short-term Rental Ordinance. The proposed Short-term Rental Ordinance will regulate properties otherwise authorized for short-term rental, to include appointment of a registered agent; to impose certain requirements and restrictions regarding the use of properties for short-term rental; to establish an annual licensing system and a fee for same; to provide for enforcement and penalties for violations; to repeal conflicting ordinances; and for other purposes.

- City Attorney, Molly Esswein, read the Ordinance title aloud and came forward to present this item.
- There have been a few changes since the first reading, including:
 - The adoption, effective date, and enforcement period of the ordinance after approved;
 - The requirements of the applicant for submitting an application, when located in an HOA; and

- Permits shall be issued on a first come, first served basis, and if renewed timely (renewals would receive priority over a new applicant in the same neighborhood)
- The amended draft of the Ordinance is attached hereto as "Exhibit C."

PUBLIC COMMENTS:

- **In Opposition:**
 - David Horst (2010 Brooke Forest Court, Alpharetta, GA 30022)
- ❖ Mayor Pro Tem Merkel offered a motion to defer The Code of the City of Alpharetta Text Amendments - Short Term Rental Regulations and Licensing to January 6, 2025.
 - Council Member Will seconded the motion.
 - The motion was approved (7-0).

7. NEW BUSINESS

A. Contract Approval: On-Call Arboricultural Services

Consideration of approval of the award of the On-Call Arboricultural Services Contract to Bartlett Tree Experts and with authorization for the Mayor to execute all necessary documents.

- Director of Public Works, Pete Sewczwicz, came forward to present this item.
- The Public Works Department and the Recreation, Parks, & Cultural Services Department currently have separate On-Call Arboricultural Services contracts, which will expire at the end of the 2024 calendar year. To address the expiring contracts, the two departments worked together with the Finance Department to pursue a new single contract to be shared by both departments.
- The City initiated a Request for Proposal via Bonfire on August 15, 2024, with the intent of choosing two contractors to be on call.
- Four proposals were received on September 12, 2024. Based on scoring and follow-up questions, a single contractor, Bartlett Tree Experts, was selected as the proposed contract recipient.
- It should be noted that the contractor with the highest score on the pricing section of the RFP has been the On-Call Arboricultural contractor for Recreation, Parks, & Cultural Services for the last five years. Although several of their proposed hourly rates are lower than Bartlett's, the City discovered the number of hours for Savatree to complete a task is far greater than Bartlett's completing similar jobs. In the end, Bartlett's proposals to complete tasks are less in cost versus Savatree.
- All work will occur on a task order basis and proposals will be reviewed and approved by the appropriate individuals within the Departments of Public Works and Recreation,

Parks, and Cultural Services. In addition, each Department will have an individual overseeing the work performed by Bartlett's crews.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member DeRito offered a motion to award the On-Call Arboricultural Services Contract to Bartlett Tree Experts and with authorization for the Mayor to execute all necessary documents.
 - Council Member Brady seconded the motion.
 - The motion was approved (7-0).

B. Resolution and Contract Approval: North Point Parkway Right of Way Acquisition

REMOVED: This item was removed from the agenda by staff.

Consideration of adoption of a resolution authorizing the City to enter into and execute a contract with GDOT for the acquisition of right of way from Encore Parkway to Haynes Bridge Road for the North Point Parkway Project, approval of a proposal by Atkins to assist the City with right of way acquisition in an amount not to exceed \$396,250, and with authorization for the Mayor to execute all necessary documents.

C. Memorandum of Understanding: North Fulton SWAT Team

Consideration of approval of a Memorandum of Understanding between the City of Alpharetta, City of Roswell, City of Milton, and the City of Johns Creek as it relates to the Unified SWAT and Crisis Negotiation Team (the "North Fulton SWAT Team") and with authorization of the Mayor to execute all necessary documents.

- Director of Public Safety, John Robison, came forward to present this item.
- The Cities of Alpharetta, Johns Creek, Milton, and Roswell, Georgia (the "Participating Agencies") have jointly established the North Fulton SWAT and Crisis Negotiation Team (the "North Fulton SWAT Team"). This Memorandum of Understanding (MOU) outlines the terms and conditions under which these agencies will extend assistance to one another in the form of the North Fulton SWAT Team and related services and resources. On March 26, 2018, the Cities of Alpharetta, Milton, and Roswell entered into an MOU for the North Fulton SWAT Team.
- This current MOU supersedes the previous agreement and includes the City of Johns Creek as a new participating agency.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Will offered a motion to approve a Memorandum of Understanding between the City of Alpharetta, City of Roswell, City of Milton, and the City of Johns Creek as it relates to the Unified SWAT and Crisis Negotiation Team (the "North Fulton SWAT Team") and with authorization of the Mayor to execute all necessary documents.

- Council Member Hipes seconded the motion.
- The motion was approved (7-0).

D. Resolution: First Responder Post Traumatic Stress Disorder Coverage Benefit

Consideration of adoption of a resolution to add membership in a fund of Georgia Interlocal Risk Management Agency and authorize the City's participation in the Post Traumatic Stress Disorder policy offered by the Georgia Municipal Association for the benefit of Alpharetta first responders and with authorization for the Mayor to execute all necessary documents.

- City Attorney, Molly Esswein, read the Resolution title aloud.
- Director of Finance, Tom Harris, came forward to present this item.
- HB 451, known as the Ashley Wilson Act, requires all public entities in Georgia to offer a supplemental benefit program for first responders diagnosed with post-traumatic stress disorder (PTSD) resulting from exposure to line of duty traumatic events. It creates a once-per-lifetime financial safety net to assist with uninsured costs associated with PTSD treatment and recovery. The effective date of the law (when claims can be submitted) is January 1, 2025. The event must occur on or after July 1, 2024. Our Communications Officers, Police Officers, and Firefighters are to be covered.
- The Act requires two once-per-lifetime benefits. The first is a \$3,000 lump-sum benefit paid following a diagnosis of occupational PTSD by a qualified diagnostician. The second is a long-term disability benefit if the eligible first responder is no longer able to perform their duties as a first responder.
- Based on the City's staffing of covered first responder personnel, the cost for the Lump Sum benefit is \$11,270 and the cost for the Disability Benefit is \$24,990 for a total of \$36,260.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Will offered a motion to adopt a resolution to add membership in a fund of Georgia Interlocal Risk Management Agency and authorize the City's participation in the Post Traumatic Stress Disorder policy offered by the Georgia Municipal Association for the benefit of Alpharetta first responders and with authorization for the Mayor to execute all necessary documents.
 - Council Member Brady seconded the motion.
 - The motion was approved (7-0).

E. Grant Application: Federal Environmental Protection Agency Solid Waste Infrastructure For Recycling

Consideration of approval and authorization for the Community Agriculture & Sustainability Services Division to apply for a Solid Waste Infrastructure For Recycling

(SWIFR) Grant Program for Political Subdivisions of States and Territories Grant from the Environmental Protection Agency (EPA) in order to implement recommendation C-1 in the City Agriculture plan, "Explore Community Composting Models and Pilot a Community Program" and authorization for the Mayor to execute all necessary documents.

- Director of Recreation, Parks, and Cultural Services, Morgan Rodgers, came forward to present this item.
- The EPA SEWIFR grant would allow for the City of Alpharetta to engage in a local composting program with local residents, businesses and schools. The grant would provide funding for a pilot program that was one of the state objectives in the City's Agricultural Plan approved by the City Council in December 2022. There is no local match required for this grant
- 20% of residents that participated in the 2022 community engagement survey for the City Agriculture Plan noted that they already compost at home, indicating a high level of community interest in composting.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member Hipes offered a motion to approve and authorize the Community Agriculture & Sustainability Services Division to apply for a Solid Waste Infrastructure For Recycling (SWIFR) Grant Program for Political Subdivisions of States and Territories Grant from the Environmental Protection Agency (EPA) in order to implement recommendation C-1 in the City Agriculture Plan, "Explore Community Composting Models and Pilot a Community Program" and with authorization fo the Mayor to execute all necessary documents.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion was approved (7-0).

F. Resolution: Authorizing the Use of Eminent Domain for Parcel 6 Old Milton Parkway Project

Consideration of adoption of a resolution of the Mayor and Council of the City of Alpharetta, Georgia to authorize the use of eminent domain to acquire a property interest in Tax Parcel #11 – 0010-0002-1084 (Parcel Owners: RealtiCorp 528, LLC) of the Old Milton Parkway Improvement Project and with authorization for the Mayor to execute all necessary documents.

- City Attorney, Molly Esswein, read the Resolution title aloud and came forward to present this item.
- The City of Alpharetta desires to construct and improve SR120/Old Milton Parkway from North Point Parkway to Kimball Bridge Road to serve as a part of the transportation system in the city, and that it is necessary for the City to exercise its powers of eminent

domain pursuant to acquire certain interests in property for the construction of the project.

- The City of Alpharetta estimates \$3,800.00 as the just and adequate compensation to be paid for said interests in the subject property.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Council Member DeRito offered a motion to adopt a resolution to authorize the use of eminent domain to acquire a property interest in Tax Parcel #11 – 0010-0002-1084 (Parcel Owners: RealtiCorp 528, LLC) of the Old Milton Parkway Improvement Project and with authorization for the Mayor to execute all necessary documents.
 - Mayor Pro Tem Merkel seconded the motion.
 - The motion was approved (7-0).

G. Resolution: Authorizing the Use of Eminent Domain for Parcel 22 for Old Milton Parkway Project

Consideration of adoption of a resolution of the Mayor and Council of the City of Alpharetta, Georgia to authorize the use of eminent domain to acquire a property interest in Tax Parcel #11-0260-0120-0361 (Parcel Owners: H&M Alpharetta, LLC, Farmers and Merchants Bank of Long Beach, and Publix Super Markets, Inc. (tenant) of the Old Milton Parkway Improvement Project with authorization for the Mayor to execute all necessary documents.

- City Attorney, Molly Esswein, read the Resolution title aloud and came forward to present this item.
- The City of Alpharetta desires to construct and improve SR120/Old Milton Parkway from North Point Parkway to Kimball Bridge Road to serve as a part of the transportation system in the city, and that it is necessary for the City to exercise its powers of eminent domain pursuant to acquire certain interests in property for the construction of the project.
- The City of Alpharetta estimates \$99,600.00 as the just and adequate compensation to be paid for said interests in the subject property.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to adopt a resolution to authorize the use of eminent domain to acquire a property interest in Tax parcel #11-0260-0120-0361 (Parcel Owners: H&M Alpharetta, LLC, Farmers and Merchants Bank of Long Beach, and Publix Super Markets, Inc. (tenant) of the Old Milton Parkway Improvement Project with authorization for the Mayor to execute all necessary documents.
 - Council Member Hipes seconded the motion.

- The motion was approved (7-0).

H. Resolution: Supporting General Assembly Local Delegation to Amend the City Charter Regarding Elections

Consideration of adoption of a resolution supporting the local delegation to the General Assembly in amending the City Charter by amending the provision related to election by majority vote.

- City Attorney, Molly Esswein, read the Resolution title aloud.
- City Administrator, Chris Lagerbloom, came forward to present this item.
- Resolution 2238 of the City of Alpharetta allows for two members of the City Council to place an item on the agenda for consideration. Mayor Pro Tem Merkel and Councilmember Hipes jointly asked that this item be placed on the agenda.
- Presently, Section 5.16 of the Charter provides that a person receiving a plurality of the votes cast for any city office shall be elected. This resolution, if adopted, would seek a local act by the General Assembly that amends Section 5.16 of the Charter to provide that a candidate must receive a majority of votes cast in an election to be elected to office.
- This resolution does not change the Charter but would be delivered to Alpharetta's local delegation in advance of the next legislative session seeking the change in 2025.

PUBLIC COMMENTS:

- There were no public comments.
- ❖ Mayor Pro Tem Merkel offered a motion to adopt a resolution supporting the local delegation to the General Assembly in amending the City Charter by amending the provision related to election by majority vote.
 - Council Member seconded the motion.
 - The motion was approved (6-1; with Council Member Mitchell in opposition).

8. PUBLIC COMMENT

- There were no public comments.

9. REPORTS

- Council Member Will reported that this past weekend we held the Shop with a Cop event and had over 200 kids shopping for the holidays at Target and from donations, each child had \$100 each to shop at Target. Also, the city is now running a fire and police training program. We had our second graduating class of fire fighters in Alpharetta this past weekend (out of 60 applications, 9 individuals were selected, and 7 graduated).

- Council Member Hipes reported that this is the last City Council meeting of the year, and he wanted to take the opportunity to share that the city is blessed with the best staff around.

10. EXECUTIVE SESSION (IF NECESSARY)

- ❖ Mayor Pro Tem Merkel offered a motion to adjourn to Executive Session for the purposes of real estate, litigation, and personnel.
 - Council Member Mitchell seconded the motion.
 - The motion was approved unanimously (7-0).
- Mayor Gilvin recessed the meeting at 9:04 p.m.
- ❖ Mayor Pro Tem Merkel offered a motion to reconvene the meeting.
 - Council Member Will seconded the motion.
 - The motion was approved unanimously (7-0).
- Mayor Gilvin reconvened the meeting at 9:29 p.m.

11. ADJOURNMENT

- ❖ Council Member DeRito offered a motion to adjourn the meeting.
 - Council Member Will seconded the motion.
 - The motion was approved unanimously (7-0).
- With there being no further items to consider or discuss, Mayor Gilvin adjourned the meeting at 9:30 p.m.

Respectfully submitted,



Lauren Shapiro, City Clerk

EXHIBIT A



AN ORDINANCE BY THE MAYOR AND COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA TO AMEND ARTICLE II AND IV OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA, GEORGIA; TO AMEND REGULATIONS PERTAINING TO 'RECREATION FACILITIES, INDOOR', HISTORIC PRESERVATION INCENTIVES FLAG LOTS, AND PROCEDURES; TO REPEAL CONFLICTING ORDINANCES; AND FOR OTHER PURPOSES.

WHEREAS, the Mayor and Council of the City of Alpharetta (the "City Council" or "Council") are charged with the protection of the public health, safety, and welfare of the citizens of the City of Alpharetta;

WHEREAS, the Unified Development Code was designed to be amended from time to time when circumstances warrant that modifications be made in order to make said Codes more responsive to community needs;

WHEREAS, the City Council finds that ordinances and regulations governing the uses of land and development of land within the City, as well as the City's operations, should be continually improved from time to time and modified as necessary to better protect and promote the public health, safety and welfare of the residents and businesses of the City of Alpharetta;

WHEREAS, the City Council desires to amend Article II and IV of the Unified Development Code for the foregoing purposes; and

WHEREAS, the City Council finds that the following amendments to the Unified Development Code promote the health, safety, morals, convenience, order, prosperity and general welfare of the present and future inhabitants of the City of Alpharetta.

NOW THEREFORE, the Mayor and City Council of the City of Alpharetta hereby ordains, as follows:

Section 1: Article II, Subsection 2.2.14(C) titled "C-1 Neighborhood Commercial, Conditional Uses" and Table 2.2 titled "List of Permissible and Conditional Uses" of the Unified Development Code is hereby amended by amending same as set forth in Exhibit "A" attached hereto as if fully set forth herein.

Section 2: Article II, Subsection 2.3.1(E) titled "General Exemptions, Flag Lots" and Subsection 2.9.5 titled "Incentives Available to Historic Properties Following Designation" of the Unified Development Code is hereby amended by amending same as set forth in Exhibit "B" attached hereto as if fully set forth herein.

Section 3: Article IV titled "Procedures" of the Unified Development Code is hereby amended by amending same as set forth in Exhibit "C" attached hereto as if fully set forth herein.

Section 4: If any section, subsection, provisions, or clause of any part of this Ordinance shall be declared invalid or unconstitutional or, if the provisions of any part of this Ordinance as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to affect the portions of this Ordinance not so held to be invalid, or the application of this Ordinance to other circumstances not so held to be invalid. It is hereby declared as the intent of the City Council that this Ordinance would have been adopted in its current form without the invalid or unconstitutional provision contained therein.

Section 5: This Ordinance shall be effective immediately upon its adoption by the City Council and the amendments made herein shall be incorporated into the Unified Development Code of the City of Alpharetta, Georgia, as applicable. This Ordinance hereby repeals any and all conflicting ordinances and amendments.

SO ORDAINED, this ____ day of January ____.

CITY OF ALPHARETTA

By: _____
Jim Gilvin, Mayor

COUNCIL MEMBERS

Mayor Pro Tem Dan Merkel

Council Member Donald F. Mitchell

Council Member Brian Will

Council Member Douglas J. DeRito

Council Member John Hipes

Council Member Fergal Brady

(SEAL)

Attest:

Approved as to form and legal sufficiency:

Lauren Shapiro, City Clerk

[INSERT ATTORNEY], City Attorney

Exhibit "A"

2.2.14 C-1 neighborhood commercial.

A. *Permitted Principal Uses.* A property in the C-1 district may be used for those uses listed in Table 2.2, including any of the following by right, unless superseded by applicable conditions of approval for rezoning, variance, or conditional use:

1. Residential Uses.
 - a. Dwelling, 'For-Sale'—in an existing or historic structure only.
 - b. Bed and Breakfast.
2. Business Uses.
 - a. Art Gallery.
 - b. Bakery.
 - c. Bank, Savings and Loan.
 - d. Barber Shop.
 - e. Beauty Shop.
 - f. Book Store.
 - g. Carpet and Rug Sales.
 - h. Clinic.
 - i. Dance Studio.
 - j. Day Care Center.
 - k. Drug Store.
 - l. Dry Cleaning Pick-up Station.
 - m. Fitness Studio.
 - n. Florist, Retail Without Greenhouse.
 - o. Hardware and Garden Supply Store.
 - p. Laundry, Self-Serve, Pick-up.
 - q. Nail Salon.
 - r. Office Building or Park.
 - s. Pet Day Care.
 - t. Pet Grooming.
 - u. Print Shop.
 - v. Restaurant.
 - w. Retail Sales and Services (Establishments not otherwise listed for this zoning district as a permitted or conditional use).
 - x. School, Commercial.

-
- y. Shop or Studio, Craftsman/Artist.
 - 3. Semipublic Uses, Utilities.
 - a. Library.
 - b. Museum.
 - c. Park or Playground.
 - d. School, Academic.
 - B. *Accessory Uses.* A property in the C-1 district may contain any accessory structure or use customarily related to and clearly subordinate to any principal use that is permitted by right or through approval as a conditional use on the same property, unless superseded by applicable conditions of approval for rezoning, variance, or conditional use.

Permitted accessory structures and uses include but are not limited to the following:

 - 1. Dwelling, 'For-Sale', Accessory: A 'For-Sale' accessory dwelling shall be permitted under the following conditions:

The dwelling shall be located above or to the rear of the commercial or office structure to which it is accessory.

The dwelling shall be attached by a common wall with the commercial or office structure to which it is accessory.

The dwelling shall be occupied by a single family, a member of whom is the owner or tenant of the commercial or office structure to which it is accessory.

The square footage of the dwelling shall not exceed forty percent (40%) of the combined square footage of the commercial or office structure and the dwelling.

The dwelling and the commercial or office structure to which it is accessory shall be in compliance with all applicable provisions of the life safety code, the building code, and other standard codes of the City.
 - 2. Privacy and decorative fences and walls.
 - 3. Swimming pool, tennis court, patio and other private recreation facilities.
 - 4. Clubhouse, swimming pool, or community recreation facilities serving a development.
 - 5. Vehicle access, parking and loading areas, subject to the requirements of the Parking and Loading regulations, herein.
 - 6. Signs, subject to all of the requirements regulating signage herein.
 - 7. Retaining walls and other site improvement structures approved as part of the development permit.
 - C. *Conditional Uses.* A property in the C-1 district may be used for any of the following only upon approval as a conditional use by the City Council:
 - 1. Residential Uses.
 - a. Dwelling, Group (congregate housing, assisted living facility, nursing).
 - 2. Business Uses.
 - a. Animal Hospital, small animals.

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- b. Assisted Living, Congregate housing.
 - c. Athletic Facility.
 - d. Automotive Parts.
 - e. Bowling Alley.
 - f. Brewery.
 - g. Check Cashing.
 - h. Club, association or lodge.
 - i. Contractor's Office without outside storage.
 - j. Distillery.
 - k. Funeral home with no cemetery or mausoleum.
 - l. Golf, Miniature.
 - m. Grocery Store.
 - n. Hotel/Motel.
 - o. Liquor Store.
 - p. Parking Lot, Commercial.
 - q. Pest Control Business.
 - r. Recreation Facilities, Indoor (Health Clubs, Skating Rink, Billiards, Children's event facilities, etc.)
 - s. Rental Services Establishment without outside storage.
 - t. Restaurant, with Drive-thru Window.
 - u. Retail Establishment, Mixed Sales.
 - v. Smoke Shop and Tobacco Store.
 - w. Spa Services.
 - x. Special Event Facility.
 - y. Theater, Cinema.
3. Semipublic Uses, Utilities.
- a. Auditorium.
 - b. Church, Synagogue.
 - c. Hospital.
 - d. Public Building.
 - e. Utility Substation, including gas, electric, telephone switching, and similar uses operated by companies regulated by the Georgia Public Service Commission.

D. *District Regulations.*

Minimum Lot Area—30,000 square feet.

Minimum Lot Width—none.

Minimum Setbacks.

Front yard—from all street frontages:

From right-of-way of local street—50 feet.

From right-of-way of all other streets—65 feet.

Side yard—15 feet.

Rear yard—15 feet.

Maximum Coverage By Principal Buildings—45%.

Maximum Building Height—35 feet.

E. *Screening and buffers (See Sec. 2.3.5).*

TABLE 2.2 LIST OF PERMISSIBLE AND CONDITIONAL USES

On the following table, an "O" means that the use will be permitted in that district only if a Conditional Use Permit is granted by the City Council. An "X" means that the use is permitted in the zoning district subject to the general provisions of the Unified Development Code. An "A" means that the use is permitted as an accessory use in the zoning district subject to the general provisions of the Unified Development Code. An "S" means that the use will be permitted as a subordinate use in that district if a Conditional Use Permit is granted by the City Council. For uses not included in this list or when the Director of Community Development is unable to determine placement, application shall be made to the Board of Appeals for interpretation.

USES	AG	RE	R	R- 22	R- 15	R- 12	R- 10	R- 4A	R- 4D	R- 8A/D	R- 10M	CUP*	OI*	OP	C- 1	C- 2	PSC	LI	OS- R	SU	MU
Recreation Facilities, Indoor (Health Clubs, Skating Rink, Billiards, Children's event facilities, etc.)												O	O		<u>O</u>	O	S	X			O

Exhibit "B"

SECTION 2.3 SUPPLEMENTARY REGULATIONS

2.3.1 General exemptions.

- A. *Heights—Exclusions.* The following structures are exempt from the height limitations imposed within each zoning district:
1. Church spires, cupolas, and chimneys.
 2. Agricultural accessory structures, such as barns, silos, windmills, and the like.
 3. Parapets and structures used for ornamental or aesthetic purposes not to exceed twelve (12) feet.
 4. Elevator penthouses not to exceed fifteen (15) feet.
 5. Mechanical equipment on building roofs or rooftop antennas provided any such equipment exceeding 12 feet in height shall be contained within a structure or otherwise screened from ground view from adjoining streets and properties.
- B. *Front Yard Requirements—Existing Residential Areas.* The setback requirements of this Ordinance shall not apply to any residential lot where the average setback on developed lots located adjacent to and on each side of such lot and within the same zoning district and fronting on the same street as such lot is less than the minimum required setback. In such cases, the setback of such a lot may be less than the required setback but not less than the average of the existing setbacks on the developed lots. In no case, however, shall setbacks be less than 15 feet.

If the adjacent developed lots on both sides of a vacant residential lot, within the same zoning district and fronting on the same street as such lot, have front yard setbacks greater than the minimum required by the zoning district, then the minimum setback on the vacant lot shall be the average of the 2 adjacent developed lots.

- C. *Double Frontage Lots.*
1. Double frontage lots should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation. A landscaped or natural buffer of at least twenty feet (20'), across which shall be the right of access, shall be provided along the line of lots abutting such a traffic artery.
 2. On lots having frontage on two (2) streets, but not located on a corner, the minimum front yard setback requirement shall be provided along each street frontage.
 3. Double frontage lots shall obtain access from the street with the lower functional classification, unless this poses a safety hazard or would otherwise be impractical.
- D. *Setbacks—Exclusions.*
1. No building or structure or projection thereof, including porch, deck, terrace or chimney, shall be erected closer to a property line than the applicable setback regulation prescribed herein allows. However, uncovered steps, patio slabs, driveways, walkways, retaining walls of no more than 4' in height, and roof overhangs of up to 18" may be located within setback areas.
 2. Required setbacks may accommodate vegetated runoff reduction measures, provided such setbacks meet fire code standards. The runoff reduction measures may not compromise public safety such as the sight distance triangles required by the City.
- E. *Flag Lots.*

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1. Flag lots are prohibited for residential development, except as permitted under UDC Subsection 2.9.5. Residential building sites must meet minimum lot width requirements at the front setback line or at twice the required front setback for cul-de-sac lots.

SECTION 2.9 HISTORIC PRESERVATION INCENTIVE ZONING

2.9.5 Incentives available to historic properties following designation.

Following designation by the City Council and subject to compliance with the regulations and provisions set forth in this Section 2.9 and any other applicable City, State or federal ordinances, statutes, laws, or regulations, owners of historic properties may utilize or are otherwise eligible for the following zoning incentives, construction code exemptions and other benefits, as applicable:

- A. Zoning and Development Incentives. The following zoning incentives and benefits are available to historic properties, as applicable:
 1. Permitted Residential Uses in C-1 and C-2 Districts. 'For-Sale' Dwelling is a permitted principal use for historic properties located within the C-1 and C-2 zoning districts.
 2. Permitted Mixed-Use.
 - a. Historic properties with non-residential principal use: May utilize up to 40% of the heated interior square footage of the principal building for a residential ('For-Sale' dwelling) use. The use of the residence is restricted to the property owner or tenant of the non-residential portion of the building.
 - b. Historic properties with residential principal use located in Downtown Alpharetta: May utilize up to 40% of the heated interior square footage of the principal building for a non-residential use, as listed below, provided no more than two (2) total employees and/or independent contractors, who do not also reside at the property, shall be allowed to work in the premises in connection with such non-residential use at any one time. No more than one (1) patron per 250 sq. ft. of gross floor area may patronize the non-residential space at any one time. Except as previously provided, the use of non-residential portion of the building is restricted to the property owner or tenant of the residence. Non-residential uses are limited to the following permitted uses:
 - i. Art gallery;
 - ii. Barber shop, with no more than two (2) chairs;
 - iii. Beauty shop, with no more than two (2) chairs;
 - iv. Bed and Breakfast;
 - v. Book store;
 - vi. Florist;
 - vii. Medical office, no surgery; and
 - viii. Professional office.
 3. Open Space and Amenity Space.

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- a. General. The area of a historic property incorporated into a development as a community amenity may be applied to and included as part of the minimum area required to be set aside as open space pursuant to regulations and requirements governing the CUP District, Conservation Subdivisions, and the Downtown Overlay District.
 - b. Permitted Uses. In addition to the uses allowed for an open space pursuant to the underlying zoning regulations or conditions of zoning, provided such use is not otherwise prohibited by this Section 2.9, the property may be used as a community amenity or amenity space for use by the occupants, licensees or guests of the development.
 - c. Lot and Development Requirements. The minimum lot size of a historic property eligible for use as an amenity/open space shall be 4,500 square feet. The area of the historic property shall be designated on any required site plans and/or development plans and shall be subdivided and platted as an individual lot of record on the final plat. To the greatest extent practicable, the layout of the development shall be designed in a manner that allows the historic property to serve as a focal point of the surrounding neighborhood and the community. Other development improvements should be planned and designed in a manner that provides maximum visibility of the historic property from public right-of-way exterior to the development or subdivision. The use of the historic property shall be restricted in perpetuity, or for such other term of years as required by the City, through the use of an approved legal instrument, as further set forth herein.
 - d. Additional Requirements - Permanent Protection of Historic Property. An applicant or owner seeking to utilize a historic property as an open space or amenity space shall be required to comply with the additional requirements regarding the ownership, preservation and maintenance of the historic property, including the execution and recording of an instrument providing for the permanent protection of the historic property, set forth in Paragraph F below.
4. Setback Reduction.
 - a. Side setbacks required per the underlying zoning regulations may be reduced by up to 50%.
 - b. Rear setbacks required per the underlying zoning regulations may be reduced by up to 25%.
 5. Parking reduction. Parking for office and commercial uses may be reduced up to 50%. Historic properties within Downtown Alpharetta shall not be required to contribute to the Parking Fund as a result of parking reduction.
 6. Flag Lots. A flag lot may be permitted on a property designated as historic after consideration of an exception by City Council.
- B. Building, Construction and Property Maintenance Code Exemptions. Designated historic properties may be exempt from certain building, construction and property maintenance code regulations.
1. Building and Construction Code Exemptions. The following types of exemptions from building and construction code requirements and other regulations are available to certain historic properties based on the provisions of the subject code, as determined by the building official:
 - a. Exemptions from the International Energy Conservation Code;
 - b. Exemptions from and compliance alternatives to certain requirements of the International Building Code (See Section 8-29 of the Code of the City of Alpharetta, Georgia) regarding the construction, repair, alteration, addition, restoration, and movement of buildings or structures, and change of occupancy, provided the subject condition does not constitute a distinct life safety hazard;

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- c. Exemptions from certain flood hazard area requirements;
 - d. Exemptions from the International Fire Code (See Section 8-29 of the Code of the City of Alpharetta, Georgia); and
 - e. Exemptions from (or compliance alternatives to) Americans with Disabilities Act (ADA) regulations and other related code regulations providing standards for accessibility.
 - 2. International Property Maintenance Code Exemptions. Compliance with requirements of the International Property Maintenance Code may not be mandatory for historic properties when such buildings or structures are determined to be safe and in the public interest of health, safety, and welfare by the code official.
- C. State and Federal Tax Incentive Programs. Several state and federal tax incentive programs are available to owners who rehabilitate historic properties listed, or certified as eligible for listing, in the Georgia Register of Historic Places or National Register of Historic Places, as applicable, including the State Preferential Property Tax Assessment for Rehabilitated Historic Property, the State Income Tax Credit for Rehabilitated Historic Property, and the Federal Rehabilitation Investment Tax Credit (RITC). The HPC provides additional information regarding such programs. The provisions set forth in this Paragraph are provided for information purposes only and do not constitute any representation, commitment or assurance by the City regarding a property owner's qualification for such tax incentive programs or the continuation of such programs.
- D. Economic Incentives—Facade Grants. Subject to the City Council's adoption of an ordinance(s) providing for the appropriation of funding for the subject grant program and annual appropriations thereafter, historic properties are eligible to receive facade grants for the purpose of funding improvements for the preservation, restoration or rehabilitation of historic properties. In addition to meeting any and all other requirements of the City facade grant program for historic properties, as approved by the City Council, an owner of a historic property receiving facade grant funds shall be required to convey to the City a facade easement complying with the applicable requirements set forth in Paragraph F below. Further, any and all proposed improvements constituting a material change in the appearance of the historic property shall require the prior approval of a certificate of appropriateness by the HPC. Notwithstanding any other provision hereof to the contrary, nothing set forth in this Paragraph shall be deemed to create or confer any vested rights to such grant funds or create any obligation of the City to grant or otherwise appropriate funds for the aforementioned purposes. The City's award of facade grant funds in accordance with any facade grant program is subject to funding availability and, in accordance with O.C.G.A. § 36-30-3, any facade grant program may be terminated immediately and absolutely if the City determines that adequate funds are not appropriated or funds are de-appropriated such that the City cannot sufficiently fund the subject grant program, which determination is at the City's sole discretion and shall be conclusive.
- E. Other Available Benefits and Incentives. The following additional benefits and incentives are available to historic properties:
- 1. Free Design Assistance from the HPC. The HPC provides pre-application technical and design assistance regarding proposed preservation, restoration and/or rehabilitation work and its conformance with the U.S. Secretary of the Interior's Standards and Guidelines to owners of historic properties applying for a building permit or seeking to rezone historic property to the TDR-HC Overlay District.
 - 2. Historic Property Plaque. The City will install a plaque on or within the public right-of-way adjacent to each property designated as historic by the City Council.
- F. Requirements to Provide for Permanent Protection of Historic Property — Open/Amenity Spaces and Facade Grants.

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1. Applicability. In order to provide for the permanent protection of historic properties utilizing certain incentives and benefits, the following historic properties shall comply with the addition regulations set forth in this Paragraph, as applicable:
 - a. Historic properties used as open space or amenity space; and
 - b. Historic properties receiving facade grants.
 2. Responsible Party for Preservation and Maintenance of Open/Amenity Space. The fee simple owner of the historic property used as an open or amenity space shall be responsible for preserving and maintaining the historic property. The options for ownership and responsibility for preservation and maintenance of the historic property shall be as follows:
 - a. The owner of the lots or parcels of the subject development if under common ownership may be the owner of the historic property.
 - b. Property Owners' Association. A property owners' association established in accordance with the Georgia Property Owners Association Act, O.C.G.A. § 44-3-220 et seq., may be the owner of the historic property. Membership in the association shall be mandatory and automatic for all property owners of the development or subdivision for which the historic property serves as open space. Prior to the approval [of] a land disturbance permit, the developer shall submit to the Director a description of the property owners' association, including by-laws, and methods for maintaining the historic property. Prior to the issuance of a land development permit, a permanent restrictive covenant (per O.C.G.A. § 44-5-60(c)) providing for the preservation and maintenance of the historic property shall be recorded and run with the land, or a conservation easement may be conveyed in accordance with The Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1, et seq., as further provided herein.
 - c. Land Trust or Non-profit organization. A land trust or non-profit organization, which is primarily operated for the purpose of preserving historic properties and possesses the legal authority to own such real property in fee simple interest, may be the owner of the historic property.
 3. Enforcement. In the event the party responsible for the preservation and maintenance of the historic property fails to maintain all or any portion in reasonable order and condition, the City may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner and may include administrative costs and penalties; if a property owners' association is the owner, such costs may be charged to such association or to the individual property owners that are members of the property owners' association, and such costs shall become a lien on all properties of the development or subdivision until paid in full.
 4. Historic Preservation Plan. A historic preservation plan shall be submitted to the HPC for review and approval by owners of historic properties used as open or amenity space (prior to the approval of a land disturbance permit) and owners of historic properties to whom facade grant funds are conditionally awarded (prior to the tender of grant funds by the City). The historic preservation plan shall establish an ongoing maintenance and preservation program for the historic property in order to ensure that the essential features of the historic property that enable it to convey its historical identity and significance are maintained in an excellent condition and the overall condition of the historic property is maintained in a good condition in the future. The historic preservation plan shall provide that any changes to such plan shall require the approval of the HPC. Preservation measures and required maintenance required for compliance with the ongoing preservation and maintenance program for the historic property, as required by the Historic Conservation Plan, shall be performed in a manner consistent with the United States

Secretary of the Interior's Standards for Preservation and Guidelines for Preserving Historic Buildings. The historic preservation plan shall be reviewed and considered for approval by the HPC in accordance with the procedures set forth herein.

5. Legal Instrument for Permanent Protection.

a. The historic property shall be protected by a binding legal instrument recorded with the Fulton County Clerk of Superior Court. Notwithstanding the use of the term "permanent", the duration of the restrictions and obligations set forth in the legal instrument (providing for the continued preservation of the historic property) shall be for such term of years as determined to be reasonable by the City, considering the benefit received by the subject property owner, the useful life of the subject building, and other similar criteria. Facade easements granted to the City in consideration of facade grant funds shall meet the requirements set forth below for conservation easements, except such easements must be in favor of the City, as holder of the easement. For historic properties used as open/amenity space, the instrument of permanent protection, which shall be placed on the historic property at the time of issuance of a land disturbance permit, shall be one of the following:

- (i) Conservation Easement. A permanent conservation easement, in accordance with The Georgia Uniform Conservation Easement Act, O.C.G.A. § 44-10-1, et seq., in favor of either a:
 - (a) Land trust or historic preservation oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or
 - (b) Governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not the City, then a third-party right of enforcement favoring the City shall be included in the easement; or
- (ii) Permanent Restrictive Covenant. A permanent restrictive covenant for conservation purposes in favor of a governmental entity with an interest in pursuing goals compatible with the purposes of this Section; or
- (iii) Other. Subject to the approval of the City, an equivalent legal tool that provides permanent protection.

b. The legal instrument for permanent protection shall:

- (i) Describe the features of the historic property that should be permanently protected;
- (ii) Provide the duration of the covenants set forth therein, which shall run with the land for such minimum term of years as required by the City;
- (iii) Clearly identify the boundaries of the historic property by survey and a metes and bounds legal description;
- (iv) Clearly list the restrictions applicable to the historic property, which shall include such restrictions regarding the use, building and development of the property, as necessary, to comply with and carry out the obligations set forth in this Section and the historic preservation plan, as well as any further

restrictions the applicant chooses to place on the use of the historic property not in conflict herewith;

- (v) Provide for inspections of such property by the owner, the holder of the easement, and the City;
- (vi) Provide for maintenance of such property in accordance with the requirements of the historic preservation plan and this Section;
- (vii) Be shown on a certified survey and duly recorded with the Fulton County Clerk of Superior Court prior to the issuance of a land disturbance permit;
- (viii) Provide for amendments only with the express written permission of the property owner(s), the holder of the easement, and the City. Amendments to the legal instrument for permanent protection shall be filed with the Director and shall be recorded with the Fulton County Clerk of Superior Court; and
- (ix) Be subject to the review and approval by the City Attorney's office and include such additional terms and provisions as deemed necessary to protect the City's interest.

c. Additional Requirements for Conservation Easements. In addition to the foregoing requirements, the conservation easement(s) shall:

- (i) Comply with the requirements set forth in The Georgia Uniform Conservation Easement Act, O.C.G.A. 44-10-1 et seq.;
- (ii) List the parties, that is, the owner(s) of such property, the holder of the easement, and, if required by the City, a person with a third-party right of enforcement;
- (iii) Provide a third-party right of enforcement favoring the City if the City is not the grantee/holder of the easement; and
- (iv) Specify how the easement may be transferred, as in the case of dissolution of the property owners' association or non-profit organization.

Exhibit "C"

ARTICLE IV. PROCEDURES

SECTION 4.1 COMPREHENSIVE LAND USE PLAN AMENDMENTS

The Comprehensive Land Use Plan (CLUP) may be amended from time to time for specific properties on the CLUP Future Land Use Map by the City Council under the procedures hereinafter specified. Such changes are referred to as "CLUP amendments" in the Ordinance.

4.1.1 Initiation.

- A. A proposed change in the land use designation on the Future Land Use Map may be initiated by the City Council, the Planning Commission, or by any person who owns property within the City. Unless initiated by the City Council or the Planning Commission, all such applications shall be initiated by the owner of a majority interest in the property affected.
- B. Any other proposal to change or amend the Comprehensive Land Use Plan shall only be initiated by the City Council or the Planning Commission and shall be considered under the requirements of the *Minimum Standards and Procedures for Local Comprehensive Planning* as adopted by the Georgia Department of Community Affairs, in lieu of the procedures herein.
- C. A CLUP amendment initiated by a property owner shall be submitted to the Director within filing deadlines and on application forms prepared by the Community Development Department. The application forms and filing deadlines shall be published and made available to the public. All applications not filed by the City shall be accompanied by a non-refundable fee as fixed from time to time by the Community Development Department.
- D. An application for a CLUP amendment affecting the same property shall not be considered by the City Council more often than once every 12 months; provided, however, that the City Council may approve a reduction in the waiting period.

4.1.2 Public hearing process.

Before taking final action on a proposed CLUP amendment, the Planning Commission and the City Council each shall hold a public hearing on the proposal. The Director shall publish the schedule of the public hearing dates on an annual basis, along with application filing deadlines.

A. Public Notice.

1. Notification to the General Public.

- a. At least fifteen (15) days but not more than forty-five (45) days prior to each public hearing, notice shall be published in a newspaper of general circulation within the City. The Director shall prepare such notice, which shall state the time, place and purpose of the hearing.
- b. If a CLUP amendment is to be heard at the public hearing then:
 - (1) The notice in addition to the requirements above, shall include the location of the property, the present land use designation of the property and the proposed land use designation of the property; and
 - (2) The Director shall post, at least fifteen (15) days prior to the public hearing, on a conspicuous place on the property for which an application has been submitted, a sign or signs stating the date, time and place for the public hearing, and the public hearing case number.

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2. *Notice to Surrounding Property Owners:* If the proposed CLUP amendment affects only one (1) property, notice shall also be given to the surrounding property owners as follows:
 - a. At least ten (10) days prior to the first public hearing at which the amendment will be considered, the Director shall cause a notice to be mailed to the:
 - (1) All persons owning record title to the property located within 500 feet of the property that is the subject matter of amendment.
 - b. The notice shall state the time, place and purpose of the hearings by the Planning Commission and the City Council. The written notice shall be mailed to the last known address of the property owners as such addresses appear on the Fulton County ad valorem tax records.
 3. *Associated Applications for Zoning or Conditional Use.* If an application for a CLUP amendment is associated with a proposal to rezone property or to obtain approval of a conditional use, the public notice for the CLUP amendment and the zoning change and conditional use may be combined.
- B. *Public Hearings.*
1. The following procedures shall govern public hearings for purposes of considering applications as specified in this Section.
 - a. Presiding officer. The public hearing shall be conducted by the presiding officer.
 - b. Requirements for speakers. Persons wishing to speak in support (including the applicants and designated representative) or opposition to any application shall provide their name and address on the specified form to City staff prior to speaking at the public hearing. In addition, each person shall be required to disclose any campaign contributions/gifts equal to or greater than ~~\$100~~ \$250 given to any City elected official within two (2) years of the public hearing date.
 - c. Time limits. Speakers at the public hearing shall be allowed not less than ten (10) minutes per side, provided, however, that the presiding officer may at his or her discretion elect to extend this time period equally to proponents and opponents.
- C. *Planning Commission.*
1. The Director or his or her designee shall submit each proposed CLUP amendment to the Planning Commission, together with the staff recommendation.
 2. The Planning Commission shall review and take action upon each CLUP amendment after holding a public hearing.
 3. The Planning Commission by majority of those voting may recommend approval or denial or make any other recommendation it deems appropriate.
 4. The recommendation of the Planning Commission and that of the Director, together with the minutes of the Planning Commission hearing at which the CLUP amendment is reviewed, shall be submitted to the City Council. If the Planning Commission does not act upon the CLUP amendment at its public hearing, the amendment shall process forward to the City Council without a recommendation from the Planning Commission. No member of the Planning Commission shall rule on a matter in which he or she has a financial interest, directly or indirectly.

D. City Council.

1. The Director or his or her designee shall present each proposed CLUP amendment to the City Council, together with the staff recommendation. The Director or his or her designee shall also present the recommendation of the Planning Commission if it differs from the staff recommendation.
2. Following the public hearing, action may be taken by the City Council by majority of those voting approving or rejecting the proposal, or allowing withdrawal if so requested by the applicant (with or without prejudice), or the City Council may table the proposal for consideration at its next regular meeting, or the City Council may refer the matter back to the Planning Commission for further consideration.

E. *Referral to Planning Commission for Further Consideration.*

1. The Director shall conduct such further studies as appropriate and shall present any CLUP amendment to the Planning Commission that has been heard by the City Council and referred back to it for further consideration. Public notice of the Planning Commission and City Council's hearings shall be given in the same manner as prescribed herein, and the Planning Commission shall conduct its public hearing and take action as described above.
2. After the Planning Commission's rehearing and action on the referred application, the City Council shall hold a public hearing on the CLUP amendment, following the same procedures set forth for its hearings, above.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.1.3 Standards for CLUP amendment approval.

The Planning Commission and the city council shall consider the following in evaluating a CLUP amendment, giving due weight or priority to those factors particularly appropriate to the circumstances of the application:

- A. The extent to which a change in the economy, land use or development opportunities of the area has occurred.
- B. The extent to which the proposed designation is in compliance with the goals and policies of the Plan.
- C. The extent to which the proposed designation would require changes in the provision of public facilities and services.
- D. The extent to which the proposed designation would impact the public health, safety, and welfare.
- E. The extent to which additional land area is needed to be developed for a specific type of use.
- F. The extent to which area demographics or projections are not occurring as projected.

4.1.4 Withdrawal and deferral.

- A. Any applicant wishing to withdraw a proposed CLUP amendment shall file a written request for withdrawal with the Director.

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1. If the request for withdrawal is received prior to the publication of notice for the public hearing, the CLUP amendment shall be withdrawn administratively by the Director without prejudice or restriction on the refiling of a proposed CLUP amendment on the property.
 2. Should any request for withdrawal be made by the applicant at the City Council's public hearing, the CLUP amendment shall remain on the public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the City Council.
- B. Any applicant wishing to defer a proposed CLUP amendment shall file a written request for a deferral with the Director.
1. A written request may be received by the Director up to three times for any CLUP application. The first two deferral requests may be granted by the Director. A third deferral request requires Planning Commission or City Council approval.
 2. Each written request for deferral shall be accompanied by a non-refundable re-advertising fee as fixed from time to time by the Community Development Department \$100.00 re-advertising fee established by the Director.

(Ord. No. 718, § 19, 12-14-2015)

4.1.5 State of Georgia oversight.

- A. *Applications.* A proposed CLUP amendment shall be submitted by the applicant to the Atlanta Regional Commission as a Comprehensive Plan Amendment prior to submission of the application to the City if the proposed CLUP Amendment qualifies as a Development of Regional Impact as described under section 4.2 Rezoning and Conditional Uses.
- B. *Major Amendments.* If the city Council, at their public hearing, determines that the CLUP amendment is a "major amendment" under the State guidelines in that it is justified only because the conditions or policies underlying the Comprehensive Land Use Plan have changed significantly so as to alter the basic tenets of the Plan, then no action shall be taken on the amendment until the review process mandated by the State's Minimum standards and Procedures for local Comprehensive Planning shall have been completed.

4.1.6 Effect.

Approval of a CLUP amendment shall be in full force and effect upon its approval or upon the stated effective date thereof.

SECTION 4.2 REZONING, TEXT AMENDMENTS AND CONDITIONAL USES

The Official Zoning Map may be amended from time to time and conditional uses may be approved for specific properties by the City Council under the procedures hereinafter specified. In addition, changes in the conditions of approval may also be approved by the City Council following the procedures in this section. All of these types of actions shall be referred to as "zoning changes", along with the following: 1. Adoption of the zoning ordinance or text amendments to the ordinance; 2. Rezoning of land; 3. The approval of a masterplan or an amendment to a masterplan.

4.2.1 Initiation.

- A. An application for a zoning change may be initiated by the City Council, the Planning Commission, the Director, or by any person who owns property within the City. Unless initiated by the City Council, the Planning Commission or the Director, all such applications shall be initiated by the owner of a majority interest in the property affected.
- B. All applications shall be submitted to the Director within filing deadlines and on application forms adopted from time to time by the Community Development Department. The application forms and filing deadlines on a public hearing scheduled shall be published and made available to the public. All applications shall be accompanied by a non-refundable fee as fixed from time to time by the Community Development Department. A fee shall not be charged if the City or Planning Commission initiates an application.
- C. An application for a zoning change affecting the same property shall not be considered by the City Council more often than once every 12 months; provided, however, that the City Council may approve a reduction in the waiting period to no less than six (6) months.
- D. 1. No application shall be accepted or reviewed for completeness pertaining to a property on which delinquent taxes, assessments, fees, fines, or is otherwise indebted to the City until the taxes, assessments, debts, or property that is not in compliance with applicable City codes and ordinances shall be accepted or reviewed for completeness until the property is brought into compliance, or until an arrangement satisfactory to the Director has been made for bringing the property into compliance.
 - 2. It shall be the Applicant's responsibility to provide evidence or proof that (i) all taxes and fees have been paid, or that other arrangements have been made for payment of said taxes, fees, etc. and/or (ii) the property has been brought into compliance or that arrangements have been made to bring the property into compliance.

(Ord. No. 720, § 3, 2-22-2016; Ord. No. 825, § 1, 4-19-2021)

4.2.2 Public hearing process.

Before taking final action on a proposed zoning change, the Planning Commission and the City Council each shall hold a public hearing on the proposal. The Director shall publish a schedule of the public hearing dates on an annual basis, along with the application filing deadlines.

- A. *Notification to the General Public.*
 - 1. At least fifteen (15) days but not more than forty-five (45) days prior to each public hearing, notice shall be published in a newspaper of general circulation within the City. The Director shall prepare such notice, which shall state the time, place and purpose of the hearing.
 - 2. A zoning change initiated by a party other than the City Council or the Planning Commission shall be heard at a public hearing only upon:
 - a. The notice, in addition to the requirements above, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property or the conditional use requested; and
 - b. The Director shall post, at least fifteen (15) days prior to the public hearing, on a conspicuous place on the property for which an application has been submitted, a sign or signs stating the date, time and place for the public hearing, and the public hearing case number.

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- c. Notice to Surrounding Property Owners. If the proposed zoning change affects only one (1) property, notice shall also be given to surrounding property owners as follows:
 - 3. At least ten (10) days prior to the first public hearing at which a zoning change will be considered, the Director shall cause a notice to be mailed to all persons owning record title to property located within 500 feet of the property that is the subject matter of the zoning change.
 - 4. The notice shall state the time, place and purpose of the hearings by the Planning Commission and the City Council. The written notice shall be mailed to the last known address of the property owners as such addresses appear on the Fulton County ad valorem tax records.
 - 5. Citizen Participation. The applicant shall be required to complete a Citizen's Participation Plan which includes notification to property owners.
 - a. Prior to the Public Hearing, the Applicant shall cause a notice to be mailed to:
 - (1) All persons or property owner's associations owning record title to the property located within 500 feet of the property that is the subject matter of amendment.
 - b. The notice shall state the time, place and purpose of the Public Hearing as well as a summary of applicant's request. The written notice shall be mailed to the last known address of the property owners as such addresses appear on the Fulton County ad valorem tax records.
 - c. At the time of Public Hearing Application Submittal, the applicant shall provide the following information in the Citizen Participation Form - Part A:
 - (1) Method by which these individuals will be contacted.
 - (2) Method by which these individuals will have the opportunity to respond or contact the applicant with questions or concerns about the proposal.
 - d. Prior to the scheduled Public Hearing The applicant shall provide to the Director in the Citizen Participation B Report:
 - (1) A Sample of any and all written communications used to provide notification. Failure to do so may result in cancellation of the scheduled hearing.
 - (2) A list of people who have been notified of this application and provided information describing the subject proposal. ALL adjoining property owners MUST be notified.

B. Public Hearings.

- 1. The following procedures shall govern public hearings for purposes of considering applications as specified in this Section.
 - a. Presiding officer. The public hearing shall be conducted by the presiding officer.
 - b. Requirements for speakers. Persons wishing to speak in support (including the applicants and designated representative) or opposition to any application shall provide their name and address on the specified form to City staff prior to speaking at the public hearing. In addition, each person shall be required to disclose any campaign contributions/gifts equal to or greater than ~~\$100~~ \$250 given to any City elected official within two (2) years of the public hearing date.

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- c. Time limits. Speakers at the public hearing shall be allowed not less than ten (10) minutes per side, provided, however, that the presiding officer may at his or her discretion elect to extend this time period equally to proponents and opponents.
- C. *Associated Applications for CLUP Amendments or Variances.* If an application for a zoning change is associated with a proposed Comprehensive Land Use Plan amendment or exception variance, the public notice for the zoning change may be combined with the public notice required for the associated applications. Any notice for an associated variance shall not be required to comply with the timing requirements set forth in Section 4.5.2 and shall instead be required to comply with the requirements of subsection (A) above.
- 1. The Director shall submit each application to the Planning Commission, together with a report of the Director's findings and a recommendation. The Planning Commission shall review and take action upon each application after holding a public hearing. In making a recommendation on each application, the Planning Commission shall follow the standards set forth under this Section. The recommendation of the Planning Commission and that of the Director, together with the minutes of the Planning Commission hearing at which the application is reviewed, shall be submitted to the City Council. If the Planning Commission does not act upon an application, the Director may take it to the City Council without a recommendation from the Planning Commission. No member of the Planning Commission shall rule on a matter in which he or she has a financial interest.

(Ord. No. 687, § 1, 3-17-2014; Ord. No. 710, § 1, 8-10-2015; Ord. No. 720, § 4, 2-22-2016; Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.2.3 Standards for zoning changes.

A. *Zoning Map Amendments (Rezoning).*

- 1. In order to be approved, a rezoning must be in conformity with the designation for the property on the Future Land Use Map contained in the Comprehensive Plan, as most recently amended.
- 2. The Planning Commission and the City Council shall consider the following standards in considering a rezoning application, giving due weight or priority to those factors particularly appropriate to the circumstances of each application:
 - a. Whether the zoning proposal will permit a use that is suitable in view of the zoning, use and development of adjacent and nearby property.
 - b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
 - c. Whether the zoning proposal will adversely affect the natural environment.
 - d. Whether there are substantial reasons why the property cannot or should not be used as currently zoned.
 - e. Whether the zoning proposal will result in a use that will or could cause an excessive or burdensome use of public facilities or services, including, but not limited to, existing streets and transportation facilities, schools, water or sewer utilities, and police or fire protection.
 - f. Whether the zoning proposal is supported by new or changing conditions not anticipated or reflected in the existing zoning on the property.

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- g. Whether the zoning proposal reflects a reasonable balance between the promotion of the public health, safety, morality or general welfare against the right to unrestricted use of property.
 - h. Whether there are substantial reasons why the property cannot be used in accordance with existing zoning.
 - i. The extent to which the zoning proposal is consistent with the Comprehensive Plan.
 - B. *Conditional Use Standards.* A conditional use otherwise permitted within a zoning district shall be considered to be compatible with other uses permitted in the district, provided that due consideration is given to the following objective criteria at a public hearing and satisfactory provisions or arrangements are made for:
 - 1. Access into and out of the property with regard to traffic and pedestrian safety, volume of traffic flow, and emergency vehicles, as well as the type of street providing access;
 - 2. The extent to which refuse areas, loading and service areas, off street parking, and buffers and screening are provided on the property;
 - 3. Ensuring that the conditional use will not be injurious to the use and enjoyment of the environment or of other property in the immediate vicinity or diminish and impair property values within the surrounding neighborhood;
 - 4. Ensuring that the conditional use will not increase local or state expenditures in relation to the cost of servicing or maintaining neighboring properties;
 - 5. Ensuring that the conditional use will not impede the normal and orderly development of surrounding property for uses predominant in the area; and
 - 6. Ensuring that the location and character of the conditional use is considered to be consistent with a desirable pattern of development for the city, in general.
 - 7. Ensuring that the conditional use is appropriately separated from similar uses and conflicting uses, such as residences, government buildings, parks, churches or schools.
 - C. *Planning Commission Recommendation.*
 - 1. The Director or his or her designee shall submit each application to the Planning Commission, together with the staff recommendation.
 - 2. The Planning Commission shall review and take action on each application after holding a public hearing.
 - 3. The Planning Commission by majority of those voting may recommend approval, approval with conditions, or denial, or may request that the City Council refer the application back to the Planning Commission for further study or make any other recommendation it deems appropriate.
 - 4. The recommendation of the Planning Commission and that of the staff, together with the minutes of the Planning Commission public hearing at which the application is reviewed, shall be submitted to the City Council. If the Planning Commission does not act upon the application at its public hearing, the amendment shall process forward to the City Council without a recommendation from the Planning Commission.
 - D. *City Council.*
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1. The Director or his or her designee shall present each application to the City Council, together with the staff recommendation. The Director or his or her designee shall also present the recommendation of the Planning Commission if it differs from the staff recommendation.
 2. Following the public hearing, action may be taken by the City Council by majority of those voting approving, approving with conditions, or rejecting the proposal, or allowing withdrawal if so requested by the applicant (with or without prejudice), or the City Council may table the proposal for consideration at its next regular meeting, or the City Council may refer the matter back to the Planning Commission for further consideration.
 3. If the application for a zoning change is associated with a proposed amendment to the Comprehensive Land Use Plan or an application for an exception variance, the City Council shall first take action on the CLUP amendment.
 - a. If the CLUP amendment is denied, the zoning change may not be approved unless conformity to the purpose and intent of the CLUP and the land use designation of the Future Land Use Plan Map is achieved.
 - b. If the CLUP amendment is approved, action may then be considered on the proposed zoning change.
 - c. If the zoning change is denied, the exception/variance may not be approved.
 - d. If the zoning change is approved, with or without conditions, action may then be considered on the proposed exception/variance.

E. *Referral to Planning Commission for Further Consideration.*

1. The Director shall conduct such further studies as appropriate and shall present any application to the Planning Commission that has been heard by the City Council and referred back to it for further consideration. Public notice of the Planning Commission and City Council's hearing and take action as described above.
2. After the Planning Commission's rehearing and action on the referred application, the City Council shall hold a public hearing on the application, following the same procedures set forth for its hearings, above.

F. *Change in Conditions of Approval.* Any application that proposes a change in the conditions of approval previously established by the City Council through action on a zoning change shall be reviewed in light of the standards set forth in this section for a map amendment or conditional use, as appropriate.

(Ord. No. 807, § 3(Exh. C), 9-8-2020; Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.2.4 Withdrawal and deferral.

- A. Any applicant wishing to withdraw a proposed zoning change shall file a written request for withdrawal with the Director.
1. If the request for withdrawal is received prior to the publication of notice for the public hearings, the application shall be withdrawn administratively on the refilling of a proposed zoning change on the property.

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2. Should any request for withdrawal be made by the applicant at the City Council's public hearing, the application shall remain on the public hearing agenda and the withdrawal request shall be considered for approval or denial, with or without prejudice, by the City Council.
- B. Any applicant wishing to defer a proposed zoning change shall file a written request for deferral with the Director.
1. A written request may be received by the Director up to three times for any zoning application. The first two deferral requests may be granted by the Director. A third deferral request requires Planning Commission or City Council approval.
 2. Each written request for deferral shall be accompanied by a non-refundable re-advertising fee as fixed from time to time by the Community Development Department ~~\$100.00 re-advertising fee established by the Director.~~

(Ord. No. 718, § 19, 12-14-2015)

4.2.5 Developments of regional impact.

- A. Any application that would result in a zoning change that meets or exceeds the development of regional impact thresholds listed in the Rules of Georgia Department of Community Affairs Chapter 110-12-7 Developments of Regional Impact: Alternative Requirements – Atlanta Regional Commission. ~~following criteria shall be considered a Development of Regional Impact:~~
- ~~1. — Developments of Regional Impact Thresholds;~~
 - ~~2. — Office uses — Greater than 500,000 net square feet;~~
 - ~~3. — Commercial, Wholesale and Distribution uses — greater than 700,000 net square feet;~~
 - ~~4. — Hospitals — Greater than 600 new beds;~~
 - ~~5. — Housing — Greater than 500 new lots or units;~~
 - ~~6. — Industrial Park or single user greater than 500 acres, or employing more than 2,000 people, or using more than 100,000 gallon per day of water;~~
 - ~~7. — Hotels — Greater than 500 rooms;~~
 - ~~8. — Mixed Land Use — Greater than 500,000 net square feet;~~
 - ~~9. — Airports — Any new airport, new runway, or runway extension;~~
 - ~~10. — Attractions or recreational uses — Greater than 2,000 parking spaces or more than 7,500 permanent seats;~~
 - ~~11. — Post-Secondary School — New school with capacity of more than 3,000 students, or, expansion of this type school by least 25% of capacity;~~
 - ~~12. — Waste Disposal uses — New facility or expansion of use of an existing facility by 50% or more, intending to accept waste from another jurisdiction; and~~
 - ~~13. — Wastewater Facilities, Quarry, Asphalt or Cement Plants. Petroleum storage greater than 50,000 barrels, if within 1,000 feet of any water supply, or, storage greater than 200,000 barrels.~~

~~B. Demand on Infrastructure Threshold—To be used only if a use does not fit into one of the above categories:~~

- ~~1. Electrical—Any increase in average electrical demand greater than 100 megawatts.~~
- ~~2. Natural Gas—Any increase in demand for natural gas greater than 100,000 therms per day.~~
- ~~3. Water—Any increase in demand of greater than 100,000 gallons per day or will absorb the reserve capacity of another jurisdiction.~~
- ~~4. Wastewater Treatment—Any increase in treatment of greater than 500,000 gallons per day or will absorb the reserve capacity of another jurisdiction.~~
- ~~5. Transportation—Any increase greater than 1,500 peak hour vehicle trips per day.~~

- B. Any Development of Regional Impact or demand on infrastructure shall be submitted by the applicant to the Atlanta Regional Commission prior to a zoning change or CLUP amendment submission of the application to the City.
- C. The City Council shall not take final action to approve a Development of Regional Impact or demand on infrastructure until a report shall have been received from the Atlanta Regional Commission reflecting its findings and recommendations, if any, or if said report is not received within 60 days of its submittal to the Atlanta Regional Commission.

4.2.6 Effect.

- A. Approval of a zoning change on a property shall be in full force and effect upon its approval or upon the state effective thereof.
- B. For a property on which a use, building, structures, or other improvements existed in conformity with this Ordinance prior to the effective date of a zoning change affecting property, any such use, building, structures, or other improvements no longer in conformance shall be governed under the provisions for Nonconformities in this ordinance.
- C. Any use, building, structures, or other improvements for which a building permit has been issued in conformity with this Ordinance prior to the effective date of a zoning change affecting the property may continue to completion as though no change had occurred and, upon completion, shall be governed under the provisions for nonconformities in this Ordinance.

SECTION 4.3 CONCEPT PLANS

The Concept Plan shall be required for all rezoning applications. The Concept Plan is a generalized map or plan presenting an image of a proposed development, including the entire land area to be rezoned or proposed as a single interrelated development activity. The Concept Plan shall include the entire property. Properties which adjoin the subject property and which are under the same ownership or control as the subject property shall be so indicated.

4.3.1 Requirements.

- A. *Properties of 50 acres, or less, show:*
1. The major traffic and pedestrian circulation systems.
 2. The generalized land use areas and acreage showing, if appropriate:

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- a. The development density;
 - b. The number of residential units by housing type;
 - c. The nonresidential floor area by use category.
3. Floodplain.
 4. Wetlands.
 5. Buffer and open space.
 6. Recreation areas.
 7. Street layout and lot pattern.
 8. Pedestrian or bikeway system.
 9. Conceptual layout of proposed buildings and other major structures, parking areas and driveway entrances.
 10. Nonresidential density, number of units, and floor area.
 11. Tree Survey and Tree Assessment, as directed by the City Arborist.
- B. *Properties of 50 acres or more, show:*
1. The major traffic and pedestrian circulation system.
 2. The generalized land use areas and acreage showing, if appropriate:
 - a. The development density.
 - b. The number of residential units by housing type.
 - c. The nonresidential floor area by use category.
 3. Floodplain.
 4. Wetlands.
 5. Buffer and open space.
 6. Recreation areas.
 7. Tree Survey and Tree Assessment, as directed by the City Arborist.

(Ord. No. 718, § 20, 12-14-2015)

SECTION 4.4 DEVELOPMENT PERMITTING AND CONSTRUCTION

No development activity shall commence or proceed except in accordance with the provisions of this Ordinance.

4.4.1 Plan approval.

Any person seeking development activity on land within the City shall first submit to the Director such plans, plats, or construction drawings as may be required by this Ordinance and approved by the Director prior to the initiation of development activities. Approval of plans by City or its authorized agents shall not imply nor transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional corporation or individual under whose hand or supervision the plans were prepared and sealed.

No land disturbance permit shall be interpreted to relieve any owner of the responsibility of maintaining full compliance with all codes, ordinances, and other regulations of the City. Any land disturbance permit issued in error or in contradiction to the provisions of this Ordinance shall be considered to have been null and void upon its issuance.

4.4.2 Preliminary development approval.

- A. *Pre-Application Review.* Any person seeking development activity approval is encouraged to schedule a Pre-Application Review with the Community Development Department Staff.

The review would include preliminary documents and graphic exhibits of the proposed development activity application.

The purpose of the review is to expedite applications and reduce application design and development costs.

- B. *Preliminary Plat,* (Applies to Residential and Non-Residential Subdivisions which are not included as a part of an approved master plan).

1. *Procedure for approval:*

- a. Application for preliminary plat approval shall be submitted to the Community Development Department. The application shall include:
 - (1) The application in the form furnished by the Community Development Department.
 - (2) Two (2) copies of the preliminary plat showing the entire ownership drawn to the preliminary subdivision plat specifications of this Ordinance.
 - (3) Payment of all preliminary plat application and review fees.
- b. The application forms, fees, and filing deadlines shall be published and made available to the public. The Community Development Department shall review the application for completeness. Incomplete applications will be returned to the owner.
- c. Ten (10) days following the application deadline, the Community Development Department shall indicate on a preliminary subdivision plat or in a written memorandum all comments related to compliance with this Ordinance and conditions of zoning approval. Subject to any action of the City Council, the Director shall have sole authority to determine the applicability of any provisions of this Ordinance.
- d. The owner shall be responsible for all of the comments of the Community Development Department prior to the resubmission of the revised preliminary plat application.
- e. The revised preliminary plat shall be submitted to the Community Development Department.

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- f. The Community Development Department may not approve any preliminary plat whereon is shown a lot that would present particularly unusual difficulties for construction, including a building that would clearly require a variance to be reasonably usable whether due to the presence of floodplain, unusual configuration, zoning compliance, lack of public utilities, or for any other reason.
 - g. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements, and for the satisfaction of all the noted and written comments of the Community Development Department.
 - h. When the Community Development Department has determined that the preliminary plat is in compliance with this Ordinance and any conditions of zoning the Director shall sign and date a copy of the plat.
 - i. The preliminary plat approval shall remain in effect for a period of one (1) year, after which time it shall become null and void and a new review may be required if no permit has been issued and development activity begun.
2. *Standards for Approval.* The Preliminary Plat shall be clear and legible at a scale of not greater than one hundred (100) feet to one (1) inch. The recommended maximum dimensions of the sheet size is 24 inches by 36 inches and the minimum dimensions of 17 inches by 22 inches; however, the Director may approve other sheet sizes and scales as appropriate.

The proposed name of the subdivision and proposed street names shall not duplicate or too closely approximate, phonetically, the name of any other subdivision or street in the City of Fulton County. If shown to the contrary, the Director may refuse to accept such subdivision and street names. The subdivision may use letter designations in place of street names on the Preliminary Plat.

Names having historic significance to the City by virtue of their association to events, individuals, local industries, or natural features should be used to the greatest extent possible.

3. *Preliminary Plat shall include:*
- a. Proposed project name.
 - b. Project design and layout including total acreage, proposed use, proposed number of lots, minimum lot size, proposed density and other relevant zoning conditions and regulations in tabular form.
4. *Evidence of preliminary subdivision plat approval.* Each preliminary subdivision plat shall carry the following certificates printed or stamped on the plat:
- a. Approval from the Fulton County Development Services Department for appropriate utilities.
 - b. Preliminary Surveyor's Certificate.

I hereby certify that this proposed preliminary plat correctly represents data compiled or verified through a survey completed by me on _____, 20____, of property shown and described hereon.

By: _____

Registered Land Surveyor's No. _____

Date: _____

- c. Preliminary subdivision plat approval.

All requirements of the Alpharetta Unified Development Regulations relative to the preparation and submittal of a preliminary plat having been fulfilled, approval of this plat is hereby granted, subject to further provisions of said Ordinance.

Community Development Department

Date: _____

This preliminary plat approval shall expire twelve (12) months from the date of approval provided a Land Disturbance Permit is not issued.

(Ord. No. 718, §§ 21, 22, 12-14-2015)

4.4.3 Land disturbance permit.

- A. *Development Activities Authorized.* Persons seeking to perform development activity on land within the City shall not commence or proceed until civil construction drawings are submitted and approved in accordance with this Ordinance.

A Land Disturbance Permit shall be issued to authorize all activities associated with development activity, including, but not limited to, clearing and grubbing, grading, and the construction of such improvements as streets, surface parking areas and drives, sewer systems, domestic water systems, storm water 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. Utility projects which are reviewed and approved by other agencies, such as Fulton County, must obtain a Land Disturbance Permit from the City of Alpharetta.

- B. *Process for Approval.* The Community Development Department shall be responsible for the coordination and approval of all land disturbance permit applications. For subdivisions, application for the issuance of a land disturbance permit may proceed after approval of the preliminary plat.
1. Application for a land disturbance permit shall be made to the Community Development Department. The application shall include:
 - a. Application in the form furnished by the Community Development Department, requesting review for issuance of a land disturbance permit.
 - b. City checklists with sheet number and/or note number annotated next to each checklist item.
 - c. ~~Five (5) copies of the~~ Civil design and construction drawings prepared in conformance with the specifications in this Ordinance.
 - d. Payment of permit application and review fee.
 2. The application forms, fees, and schedule for application processing shall be revised from time-to-time by the Director.
 3. The owner may be required to secure development approval from Fulton County, the State of Georgia, and Federal Review Agencies. Development approval may be required from, but not limited to:
 - a. Fulton County Development Services Department;
 - b. Fulton County Health Department;
 - c. U.S. Army Corps of Engineers;

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- d. U.S. Environmental Protection Agency;
 - e. Georgia Department of Natural Resources.
4. Complete applications received by the application deadline shall be distributed to the City Engineering Department, City Fire Marshall, City Arborist, City Public Works Department, and other City departments deemed appropriate by the Director for review.
 5. Ten (10) days following the application deadline, the Community Development Department shall indicate in a written memorandum all comments related to compliance of the civil construction drawings with this Ordinance, conditions of zoning approval, and the regulations of other departments and state agencies, as appropriate. The Director shall forward to the owner's representative all review comments.
 6. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements, and for the satisfaction of all of the comments of the Community Development Department. The owner's representative shall review the comments with the appropriate department. Once each department is satisfied that the civil design and construction drawings are in compliance with this Ordinance, each department will sign and date the route sheet, and the approved plans.
 7. The owner shall pay the development fee (Land Disturbance Permit Fee) and provide the required performance bonds prior to plan approval. The required performance bonds include the Erosion Control Bond, the Tree Bond and the Existing Roads Improvement Bond.

The Erosion Control Bond shall be calculated at \$3,000.00 per disturbed acre.

The Tree Bond shall be calculated at \$500.00 per tree for every required tree planting within a 25' interior radius of the site perimeter.

The Existing Roads Improvement Bond is calculated at 100% of the cost of any improvements to existing roads.

The amounts of the aforementioned Land Disturbance Permit Fee and performance bonds are determined by the Director of the Community Development Department and may be revised from time to time at his or her discretion.

The release of any performance bond is contingent upon the performance of bonded work and the completion of a satisfactory inspection of said work by the Community Development Department. Should the ownership of any bonded work be altered during the duration of any bond, it shall be the responsibility of the owner specified in the original bond paperwork to ensure that proper sureties be continued irrespective of original ownership.

8. The applicant for land disturbance permit must complete the City's "Fundamentals of Erosion and Sedimentation Control" course prior to receiving a permit. The onsite superintendent of the job must possess a valid certificate of course completion. City of Alpharetta erosion control officers may request the onsite superintendent show the course verification card at any time deemed necessary. If the superintendent does not possess a valid certificate of completion, a Stop Work Order will be issued until an onsite superintendent attends the course.
9. Any person who receives an erosion control violation will be required to attend the "Fundamentals of Erosion and Sedimentation Control" course for a second time. If after completing the course, the person receives another violation, no further land disturbance permits will be issued. The person may appeal by requesting to be placed on the City of Alpharetta Council agenda and appear before City of Alpharetta Council at the regular scheduled meeting to request additional permits.

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10. Following the approval by all appropriate City Departments, the Director shall issue a soil erosion control and sedimentation permit authorizing the placement of erosion control and tree protection devices based on the approved civil design and construction drawings.
 11. The owner shall request a site soil erosion control inspection from the Engineering Department. Upon site approval, the Land Disturbance Permit will be issued.

C. *Expiration of Land Disturbance Permit.*

1. If the development activity described in any land disturbance permit has not substantially begun within 12 months from the date of the construction plans approval said permit shall expire and be null and void. One 12-month extension may be granted with a written request to the Director, prior to the permit expiration date.
2. If for any reason a land disturbance permit expires after development activities have commenced, the owner shall be responsible for stabilizing the site for erosion control, under the direction of the City Engineer.
3. Any land disturbance permit that has expired may be required, by the Director, to apply for a new land disturbance permit as outlined in the land disturbance permit approval process of this Ordinance.

(Ord. No. 681, § 1, 10-7-2013; Ord. No. 718, § 23, 12-14-2015)

4.4.4 Required drawings.

The site construction plans shall be clear and legible; and shall include but not be limited to the following:

- A. Site Plan.
- B. Grading Plan.
- C. Erosion and Sedimentation Control Plan.
- D. Storm Water Management Plan.
- E. Street Improvement Plan and Profile.
- F. Landscape/Tree Removal Plan.
- G. Tree Survey Plan and Inventory.
- H. Domestic Water Plan.
- I. Floodplain Management Plan.
- J. Standard Drawings and Construction Specifications.

4.4.5 Building permit.

- A. *Plan Approval.* Any owner, authorized agent, or prime contractor who desires to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing, low voltage, energy conservation, or fire protection system, the installation of which is regulated by this Code, including the Georgia State Minimum Standard Codes, or to cause any such work to be done, shall first make application to the Building Division and obtain a permit for the work being done.

Exception No. 1: Permits shall not be required for the following mechanical work:

1. Any portable-heating appliances, ventilation equipment, cooling units, or evaporative coolers.
2. Any steam, hot, chilled water piping within heating and cooling equipment regulated by this Code.
3. Replacement of any part which does not alter its approval or make it unsafe.
4. Any self-contained refrigeration system containing 10 lb. or less of refrigerant and actuated by motors of one horsepower or less.

Exception No. 2:

1. Retaining walls which do not exceed 4 feet in vertical height, as measured from the low side exposed toe of the wall to the top of the wall at any point.
2. Residential storage buildings less than 100 square feet in floor area without electrical, mechanical, or plumbing systems.
3. Play or tree houses less than 50 square feet in floor area without electrical, mechanical, or plumbing systems.
4. Fences which do not exceed 10 feet in vertical height, and which do not extend into front yards or side yards which border onto public streets.
5. Basketball goals which are stand-alone and not part of a basketball court.
6. Driveways and parking areas for one- and two-family dwellings or townhouses, except that no curb cuts leading into a public right-of-way shall be made without City Engineering Department written approval on any property.
7. Roof covering replacements not involving any structure modifications.
8. Decorative water features not intended for human use containing water less than 24 inches in depth or which do not have water filtering equipment that require wastewater disposal.

Although structures listed in Exception No. 2 are exempt from requiring a permit, listed structures shall meet the requirements of all other applicable codes, ordinances, and regulations governing same.

Ordinary minor repairs under \$500.00 in total labor and materials cost may be made without a permit providing these minor repairs shall not violate any Code. Examples of minor repairs shall include but not be limited to exterior painting, installation of a window, air conditioning unit, replacement of windows, and installation of gutters.

- B. *Building Permit Expiration.* Plans and specifications for projects reviewed by the City Building and Fire Departments shall be permitted within six (6) months of the final review and approval date of such plans and specifications to be valid for obtaining a building permit or the project shall be deemed to have been abandoned.

Permits shall expire six (6) months from the date of issue if the permittee fails to request and pass a required first inspection, whether or not construction has been initiated.

Permits shall also expire if the permittee fails to request and pass a required inspection during any six (6) month period after any previous required inspection has been passed.

The Building Official is authorized to grant no more than two (2) permit extensions, not to exceed ninety (90) days each, during which time the permittee shall request and pass a required inspection. Requests for extension shall be made prior to permit expiration, shall be in writing, and shall show justifiable cause.

- C. *Procedure for Processing.* The Director shall be responsible for administering and enforcing the City building codes, as well as coordinating building plan review with the City Fire Marshall.
1. Prior to issuance of a building permit, the owner shall have received tree protection and soil erosion, and sedimentation control approval as required in this Ordinance.
 2. Application for a building permit shall be made to the Building Division. The application shall include:
 - a. Application in the form furnished by the Building Division requesting plan review for issuance of a building permit.
 - b. Land disturbance permit or recorded Final Plat.
 - c. One (1) set of the building plans (three [3] sets for non-residential projects) prepared in conformance with this Ordinance and the applicable City building codes.
 - d. Fulton County Development Services Department approval for on-site sewage disposal and pretreatment systems and, Fulton County Health Department for on-site food service.
 - e. City business license for all contractors and builders.
 - f. Payment of all building permit application and review fees.
 - g. Payment of all water and sewer permit fees.
 - h. Payment of all impact fees.
 3. All applications for building permits shall be accompanied by a site plan drawn to scale (minimum 1" = 30'), showing the actual dimensions of the lot to be built upon, the right-of-way of the existing street address, the dimensions of the building to be erected, the location of the building on the lot, the number of dwelling units the building is designed to accommodate (if for a residential structure), the building setback lines, lot and block number the location of all easements, buffers, floodplains, retaining walls and other such information as may be essential for determining whether the provisions of all City Ordinances are being observed.
 4. Residential Building Plan Requirements: Refer to the Residential Permitting Procedures.
 5. Commercial Building Plan Requirements: Refer to the Commercial Permitting Procedures.
 6. For any structure served by an on-site sewage disposal system, a permit issued by the Fulton County Development Services Department shall be required prior to the issuance of a building permit.
- D. *Plan Review.* Each project shall include a Plan Review Submittal form, as furnished by the Department. Applicants are required to supply all information requested on this form in order to have their plans logged into the City review system.

If plans are such that no comment is required, they shall be stamped "Approved as Submitted". If plans are such that only minor "red line" comment is required, they shall be stamped "Approved as Noted" by both the City Building Official and the Fire Marshall, and the designated contact will be notified that the plans are ready for permit issue. It shall be the responsibility of the owner's designated contact person to notify all parties concerned of the plan review comments and to coordinate all responses regarding resubmission of corrected plans for final plan review.

After permitting, one set of plans with the original City signature approvals shall be placed on the job site and shall remain there throughout construction for inspector's reference during scheduled inspections.

1. Industrialized Buildings, as defined in O.C.G.A. 110-2, includes such buildings as site construction offices, real estate sales offices, temporary classrooms, and other such similar structures designed for habitable use on a site, usually for a limited time period. Such buildings shall be hereinafter referred to as "portables", whether or not installed on a temporary or permanent foundation or for temporary or permanent use.
2. Tool and storage trailers that are properly and currently licensed and apportioned for over-the-road use by Georgia and other states PSC/DOT authority, are not considered as portables for applicability of site or building plans required.
3. Two (2) sets of dimensioned site plans, drawn to a legible scale, and two (2) legible copies of the portable manufacturer's approved foundation installation plan and floor plan for the portable to be installed are required to be submitted to the City Building Division for building and zoning compliance review and permit issue prior to moving any portable on site.
4. After City review, one site and foundation/floor plan set will be retained by the City for record and one set will be returned to the applicant and must be placed on site and in an accessible location for required inspections prior to use. Site plans shall be drawn to scale and shall show at least the location of the property lines, setback lines, street rights-of-way, easements, buffers existing and proposed site structures, location and size of the portable, and existing and proposed drive entrances and paved areas.
5. All portables, or tool or storage trailers, and their appurtenances shall be located as follows:
 - a. All sites—Portables shall not be located on any public or private street that may be used or openly accessed by the public.
 - b. Commercial/Industrial Sites—Portables or trailers located on commercial or industrial sites shall be located behind setback lines and within buildable areas, outside buffers or easements, and at least twenty feet (20') behind any right of way.
 - c. Residential Site Construction Offices—Portables located on residential lots and used for construction offices or storage of construction materials shall maintain a minimum ten-foot (10') setback from property lines, except on corner lots where a minimum twenty foot (20') setback shall be maintained, and shall be located outside any buffer or easement, and at least twenty feet (20') behind any right of way line at road intersections.
 - d. Residential Site Sales Offices—Portables located on residential lots and used for real estate sales offices or other approved uses not directly related to construction shall be located within building setback lines and within buildable areas, outside buffers or easements, and at least twenty feet (20') within any right of way line at road intersections.
6. Temporary installation foundation plans shall show the location and size of the support piers and the location and required restraint ratings of the tie-downs.

Portables installed on permanent foundations shall have a site-specific foundation plan designed for a portable and sealed by a Georgia registered architect or engineer. The manufacturer's drawings and specifications are acceptable provided that the necessary information is included.

- E. *Contractor Licenses.* It shall be the duty of every individual or firm doing electrical, gas, mechanical, plumbing, low voltage, utility or fire protection work either as prime, contractor, or subcontractor under

contract with a prime contractor, builder, or other contractor, or land or homeowner to have a proper City issued subcontractor permit for such work prior to commencing work.

All prime contractors, builders, or other contractors shall furnish written proof of his business license registration including number, expiration date, business street address, name of the owner or responsible party, and a business telephone contact number. Business license registration numbers shall be affixed to the building permit application by the applicant.

The subcontractor shall provide proof of a current business license registration. A current Georgia contractor's license, as issued by the Georgia State Construction Industry Licensing Board, for his respective trade. Both license numbers shall be affixed to the subcontractor permit application by the applicant.

All work performed by a land or homeowner, or his hired workmen shall meet the provisions of this Code.

A homeowner, when building or performing work for his/her own personal one- and two-family dwelling will not be required to have a business license in order to obtain a City building permit.

F. *Requirements not Covered by Code.* Any requirement necessary for the strength, stability, fire protection, or proper operation of an existing or proposed building, structure, or electrical, gas, mechanical, plumbing, energy conservation, or fire protection system, or for property protection, or life safety, health, or welfare, not specifically covered by this Code shall be determined by the Building Official and the Fire Marshall.

G. *Temporary Toilet Facilities.*

1. Construction sites within the City shall be provided with temporary nonsewered toilet facilities for worker use during construction and shall remain in place until permanent access to toilets is provided onsite.
2. For residential 'For-Sale' dwellings, construction sites, one (1) nonsewered toilet shall be provided for up to four (4) work sites, provided all work sites being served are within two hundred feet (200') walking distance of the unit.
3. For commercial sites, and 'For-Rent' dwellings sites, the developer or prime contractor must obtain a Non-Sewered Toilet System (NSTS) permit from the Fulton County Health Department stipulating the minimum number of units required on the project.
4. Inspections will not be made without the required temporary nonsewered or permanent toilets being in place, as required.
5. The developer or prime contractor of a permitted construction site shall be responsible for providing and maintaining required temporary toilet facilities throughout the duration of construction.

H. *Structural Fill and Backfill.*

1. Materials used for structural fill under and directly adjacent to buildings, drives, and walks and for backfill behind foundation and retaining walls shall be unfrozen unsaturated natural soils, clean and free of organic matter, silt, large rocks or stones, or foreign matter and debris. Material used may be coarse gravel, crushed natural stone, or sand free of silt, loam, or soluble materials, or any combination of the above.
2. Structural fills and backfills shall not be placed on subgrades that contain frost, mud, or are frozen.
3. In lieu of specific written direction and supervision by a Georgia licensed architect or engineer, fills shall be placed and compacted in loose layers of 6"—12" thickness and shall be compacted using sheepsfoot

rollers, pneumatic tire rollers, tamper rollers, vibrating tampers, or other compaction equipment suitable to obtain the required density throughout the entire layer being compacted.

4. Fills and backfills shall be installed systemically and as early as possible to allow for natural settlement and shall not place over wet, spongy, or porous subgrade materials.
5. Backfill shall be placed against supported foundation walls or backfill shall be placed simultaneously on each side of unsupported walls, until supports are in place.
6. The top or bottom of any cut or fill slope in excess of one-foot vertical rise or fall to three foot of horizontal run (1:3) shall not be located any closer than two feet (2') horizontal measure from the edge of drives, walks, paved areas, or retaining walls top or toe of wall.
7. The two-foot (2') area adjacent to drives, walks, paved areas, tops or toes of retaining walls shall be graded at a (+/-) 2% slope (1/4"/ft.) and where feasible shall slope away from paved surfaces and walls.

I. *Site Retaining Walls.*

1. Site retaining walls, whether attached or detached from buildings or not, which are over four feet (4') in height at any point along the wall, as measured from the exposed low side toe of the wall to the top of the wall, shall be constructed to City Standard Drawings, City approved Manufactured Systems Drawings, or must be professionally engineered by a Georgia licensed architect or engineer.
2. Retaining walls shall also show planned top of wall heights, as measured above, plus reasonable points of top of wall elevation changes.

J. *Site Wall Safety Barriers.*

1. Any portions of site retaining walls over six feet (6') in height must be provided with a continuous safety barrier mounted at or immediately adjacent to the top of the wall at reasonably accessible areas.
2. Safety barriers shall be of substantial construction for the intended prevention of access, must be at least three feet (3') in height, as measured from grade at the base of the barrier to the top of the barrier; and may be man-made or vegetative in nature.
3. When vegetative barriers are used, they shall be of substantial maturity and density, at the time of Final Building Inspection, to prevent reasonable access to the top of the wall.
4. Site retaining wall construction and safety barrier plan submittals shall include dimensioned drawings, with sufficient clarity, detail, and written explanatory notes to describe the nature of work to be done.

K. *Recreational Fire Pits.*

1. Definition. A pit dug and/or constructed into or on the ground in which a contained outdoor fire is made.
2. Fire pits shall have a diameter of no greater than three feet (3') or a burn area of no greater than seven (7) square feet. Fire pits must be at least 25' from all structures and 25' from property lines.

L. *Standards for Approval.*

1. Building permits shall only be issued on buildable lots of record, as defined in this Ordinance.
2. City Building Codes:
 - a. The Code of The City of Alpharetta, Georgia.

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- b. ~~1994 Standard Building Code~~—Chapter 1 for Administration of Building and Technical Codes per Georgia State Minimum Codes.
 - c. Georgia State Minimum Standard Building Code.
 - d. Georgia State Minimum Standard One and Two-Family Dwelling Code.
 - e. Georgia State Minimum Standard Electrical Code.
 - f. Georgia State Minimum Standard Plumbing Code.
 - g. Georgia State Minimum Standard Mechanical Code.
 - h. Georgia State Minimum Standard Gas Code.
 - i. Life Safety Code, NFPA 101, latest adopted issue.
 - j. Georgia State Minimum Standard Fire Prevention Code.
 - k. Georgia State Energy Code for Buildings.
 - l. Georgia State Accessibility Code and O.C.G.A. 30-3.
 - m. Georgia State Minimum Standard Swimming Pool Code.
 - n. Standard Existing Building Code.
 - o. Standard Unsafe Building Abatement Code.
 - p. Standard Amusement Device Code.

(Ord. No. 720, § 5, 2-22-2016; Ord. No. 769, § 3, 11-12-2018)

4.4.6 Inspections and development activity completion.

- A. *Development Activity.* Following the issuance of the Soil and Erosion and Sedimentation Control Permit.
 - 1. Required erosion and sedimentation control measures must be installed where practical by the owner and inspected and approved by the City Engineer. Areas required to be undisturbed by this Ordinance, conditions of zoning approval, or other ordinance or regulation shall be designated by an active tree protection fence or other appropriate markings and shall be inspected and approved by the City Engineer prior to the commencement of any clearing or grading activities. Additional sediment control measures will be installed if measures shown on plans do not provide sufficient erosion and sediment control.
- B. *Development Activity Inspections.* Requests for inspection shall be made by the owner's representative to the City Engineer at least 24 hours prior to commencement of development activity for each of the following phases as authorized by the land disturbance permit. Inspections shall be made and passed prior to continuation of further activity or proceeding into new phases. The phase inspections are as follows:
 - 1. Erosion Control—Installation of erosion and sediment control and tree protection devices.
 - 2. Clearing and Grading—Installation of slope stakes shall be required. Upon completion of street grading, inspection, and approval shall be required prior to trenching or continuation with subgrade preparation.

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3. Installation of storm drainage pipe, detention, or other storm water facilities.
 4. Installation of on-site sewerage system or sanitary sewer and appurtenances. This notification shall be made simultaneously with official notification by the developer or contractor to the Fulton County Public Works Department and/or Fulton County Health Department, and, if for informational purposes only, to the City Engineer.
 5. Street Curbing and Gutter—Inspection should be requested before and after the forms or string-line have been set. Street width and vertical and horizontal alignment will be spot-checked.
 6. Sub-Base or Sub-Grade of Streets—After compaction, the sub-grade will be string-lined for depth and crown. The sub-grade shall be roll tested and shall pass, with no movement, to the satisfaction of the City Engineer.
 7. Street Base—The base will be string-lined for depth and crown and shall pass a roll test with no movement to the satisfaction of the City Engineer.
 8. Paving—The City Engineer shall be on site during the paving process to check consistency, depth, and workmanship, as applicable. For asphalt paving, the temperature of the material will be monitored, and the street will be cored after completion to check thickness.
- C. *Building Inspections.* Inspections shall be scheduled with the Building Inspection Division. Requests for inspection shall include the street address, building permit number, and type of inspection. The building permit must be displayed on site and legible from the public street at all times.
1. *Posting of Permit.* Work requiring a permit shall not be started until the permittee or his agent, posts the building permit yard card in a conspicuous place at the front of the site where the permitted work is to be done. Cards shall be accessible and readable from the public right-of-way and located in such a position so as to permit City and other governing agency officials to conveniently view and make any required entries thereon.

The permit holder is responsible for maintaining the permit yard card and all damaged, lost, or stolen permit yard cards must be replaced by the permittee before further inspections may be made.

Permit yard cards shall be maintained in position until all required final inspections have been approved and signed off on the yard card and the building, structure or system is ready for occupancy and use.
 2. *Site Inspection Preparation.* No Inspections will be made by City building or fire inspectors on any construction site not having an accessible building permit yard card displayed and "effective" soil erosion control measures in place, per City Engineering Department requirements.

Site silt fences, gravel construction entrances, and other City Engineering Department required erosion control measures shall be constantly maintained in good condition that effectively contains all site erosion within the site limits and out of waterways, streets and paved walkways.

Required inspections will not be performed when the site is in need of erosion control repair and violates City soils erosion control laws. Inspectors will leave a Notice of Violation on the permit yard card for the permittee to contact the City Engineering Department for their inspection and direction for repair.

It is the responsibility of the permittee to obtain written erosion control violation release from the City Engineering Department. No further building inspections will be performed on the site without this written release.
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3. *Inspections Not Required.* The City does not normally provide inspection of certain residential construction applications, such as foundation walls with less than eight feet (8') of unbalanced fill, damp-proofing, foundation wall draitile, backfill, exterior wall insulation, and roof covering.

Builders are charged by building code law and the conditions of permit with a responsibility of installing these components to code compliance.

If code violations are detected in any application not normally inspected by City officials or other governing authorities, the permittee shall immediately correct the violations noted and all corrections shall be inspected and approved by City building, fire, or other authorized inspectors prior to proceeding with any other construction.

No waiver letters, statements from builders, owners, architects, or professional engineers, nor "hold harmless" agreements or other similar warrants or releases shall be accepted by the City in lieu of required code violation corrections and full code compliance.

No further inspections will be made, nor shall any Certificate of Occupancy be issued for any work until any noted code violations are corrected and found to be in codes compliance by City officials.

4. *Required Building Inspections.* The Building Official, upon notification from the permittee, shall make the following building inspections and such other inspections as necessary to ascertain codes compliance and shall either release that portion of the construction found to be in compliance by signature at the appropriate section on the permit yard card or shall notify the permittee of any violations which must be corrected in order to comply with this Code, by issuing a Notice of Violation to the permittee.

- a. **FOOTING:** To be made after trenches are excavated and cleaned; forms erected and supported; required reinforcing is properly secured in place and supported; and before any concrete is placed.
- b. **SLAB-PREP:** To be made after footings have been placed (if applicable); underground Mechanical, Electrical, and Plumbing (MEP) systems have been City inspected, approved, and properly backfilled; under-pin areas are excavated and clean; forms are erected and supported; required reinforcing is in place and supported; rock base is in place at below grade slabs; vapor barrier is in place; and before any concrete is placed.
- c. **FOUNDATION (When required):** To be made after required wall reinforcement is in place and at least one side of concrete retaining wall forms are secured in place, wall cavities are cleaned, and second side forms are ready to be placed, or placed and safe access to form tops for inspection is provided, plan listed weep holes and piping sleeves are in place, and before any concrete is placed.

In the case of masonry walls—Block is erected and required wall reinforcing is in place and safe access is provided to wall top for cavity inspection, plan listed weep holes and piping sleeves are in place, and prior to any wall cavity grouting or fill.

In the case of wood foundation or other wood site walls—Timbers are in place and properly spiked together, tee style or other professionally designed style dead heads are in place and properly spiked together, weep holes and filtration cloth is in place, and before backfill is placed.

At all commercial or industrial sites or at a one- or two-family residential site builder's request, a second inspection of the building foundation walls, by City inspectors shall be required to verify proper placement of wall water proofing measures.

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- d. **WALL/CEILING COVER (Commercial Only):** To be made after the roof or other effective overhead weather seal is complete; all framing, bracing, fire and draft stops and blocking are effectively in place; exterior walls and gabled ends are sheathed and doors and windows are installed to effectively weather protect the structure interior; mechanical, electrical, and plumbing rough-ins at the area to be inspected are complete and under required tests; fabricated fireplaces or other fuel burning appliances are installed with flues and vents stubbed clear to the next level or area to be inspected or through the roof and weather capped; and before any wall or ceiling cover has been placed, except that walls may be one side covered so as to not restrict safe and readily accessible full wall cavity view for inspection.
 - e. **FRAMING (Residential Only):** To be made after roof is complete; all framing, bracing, fire stops and blocking are effectively in place; exterior walls and gabled ends are sheathed and doors and windows are installed to effectively weather protect a structure interior; mechanical, electrical, and plumbing rough-ins are complete and under required tests; pre-fabricated fireplace or other fuel burning appliances are installed with chimneys, flues, and vents through the roof and weather capped; or dedicated masonry fireplace openings are structurally independent and temporarily provide weather protection to interior spaces until masonry is completed; and before any insulation or wall or ceiling cover has been placed.
 - f. **GEORGIA ENERGY CODE (GEC) COMPLIANCE:** To be made at various stages of construction, by direct reference to the GEC Compliance Report submitted at initial permit issue, as follows:
 - (1) **Residential Construction**—Exterior wall cavity insulation and sloped, vaulted, or flat ceiling or floor closed cavity insulation may be inspected after the Framing inspection and before any wall or ceiling cover is placed at these concealed areas. Exposed and visible insulation at attics, accessible concealed spaces, unheated crawl spaces, and basements will be inspected as part of the Final building inspection.
 - (2) **All Other Construction**—Interior and exterior wall and ceiling insulation, as listed on the building plans, may be inspected as part of the Wall/Ceiling Cover inspection provided that all wall or ceiling structural and MEP components may be viewed and properly inspected and verified from either or both sides of the wall or ceiling assembly, in the opinion of the inspector. If wall or ceiling construction cannot be properly inspected with the plan required insulation in place during the Wall/Ceiling Cover inspection, a separate insulation inspection shall be performed prior to covering these areas. Exposed and visible insulation at attics, accessible concealed spaces, unheated crawl spaces, and basements will be inspected as part of the Final building inspection. General Energy Code Compliance Certificates and must be on file at the City Building Department, prior to issue of a Certificate of Occupancy.
 - g. **BUILDING FINAL:** To be made after a building or structure is complete and ready for safe occupancy and use. Building, mechanical, electrical, and plumbing finals shall be made at the same time. Prior to requesting a building final inspection, a permittee shall assure that all inspections and written approvals required prior to final inspections are signed off on the permit yard card.

All site work, walks, drives, paved areas, striping, handicap access routes, signage, landscaping, and other appurtenances or protectants listed on the plans for commercial work or as required by this Code or other laws for residential work, are completed, final inspected, and signed off on the permit yard card by the various other governing authorities listed and checked on the permit yard card and as required by State or County regulations.

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5. *Mechanical, General.* The Building Official, upon notification from the permittee, shall make the following mechanical systems inspections and such other inspections as necessary and shall either release that portion of the construction by signature at the appropriate section on the permit yard card, or shall notify the permit holder, of any violations which must be corrected in order to comply with this Code, by issuing a Notice of Violation to the permittee.
- a. SLAB PREP: To be made after trenches or ditches are excavated, underground ducting, conduits and sleeves are installed and ready for test and before any backfill is put in place.
 - b. WALL/CEILING COVER (Commercial Only): To be made with the wall/ceiling cover building inspection and after all mechanical equipment, ducting, duct insulation, piping, piping insulation, fire stops and fire dampers are installed, control wiring, or other concealed mechanical system components in the area to be inspected are in place, complete, supported properly, required pressure tests are applied, flues and vents are stubbed clear to the next level or area to be inspected or through the roof and weather capped; and before any wall/ceiling covers are installed.

Large or multiple floor buildings over 15,000 sq. ft. in total area may be inspected in stages and partially approved for the continuation of construction at the Building Official's discretion.
 - c. ROUGH-IN (Residential Only): To be made with the framing inspection and after all mechanical equipment, ducting, duct insulation, piping, piping insulation, fire stops, control wiring, or other concealed mechanical system components are in place, completed, supported properly, required pressure tests are applied, and flues and vents are stubbed through the roof and weather capped; and before any wall or ceiling covers are installed.
 - d. GAS LINE: (To be made at various stages of construction, as follows)
 - (1) Residential, Rough Piping Inspection: To be made with the framing inspection and shall include all system piping from the point of delivery (gas meter) to within six feet (6') of and in the same room as all outlets or appliances that may be connected. A gas piping pressure test is required for this inspection.
 - (2) Commercial, Rough Piping Inspection: To be made with the wall/ceiling cover inspection and shall include all system piping from the point of delivery (gas meter) to within six feet (6') of and in the same room as all outlets or appliances that may be connected in the area to be inspected and shall include piping run stub outs to the next area to be inspected. A gas piping pressure test is required for this inspection.
 - e. METERS: To be made after rough piping inspection and before the final inspection; when all mechanical equipment and other gas fired appliances and equipment and controls are in place and ready for safe test operation; venting, vent connectors, and flues are installed into final position and supported; piping runs are complete to the final appliance connector or union connection at the appliance or equipment; all gas shut off valves are in place and in the "off" or closed position, with appliances or equipment disconnected; and the gas piping system is ready for public utility connection and testing. A gas piping pressure test is required for this inspection. The sole purpose of this Meters inspection is to allow the installer to check installed mechanical systems and equipment for proper and safe operation, prior to Final inspection. Public utility connection shall not be made to the permitted work until this inspection has been approved.
 - f. FINAL: To be made with the building final inspection and after public utilities have been connected and all conditioned air systems and gas fired appliances are in full operation; all controls, compressors, condensate drains, insulation, ties and supports, and other system

designed components are in place and final connected, all final trim and required labeling is in place, filters or other air purifying components are cleaned and in place, and all systems have been tested and balanced and the installation is ready for its intended use.

6. *Electrical, General.* The Building Official, upon notification from the permittee, shall make the following electrical systems inspections and such other inspections as necessary and shall either release that portion of the construction by signature at the appropriate section on the permit yard card, or shall notify the permit holder, of any violations which must be corrected in order to comply with this Code, by issuing a Notice of Violation to the permittee.

- a. TEMPORARY POLE: To be made after a minimum 4 × 4 size temporary electrical power pole has been set into the ground with a minimum two feet (2') buried and the pole firmly supported.

An eight foot (8') minimum length grounding electrode (rod) is required to be installed, with an unspliced grounding electrode conductor connected and sized per Code requirements, and a listed weather-proof enclosure shall be connected and firmly attached to the pole.

The City requires at least one (1) 115V/20A weather-proof duplex service outlet with GFCI protection and at least one (1) 230V/20A service outlet to be installed at the pole.

At least one (1) temporary power pole shall be installed at each permitted construction site for use during construction, unless approved by the Building Official. No temporary power shall be used for more than one permitted site.

- b. SLAB PREP: To be made after trenches or ditches are excavated, underground conduits, sleeves, or other devices are installed and before any backfill is put in place.
- c. WALL/CEILING COVER (Commercial Only): To be made with the wall/ceiling cover building inspection of the area to be inspected and after all services and branch circuit distribution wiring that service the area to be inspected is in place, boxes are secured, required conduit serving the area to be inspected and conduit passing through that area to other areas to be inspected at a later date is in place and fastened properly, wiring is protected from physical damage, panel boards and switching gear servicing the area are set and secured to the structure with service and distribution wiring stubbed into their approved enclosures, disconnects are in place and secured, bonding and grounding rough wiring is stubbed out near its termination point, and before any wall or ceiling cover is installed.

Large or multiple floor buildings over 15,000 sq. ft. in total area may be inspected in stages and partially approved for the continuation of construction at the Building Official's discretion.

- d. ROUGH-IN (Residential Only): To be made with the building framing rough-in inspection and after all service cable, branch circuit distribution wiring, and low voltage wiring to be concealed is in place and stubbed into panel boxes set and secured to the structure; outlet, junction, and fixture boxes are in place and secured; required conduit is in place and fastened properly; wiring is protected from physical damage; and before any wall or ceiling cover is installed.

In situations where a dwelling unit's exterior siding or finish veneer has not been installed, cables, feeders, and fixture wiring to be concealed shall be stubbed close or into exterior wall cavities closest to the point of final connection and coiled into place. Wall or ceiling cavities containing stubbed cables or wiring shall not be covered until inspection of terminal runs has been approved.

- e. METERS: To be made after framing and all wall and ceiling coverings are in place and before final inspection; when all electrical service and control equipment is set, wired, fused, bonded and

grounded, required disconnects are connected, all outlet devices and switch controls are connected, lighting fixtures, appliances, and equipment are set or boxed out and ready for safe operation, and the electrical system is ready for connection to public utilities.

The sole purpose of this Meters inspection is to allow the installer to check out all installed electrical systems and equipment for proper and safe operation, per its listing. Public utility connection shall not be made to permit work until this inspection has been approved.

- f. **LOW VOLTAGE:** To be made with the wall/ceiling cover or rough-in inspection, as applicable to type of construction, where low voltage wiring systems are to be concealed; or with the meters inspection, where low voltage wiring systems are to be surface mounted.

Where concealed, inspection shall include review of distribution wiring/cable types and rating, boxes and connections, wiring protection from physical damage, grounding and bonding, disconnects, control panel cabinets or enclosures, and other system components.

Where surface mounted, inspection shall include review of raceway types and mounting, wire fills to manufacturer's specifications, connection points (must be open to view, except that plug-in types shall be connected), grounding and bonding, disconnects, outlets and plugs, control panel cabinets or enclosures, and other system components.

- g. **POOL BOND:** To be made when all metallic parts of a pool structure, including the metal reinforcing of the pool shell and decking; forming shells and mounting brackets of no-niche fixtures; metal fittings within or attached to a pool structure; metal parts of pool equipment to include pumps, motors, covers, and other features; cables, raceways, and piping within five feet of the inside edge of the pool or within twelve feet above the pool maximum water level; are connected together with approved pressure connectors into a common bonding grid with a minimum #8 solid copper conductor, bare or insulated, and the system is ready to be concealed. Dependent upon site conditions, this inspection may have to be done in several separate trips to be completed and shall be at the inspector's discretion.

- h. **IRRIGATION:** To be made when all irrigation system wiring and conduit is in place; control panels, transformers, and their enclosures are mounted; junction boxes and splice points are open to view, high voltage power wiring is in place and GFCI protected, and the system is ready for safe operation.

GFCI protection for irrigation system wiring and controls is mandatory and may be provided by direct plug and cord connection from the transformer primary to a GFCI protected wall outlet or hard wired from the primary to a disconnect that is protected by a GFCI breaker located at the electrical panel.

- i. **FINAL:** To be made with the building final inspection, after all public utilities have been connected and all installed electrical systems are in full operation; all equipment, motors, appliances, fixtures, controls, guards, and other related systems have been labeled, tested, and balanced and the completed electrical installation is ready for its intended use.

7. **Plumbing, General.** The Building Official, upon notification from the permittee, shall make the following plumbing systems inspections and such other inspections as necessary and shall either release that portion of the construction by signature at the appropriate section on the permit yard card, or shall notify the permit holder, of any violations which must be corrected in order to comply with this Code, by issuing a Notice of Violation to the permittee.

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- a. SLAB PREP: To be made after trenches or ditches are excavated and all under slab drainage and water service and distribution piping and sleeves and protectants are installed and under required tests and before any backfill is placed.
 - b. SEWER TAP: To be made any time during construction, but before requesting final building inspection. This inspection is an open trench inspection of the exterior sewer piping from the building or structure foundation edge, to and including connection to the public or site sewer. Sewer piping shall be inspected for proper bedding, fall, materials, fittings, cleanout positions, and connection to the public or site sewer.
 - c. WALL/CEILING COVER (Commercial Only): To be made with the building wall/ceiling cover inspection and after all drainage, waste, vent, and water service and distribution piping is in place at the area to be inspected and stub outs are installed to the next area to be inspected, all piping and fixture roughs are properly fastened into place and protected from physical damage. All concealed fixture connections shall be made, rated assemblies installed, and fire safe, concealed piping insulation installed, rough trim boxes, enclosures, access panels or vaults are secured in place, boots and flashings are installed, required pressure tests are applied, and before any wall or ceiling cover is installed.
 - d. ROUGH-IN (Residential Only): To be made with the framing rough-in inspection and after all drainage, waste, vent, and water service and distribution piping is in place and fastened and protected against physical damage. All concealed fixture connections shall be made, concealed piping insulation installed, rough trim boxes, enclosures, access panels/vaults secured in place, boots and flashings installed, required air or water pressure tests are applied and ready for inspection, and before any wall or ceiling cover is installed.
 - e. BACK FLOW: To be made prior to or with the final building inspection and shall include inspection of all water and irrigation systems requiring backflow prevention measures.
 - f. FINAL: To be made with the building final inspection, after all public utilities have been connected and all plumbing fixtures are properly set, trapped and connected to the drainage system, properly valved, protected against back siphonage, and connected to the potable water system. All water heating and other plumbing devices and appliances must be connected, valved, vented, pressure protected, secured in place, insulated and sealed, cleaned and tested for proper operation, and the completed plumbing system installation is ready for its intended safe use.
- D. *Responsibility for Quality and Design.* The completion of inspections by the City and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the owner, nor imply or transfer acceptance of responsibility for project design or engineering from the professional corporation or individual under whose hand or supervision the plans were prepared.
- 1. Stop Work Orders: Work which is not authorized by an approved permit, or which is not in conformance to the approved plans for the development activity project, or which is not in compliance with the provisions of this Ordinance or any other adopted code, regulation, or ordinance of the City, shall be subject to immediate stop work order by the Director, Building Official or City Engineer.
- E. *Tree Removal Compliance Inspection.*
- 1. Following the issuance of a land disturbance permit for the development activity, the Arborist shall, from time-to-time, inspect the property for the purpose of certifying compliance with the requirements of the permit. In the event of non-compliance, the Arborist shall issue a stop work order. No Certificate of Occupancy shall be issued until actual compliance is obtained.

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2. If any required tree removal conditions have not been met within the time specified in the permit and provided the Director has not granted a written extension, the City may use the cash or bond proceeds to ensure that these conditions are met.
 3. After development activity is concluded, the Arborist shall continue to make random inspections to insure that required trees are maintained. Replacement shall be required, or bond/letter of credit posted within thirty (30) days of notice by the Arborist should any of these trees die, be removed, or be destroyed within two (2) years after completion of development.

F. *Floodplain.*

1. Properties containing or adjacent to the established Areas of Special Flood Hazard and Areas of Future-conditions Flood Hazard shall provide an elevation certificate or floodproofing certification using the FEMA floodproofing certificate along with the design and operation/maintenance plan to the Building Official after the lowest floor is completed, after placement of the horizontal structural members of the lowest floor upon placement of the lowest floor, or floodproofing by whatever construction means, whichever is applicable in accordance with Article III Section 3.4.5.B
2. Said certification shall be prepared by or under the direct supervision of a licensed land surveyor or professional engineer and certified by same in accordance with Article III Section 3.4.5.B. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. The Director shall review the floor elevation survey data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being permitted to proceed. Failure to submit the survey or failure to make said corrections required hereby shall be cause to issue a stop-work order for the project.

G. *As-Built Drawings.* Upon completion of the development activity as authorized by the land disturbance permit and prior to final inspection of public and private improvements, the owner shall submit to the City Engineer for review and approval a complete set of record drawings showing "as-built" conditions prepared by land surveyor registered in the State of Georgia. These drawings shall show actual location, true vertical and horizontal alignment, and finished elevations of:

1. Drainage System.
2. Detention Volume Certification.
3. Sanitary Sewer System (approved by Fulton County if served by Fulton County).
4. Public Water System (approved by Fulton County if served by Fulton County).

H. *Final Subdivision Plat.*

1. Process for Approval—Prior to the application for final subdivision plat approval; all storm water drainage and detention facilities, water and sewer utilities, street base, sidewalks, and curbing construction required for approval of the Final Subdivision Plat shall have been properly installed and completed in accordance with this Ordinance.

The Community Development Department shall be responsible for the coordination and approval of all final subdivision plats.

- a. Application for a final subdivision plat approval shall be made to the Community Development Department. The application shall include:

- (1) Application in the form furnished by the Community Development Department requesting final subdivision plat review.

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- (2) Two (2) copies of final subdivision plat prepared in conformance with the specifications in this Ordinance.
 - (3) One copy of as-built drawings pursuant to the requirements of this Ordinance, sealed by a land surveyor registered in the State of Georgia, for projects served by City water supply.
 - (4) Payment of all final subdivision plat application and review fees.
- b. Ten (10) days following the application deadline, the Community Development Department shall indicate in a written memorandum all comments related to compliance with this Ordinance and conditions of zoning approval.
 - c. The owner shall be responsible for all of the plan review comments prior to the resubmission of the revised final subdivision plat. All revisions to previous submittals shall be noted in the revision block and dated.
 - d. Proof of payment for streetlights shall be provided to the City Engineer, prior to his approval of the final subdivision plat. At a minimum, this proof shall be in the form of a letter from the approved utility provider.
 - e. Payment for materials and installation of traffic control devices shall be made to the City Engineer in accordance with the traffic engineering requirements in this Ordinance. Payment of the cost of street striping or required signalization, if required and not completed by the owner, shall also be received by the City Engineer prior to approval of the final subdivision plat.
 - f. Provide one set water and sewer as built with proof of approval by Fulton County Development Services Department, prior to approval by the Public Works Department.
 - g. The Community Development Department shall not sign the final subdivision plat until all requirements of this Ordinance and other applicable regulations have been met. The final subdivision plat shall be accompanied by a bond, letter of credit, or other acceptable surety providing for the maintenance of all installations and improvement required by this Ordinance in the subdivision for a period of twelve (12) months following the date of final approval of the public improvements. The maintenance period may be extended by the Director at the request of the owner, provided it is in the best interest of the City.
 - h. Once the Director has approved the final subdivision plat and all other affected departments and agencies of government as required have certified compliance, the Community Development Department shall certify by signature on the original of the final subdivision plat that all of the requirements of this Ordinance, and the conditions of zoning approval have been met, and that all other affected departments have approved the plat. The final subdivision plat shall not be deemed approved until the CERTIFICATE OF FINAL PLAT APPROVAL has been signed by the Community Development Department, City Engineer and the Fulton County Health Department.
 - i. The owner shall be responsible for recording the approved final plat at Fulton County; and shall provide to the Community Development Department a reproducible Mylar copy showing the stamp of the Fulton County Court Clerk, and two (2) full size copies.
- (1) Standards for Approval—The Final Subdivision Plat shall be clear and legible at a minimum scale of 100 feet to the inch. The Director may approve other scales as appropriate. The maximum sheet size shall not exceed 42" × 30". The maximum size acceptable for recording is 17" × 22", or as required by the Fulton County Superior Court Clerk. If the complete plat cannot be shown on one sheet, then said final subdivision plat shall be shown on several sheets with an index map indicated on each sheet. The minimum sheet

size shall not be less than 17" × 22". All letters, numbers and other information shall be legible on the recorded copy. There shall be sufficient space available for the certificates as required. Graphic standards shall comply with the Georgia Plat Act.

The final subdivision plat shall conform substantially to the preliminary subdivision plat, and it shall constitute only that portion of the approved preliminary subdivision plat which the owner proposes to record and develop at any one time, provided that such portion conforms to the requirements of this Ordinance. Any substantial deviation from the Preliminary Plat shall require revision and approval of the Preliminary Plat.

The final subdivision plat shall contain the following information:

- (a) Name of the subdivision, unit number and street names.
- (b) Name, address, and phone number of owner of record.
- (c) Name, address and phone number of each professional firm associated with a portion of the final plat (engineers, surveyors, etc.).
- (d) Site acreage.
- (e) Site zoning, case numbers, zoning conditions and date of approval for any applicable rezoning, master plan, variance, or special use permit affecting this site.
- (f) Date the final subdivision plat drawing, graphic scale, north point, notation as to the reference or bearings to magnetic, true north, or grid north, and indication whether bearings shown are calculated from angles turned.
- (g) Land District, Land Section, and Land Lot.
- (h) Name of the former subdivision, if any, or all the entire final subdivision plat if it has been previously subdivided.
- (i) Location map.
- (j) Courses and distances to the nearest Fulton County GIS monument.
- (k) Boundary lines of the property, to be indicated by a heavy line, giving distances to the nearest one hundredth (1/100) foot and bearing to the nearest second, which shall be balanced and closed with an error of closure not to exceed one (1) to ten thousand (10,000). The error of closure shall be stated.
- (l) City and Fulton County political boundary lines accurately tied to the lines of the property by distance and angles when such lines traverse the subdivision.
- (m) Locations, widths, and names of all streets and alleys within and immediately adjoining the final subdivision plat, address numbers, the location and widths of all public crosswalks, sidewalks, greenway trails and other public rights of way.
- (n) Street centerlines showing angles of deflection and standard curve data, radii, length of tangents and arcs, and degree of curvature with basis of curve data.
- (o) Lot lines with dimensions to the nearest one-tenth (1/10) foot and bearing to the nearest second radii of rounded corners, as necessary to describe each lot.

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- (p) Front and rear setback lines with dimensions.
 - (q) Location of all buffers, landscape strips, greenway easements, and no access easements, etc., are required by this Ordinance.
 - (r) When lots are located on a curve or when side lot lines are at angles other than ninety (90) degrees, the lot width at the building line shall be shown.
 - (s) Lots or sites numbered in numerical order and blocks lettered alphabetically.
 - (t) Location and size of all drainage structures, location, dimension and purpose of any easements, including slope easements, if required, public and private service utility right-of-way lines, fire hydrants and water mains.
 - (u) Any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any lands to be reserved by deed covenant for common uses of all property owners. Include statement that all common areas are to be maintained by the homeowners.
 - (v) Statement "The City of Alpharetta does not enforce restrictive covenants."
 - (w) Certificates and statements are shown below, as follows.
 - (x) A statement that the private covenants are to be recorded separately and the following statement provided: "This final subdivision plat is subject to the covenants set forth in the separate document(s) attached hereto, dated _____, which hereby becomes a part of this final subdivision plat," recorded and signed by the owner.
 - (y) Accurate location, material, and description of monuments and markers. Monuments to be placed prior to approval of the Final Plat.
 - (z) Extent of the Areas of Special Flood Hazard and Areas of Future-conditions Flood Hazard and a flood plain chart showing the area within and outside the floodplain and a minimum allowable lowest finished floor elevation for a/each lot containing or adjacent to any portion of the Area of Special Flood Hazard and Area of Future-conditions Flood Hazard.
 - (aa) The information required by the current Georgia Recording of Maps, Plats, etc., by Clerks of Superior Court Act must be shown.
 - (bb) All other applicable notes and notations as may be required by the Director.
- (2) Certificate of Final Subdivision Plat Approval—Each final subdivision plat shall carry the following certificates printed or stamped on the plat.
- (a) Approval from the Fulton County Health Department.
 - (b) Surveyor's Certificate.

It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown thereon actually exist or are marked as "future" and will be placed during construction of the improvements shown on this plat; and their location, size, type, and material are correctly shown.

By: _____

Registered Georgia Land Surveyor Survey No. _____

Date: _____

(c) Owner's Certificate of Dedication and Acknowledgement:

(STATE OF GEORGIA)

(COUNTY OF FULTON)

The owner of record of the land shown on this plat and whose name is subscribed thereto, in person, or through a duly authorized agent, hereby acknowledges that this final subdivision plat was made from an actual survey, dedicates to the City of Alpharetta the complete ownership, and use of all streets (_____ acres), public water facilities, storm drains, easements (_____ acres), greenway easements (_____ acres), and other public facilities and appurtenances thereon shown (_____ acres).

Subdivider: _____

Date: _____

Owner: _____

Date: _____

(d) Certificate of Final Subdivision Plat Approval.

The Community Development Department of the City of Alpharetta, Georgia, certifies that this plat complies with all requirements of the Alpharetta Unified Development Regulations including the City of Alpharetta Zoning requirements.

Community Development Department

Engineering Department

I. *Final Development Activity Inspection and Approval.*

1. *Final Inspection by the City Engineer.*

- a. A final development inspection may be requested when all site work and/or public improvements have been accomplished according to the terms of the approved site construction drawings and with this Ordinance, codes, and regulations.
- b. As-built drawings shall be approved, in accordance with the requirements of this Ordinance, prior to the performance of a final development inspection.
- c. The owner shall be responsible for correcting any deficiencies identified in the final development inspection prior to issuance of a letter of Final Development Inspection Approval.

2. *Maintenance Bond and Landscape Maintenance Bond.*

- a. Following issuance of Final Development Inspection Approval and prior to approval of the final subdivision plat or issuance of a certificate of occupancy, a maintenance bond and a landscape maintenance bond in a form acceptable to the Director is required. For the Maintenance Bond,

the owner shall be responsible for maintenance/public improvements for one (1) year from the date of Final Development Inspection Approval, or longer if requested by the City Engineer. A performance bond may be required if deemed necessary by the City Engineer. For the Landscape Maintenance Bond, the owner shall be responsible for maintenance for eighteen (18) months from the date of Final Development Inspection Approval.

- (1) The value of the Maintenance Bond shall be determined by the Director based on the dollar value of the improvements and the requirements of the City.
- (2) The value of the Landscape Maintenance Bond shall be calculated by the property owner and shall be sufficient for the costs of labor, materials and maintenance for all landscaping improvements as set forth in the improvement plans.

3. *Acceptance of Public Improvements.*

- a. Prior to expiration of the maintenance bond, a final inspection of the public improvements shall be conducted by the City Engineer.
 - b. The owner shall correct all defects or deficiencies in materials or workmanship.
 - c. The maintenance bond shall not be released until the City Engineer is satisfied that all public improvements are in conformance with the specifications of this Ordinance.
 - d. The City shall not accept the public improvements into perpetual maintenance until such time as said improvements are certified by the City Engineer as being in conformance with the specifications of this Ordinance.
- J. *Certificate of Occupancy.* It shall be unlawful to use or occupy or permit the use or occupancy of any building or premises, or both, or parts thereof hereafter created, erected, changed, converted, or wholly or partly altered or enlarged in its use or structure until a Certificate of Occupancy shall have been issued therefor by the Director, stating that the proposed use of the building or land conforms to the requirements of this Ordinance and other codes and ordinances adopted by the City.
- K. *A temporary Certificate of Occupancy* may be issued for a period not to exceed six months during alterations or partial occupancy of a building or structure pending its completion, provided that such temporary certificate may include such conditions and safeguards as will protect the safety of the occupants and the public.
- L. *A Certificate of Occupancy shall be required for any of the following:*
1. Occupancy and use of building or structure constructed or enlarged.
 2. Change in use of existing buildings to uses of a different classification.

(Ord. No. 681, § 1, 10-7-2013; Ord. No. 693, 9-2-2014; Ord. No. 718, §§ 21, 24, 12-14-2015)

4.4.7 Assignment of names and addresses.

A. *Street and Development names.*

1. Proposed street and development names must be reviewed and approved by the Community Development Department prior to issuance of the land disturbance permit. Any changes to existing names must also be approved by the Director of the Community Development Department. Street

names may be reserved through approval as shown on the Preliminary Plat if so requested. Names may be chosen from a historic street name bank available upon request from Community Development.

2. Street names shall consist of a root name of the developer's choosing or from the historic street name bank, and a suffix designation. The following suffixes are acceptable: Street, Road, Avenue, Court, Place, Way, Trace, Terrace, Drive, Lane, Parkway, Trail, Close, Circle, Cove, Highway, Pass, Entry, Loop, and Boulevard.

The following affixes are acceptable for private drives: Close, cove, entry, lane, pass, place, terrace, trace and trail.

Directional prefixes (i.e., north, south) and the prefixes "old" or "new" shall not be used.

3. Except within the same development, no proposed street name shall duplicate (be spelled the same or be phonetically the same) as an existing street name within the City of Alpharetta or surrounding municipalities regardless of the use of such suffix designations as "Street," "Avenue," "Boulevard," "Drive," "Place," "Way," "Court," or however otherwise designated. In the same subdivision, a root name may not occur more than twice. No street names will be allowed which begin with "River," or "Peachtree".
4. All street root names and suffix designations are subject to approval of the Director. Unacceptable language, abbreviations, contractions or initials may not be used.
5. Root names shall consist of no more than 13 characters including space, hyphens, etc. Letters not occurring in the English alphabet, and numerals, shall not be used. Only suffixes will be abbreviated.

B. *Street Address Assignments.*

1. A street address number must be assigned prior to issuance of a building permit. For any new structure proposed in a property which has not been assigned an address, a street number will be assigned upon confirmation or establishment of the property as a buildable lot of record under the requirements of this Ordinance.
2. Subdivision house numbers will be assigned when the Final Plat is submitted for review and is approved for the property. Submit two (2) copies of the approved plat to the Department. (Legible reductions are acceptable.)
3. Non-residential Projects will be numbered after the issuance of the Land Disturbance Permit.
4. Residential and commercial properties will be addressed on the road that the building is facing, regardless of access. The property must have frontage on the street on which it is addressed.
5. Apartments and Condominium Projects will be numbered when a Land Disturbance Permit is issued. Apartment Projects example:

John Smith
2101 Cypress Court
Alpharetta, GA 30202

2101 is building two

2101 is first floor

2101 is unit one

Units with breezeways will have even numbered units on right and odd numbered unit on left. Each building is required to have a sign indicating the building number. Each breezeway is required to have a sign at the breezeway entrance indicating the unit numbers. The sign at the extreme left of the breezeway of building two (having a 3-story building with basement level) for example will read:

2001-2003
2101-2103
2201-2203

At the point where the main road splits, a permanent location sign is required to be posted as follows:

Buildings
5-8
←
9-15
⇒

6. The Certificate of Occupancy will not be issued without the above requirements being met and the street number clearly posted on the property.

(Ord. No. 681, § 1, 10-7-2013)

4.4.8 Surveying and mapping.

- A. This section sets forth requirements for the City of Alpharetta mapping and surveying monuments as described:
 1. The City of Alpharetta Mapping and Surveying Monuments System will coexist with the Official System of Mapping and Surveying Landmark Monuments of Fulton County and be an expansion thereof.
 2. The term "monument" shall consist of one azimuth monument and one monument with established northing, easting and elevation based on The North American Datum of 1983 (NAD 83), strategically placed, being composed of concrete with a brass cap stamped with an identifying number furnished or approved by the City Engineer.
 3. The City Engineer shall keep a current copy of the reference maps and tables. Such information shall be made available for purchase by the public.
 4. All maps or construction plans must include coordinate references to the City of Alpharetta Surveying Monuments, prior to issuance of the Land Disturbance Permit.
 5. If, in the opinion of the City Engineer, a monument which is part of the Official City of Alpharetta Surveying Monuments is endangered by the proposed land disturbance, the applicant/owner shall be notified, and disturbance shall not be permitted until: The applicant/owner shall pay to the City a fee to replace said monument. This fee shall be based upon 105% of the monument replacement cost; to be negotiated by the City with a Registered Land Surveyor, qualified to set the monument to the City of Alpharetta Standards.
 6. For any proposed development, the developer will set one new monument, two monuments for twenty acres and at least one additional monument for each additional ten acres or major fraction thereof. All control monuments shall be located and tied together by traverse, with a positional tolerance that meets the standards of Second Order, Class Two surveys.

The City Engineer shall have the authority to stop all land disturbance activity, until such time as proper fees have been paid to replace the damaged or disturbed monument.

B. All plats shall conform to the Georgia Code Section 15-6-67 and Chapter 180-7 of the rules of State Board of Registration for Professional Engineers and Land Surveyors.

C. Construction plans and as-built drawings shall be furnished as a digital file, as requested by City personnel.

1. Minor Subdivision Plat. (Replaces exemption plat)

a. The Community Development Department shall be responsible for the coordination and approval of all minor subdivision plats.

(1) Application for a minor subdivision plat approval shall be made to the Community Development Department. The application shall include:

(a) Application in the form furnished by the Community Development Department requesting minor subdivision plat review.

(b) Two (2) copies of minor subdivision plat prepared in conformance with the specifications in this Ordinance.

(c) Payment of minor subdivision plat review fees.

(2) Ten (10) days following the application deadline, the Director shall indicate in a written memorandum all comments related to compliance with this Ordinance and conditions of zoning approval. Subject to any action of the City Council, the Director shall have sole authority to determine the applicability of any provisions of this Ordinance.

(3) The owner shall be responsible for all of the plan review comments prior to the resubmission of the revised minor subdivision plat. All revisions to previous submittals shall be noted in the revision block and dated.

(4) The Community Development Department shall not sign the minor subdivision plat until all requirements of this Ordinance and other applicable regulations have been met.

(5) Once the Director has approved the minor subdivision plat and all other affected departments and agencies of government as required have certified compliance, the Community Development Department shall certify by signature on the original of the minor subdivision plat that all of the requirements of this Ordinance, and the conditions of zoning approval have been met, and that all other affected departments have approved the plat. The final subdivision plat shall not be deemed approved until the CERTIFICATE OF MINOR PLAT APPROVAL has been signed by the Community Development Department.

(6) The owner shall be responsible for recording the approved plat at Fulton County; and shall provide two (2) full size copies showing the stamp of the Fulton County Court Clerk.

(7) Standards for Approval—The Minor Subdivision Plat shall be clear and legible at a recommended scale of 100 feet to the inch. The Director may approve other scales as appropriate. The maximum sheet size shall not exceed 42" × 30". The maximum size acceptable for recording is 17" × 22", or as required by Fulton County. If the complete plat cannot be shown on one sheet, then said plat shall be shown on several sheets with an index map indicated on each sheet. The minimum sheet size shall not be less than 17" × 22". All letters, numbers and other information shall be legible on the recorded copy. There shall be sufficient space available for the certificates as required.

The minor subdivision plat shall contain the following information:

- (a) Name of the subdivision, unit number and street names.
- (b) Name and address and phone number of owner of record.
- (c) Name, address, and phone number of each professional firm associated with the portion of the final plat (engineers, surveyors, etc.).
- (d) Site acreage.
- (e) Zoning, case numbers with conditions, and date of approval for any applicable rezoning, master plan, variance, or special use permit affecting the site.
- (f) Date of drawing, graphic scale, north point, notation as to the reference or bearings to magnetic, true north, or grid north, and indication whether bearings shown are calculated from angles turned.
- (g) Land District, Land Section, and Land Lot.
- (h) Name of the former subdivision, if any, or of the entire plat if it has been previously subdivision.
- (i) Location map.
- (j) Courses and distances to the nearest Fulton County GIS monument.
- (k) Boundary lines of the property, to be indicated by a heavy line, giving distances to the nearest one hundredth (1/100) foot and bearing to the nearest second, which shall be balanced and closed with an error of closure not to exceed one (1) to ten thousand (10,000). The error of closure shall be stated.
- (l) City and Fulton County political boundary lines accurately tied to the lines of the property by distance and angles when such lines traverse the subdivision.
- (m) Locations, widths, and names of all streets and alleys within and immediately adjoining the final subdivision plat, address numbers, the location and widths of all public crosswalks, sidewalks, greenway trails and other public rights-of-way.
- (n) Lot lines with dimensions to the nearest one-tenth (1/10) foot and bearing to the nearest second radii of rounded corners, as necessary to describe each lot.
- (o) Front and rear setback lines with dimensions.
- (p) Location of any buffer, landscape strip and greenway easements, no access easement, etc., are required by this Ordinance or the Zoning Regulations.
- (q) Lots or sites numbered in numerical order and blocks lettered alphabetically.
- (r) Location and size of all drainage structures, location, dimension and purpose of any easements, including slope easements, if required, public and private service utility right-of-way lines, fire hydrants and water mains.
- (s) Accurate location, material, and description of monuments and markers. Monuments to be placed prior to approval of the Plat.

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- (t) Extent of the Areas of Special Flood Hazard and Areas of Future-conditions Flood Hazard and a floodplain chart showing the area within and outside the floodplain and a minimum allowable lowest finished floor elevation for each lot containing or adjacent to any portion of the Area of Special Flood Hazard and Area of Future-conditions Flood Hazard.
 - (u) The information required by the current Georgia Recording of Maps, Plats, etc., by Clerks of Superior Court.
 - (v) All other applicable notes and notations as may be required by the Director.
- (8) Certificate of Minor Subdivision Plat Approval—Each minor subdivision plat shall carry the following certificates printed or stamped on the plat.
- a. *Surveyor's Certificate.* It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown thereon actually exist or are marked as "future" and will be placed during construction of the improvements shown on this plat; and their location, size, type and material are correctly shown.

By: _____

Registered Georgia Land Surveyor Survey No. _____

Date: _____

b. *Owner's Certificate of Dedication and Acknowledgement:*

(STATE OF GEORGIA)

(COUNTY OF FULTON)

The owner of record of the land shown on this plat and whose name is subscribed thereto, in person, or through a duly authorized agent, hereby acknowledges that this subdivision plat was made from an actual survey, and that there are no public dedications on this property.

Subdivider:

Date:

Owner:

Date:

- c. *Certificate of Minor Subdivision Plat Approval.* The Community Development Department of the City of Alpharetta, Georgia, certifies that this plat complies with all requirements of the Alpharetta Unified Development Code including Zoning Requirements.

(Ord. No. 693, 9-2-2014; Ord. No. 718, §§ 21, 24, 12-14-2015)

4.4.9 Maintenance and performance securities.

- A. *Maintenance Securities.* A maintenance bond, letter of credit, cash bond, or other equivalent form of security as approved by the City, shall be posted with the City by all developers where street or other improvements are made and offered to the City for acceptance and maintenance. The amount of this security will be calculated by the Community Development Department and shall be provided before the final plat can be recorded. Any bond, except cash bond, letter of credit or other equivalent form of approved security shall be on forms supplied or approved by the City and shall not be terminated or otherwise allowed to expire without at least thirty (30) days prior written notice to that effect to both the City and the subdivider or person. Separate bonds are required for each subdivision unit, phase or like entity. The developer shall maintain all improvements in the subdivision, to be dedicated to the City, for a minimum of one (1) year from the date of final plat recording. No dedication of improvements shall be accepted by the City until the expiration of one (1) year from such date and inspection from the public, action may be taken by the City Council by majority of those voting approving, approving with changes, or rejecting the proposal, or the City Council may table the proposal for consideration at its next regular meeting, or the City Council may refer the matter back to the Planning Commission for further consideration.
- B. *Referral to Planning Commission for Further Consideration.* The Director shall conduct such further studies as appropriate and shall present any proposed text amendment to the Planning Commission that has been heard by the City Council and referred back to it for further consideration. Public notice of the Planning Commission and City Council's hearing shall be given in the same manner as prescribed herein, and the Planning Commission shall conduct its public hearing and take action as described above.

SECTION 4.5 APPEALS¹

4.5.1 Initiation.

- A. All requests for relief from the imposition of the regulations and requirements of this Ordinance on a property or development activity, or from an interpretation of the meaning of words or the boundaries of zoning districts, or from an administrative decision of the Director, shall be taken as an appeal to the Board of Appeals, except as otherwise provided in this Section.
- B. Appeals to the Board of Appeals may be initiated by any person aggrieved or by an officer, department, board or bureau of the City. Such appeal shall be initiated within 15 days of the action or decision appealed from by filing with the Director notice of said appeal specifying the grounds thereof. The Director shall transmit to the Board of Appeals any papers constituting the record of the action or decision from which the appeal was taken.
- C. An appeal stays all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is made certifies to the Board of Appeals, after the notice of appeal shall have been filed with them, that by reason of facts stated in the certificate a stay would, in the Director's opinion, cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of competent jurisdiction.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

¹Ord. No. 859, § 1(Exh. A), adopted June 26, 2023, deleted § 4.5 in its entirety and enacted a new § 4.5 as set out herein. Former § 4.5 pertained to similar subject matter and derived from Ord. No. 751, § 2, adopted October 16, 2017.

4.5.2 Public hearing process.

A. Public Notice.

1. *Notification to the General Public.*

- a. At least thirty (30) days but not more than forty-five (45) days prior to each public hearing, notice shall be published in a newspaper of general circulation within the City. The Director shall prepare such notice, which shall state the time, place and purpose of the hearing. Additionally, notice of the public hearing shall be sent to the owner of the property that is the subject of the proposed action at least thirty (30) days prior to the hearing date by regular mail.
- b. If a request for a variance is to be heard at the hearing, then the notice shall, in addition to the above requirements, include the proposed code provisions requested to be modified. Each section of this Code requested to be varied shall be separately identified in all required notices.
- c. If an appeal of an administrative decision is to be heard at the hearing, then the notice shall, in addition to the above requirements, include a summary of the purpose of the appeal.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.5.3 Public hearing.

- A. The Director shall submit the appeal to the Board of Appeals, together with any Staff Report. The Board of Appeals shall review and take action upon each appeal after holding a public hearing. In making a decision on the appeal, the Board of Appeals shall follow the standards set forth under this Section. No member of the Board of Appeals shall rule on a matter in which he or she has a financial interest, directly or indirectly.
- B. In taking on an appeal, the Board of Appeals by majority of those voting may approve, approve with conditions, or deny the appeal, or the Board of Appeals may table the matter for consideration at its next regular meeting.
- C. The following procedures shall govern public hearings for purposes of considering applications as specified in this Section.
 1. Presiding officer. The public hearing shall be conducted by the presiding officer.
 2. Requirements for speakers. Persons wishing to speak in support (including the applicants and designated representative) or opposition to any application shall provide their name and address on the specified form to City staff prior to speaking at the public hearing. In addition, each person shall be required to disclose any campaign contributions/gifts equal to or greater than ~~\$100~~ \$250 given to any City elected official within two (2) years of the public hearing date.
 3. Time limits. Speakers at the public hearing shall be allowed not less than ten (10) minutes per side, provided, however, that the presiding officer may at his or her discretion elect to extend this time period equally to proponents and opponents.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.5.4 Hardship variances.

A. *General.*

1. Relief from the application of the provisions of this Ordinance may be granted by the Board of Appeals upon a finding that compliance with such provision will result in a hardship to the property or owner

-
- that is substantially unwarranted by the protection of the public health, safety or general welfare and the need for consistency among all properties similarly zoned.
2. Such relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant nor to gain any advantage or interest over similarly zoned properties.
- B. *Standards for Approval.* A hardship variance may be granted in whole or in part, or with conditions, in such individual case of unnecessary hardship upon a finding by the Board of Appeals that:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; or
 2. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or
 3. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.
- C. *Limitation.* In no case shall a hardship variance be granted from the conditions of approval imposed on a property through a zoning change granted by the City Council, nor may any use of land or buildings or structures be granted that is not permitted by the zoning district that is applicable to the property.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.5.5 Exceptions.

- A. *General.*
1. An exception requested as part of a rezoning or conditional use application shall be heard by the Planning Commission and decided by the City Council as part of the public hearing process related to the rezoning or conditional use application. All other exceptions (which do not exceed 50% of the stipulated requirement) shall be heard and acted upon by the Board of Appeals, unless approved administratively by the Director as provided herein. Exceptions which exceed 50% of the stipulated requirements shall be heard and acted upon by the City Council.
 2. Exceptions shall be limited to relief from the following requirements of this Ordinance:
 - a. Minimum building setbacks;
 - b. Maximum building height;
 - c. Buffers and screening;
 - d. Signage in accordance with a coordinated signage plan;
 - e. Minimum street frontage;
 - f. Parking and loading requirements;
 - g. Tree preservation;
 - h. Signage height and copy area;
 - i. Regulations pertaining to uses customarily accessory to dwellings located in residential zoning districts (See Subsection 2.3.3(C);
 - j. Minimum building size;
 - k. Maximum impervious area; and

I. Incentives available to historic properties following designation (See Subsection 2.9.5).

B. *Standards for Approval.*

1. An exception may be granted upon a finding that:
 - a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of size, shape or topography; or
 - b. The application of the Ordinance to this particular piece of property would create an unnecessary hardship; or
 - c. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned; or
 - d. Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of the Ordinance.
2. An exception may be granted from the requirements of this Ordinance regarding tree preservation. The factors to be taken into consideration include the following:
 - a. The ease with which the applicant can alter or revise the proposed development or improvement to accommodate existing trees.
 - b. The economic hardship that would be imposed upon the applicant were the exception denied.
 - c. The heightened desirability of preserving tree cover in densely developed or densely populated areas.
 - d. The need for visual screening in transitional zones or relief from glare, blight, commercial or industrial ugliness or any other visual affront.
 - e. Whether the continued presence of the tree or trees is likely to cause danger to a person or property.
 - f. Whether the topography of the area in which the tree is located is such a nature to be damaging or injurious to trees.
 - g. Whether the removal of trees is for the purpose of thinning a heavily wooded area where some trees will remain.
 - h. Whether tree removal would have an adverse impact upon existing biological and ecological systems.
 - i. Whether tree removal would affect noise pollution by increasing source noise levels to such a degree that a public nuisance may be anticipated, or a violation of the noise control ordinance will occur.

- C. *Limitations.* In no case shall an exception be granted from the conditions of approval imposed on a property through a zoning change granted by the City Council, nor may a minimum lot size required by a zoning district be reduced, nor may any use of land or buildings or structures be granted that will result in an increase in housing units or non-residential building density or is not permitted by the zoning district that is applicable to the property.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.5.6 Interpretations.

- A. The Board of Appeals, upon appeal of an aggrieved party or at the request of the Director, shall interpret the use of words or phrases within the context of the intent of this Ordinance, the boundaries of the various zoning districts where uncertainty exists, and such other provisions of this Ordinance as may require clarification or extension. The Board of Appeals shall also hear and decide appeals from any order, determination, decision or other action by the Director where a misinterpretation of the requirements or other provisions of this Ordinance is alleged, except for appeals of administrative decisions denying design approval of signs reviewed by the Director for compliance with the design standards set forth in the Design Review Board Ordinance.
- B. An interpretation by the Board of Appeals shall be final, unless an appeal of their action is taken to Superior Court within 30 days of the Board's action.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

4.5.7 Appeals of Administrative Variance Decisions.

Any administrative variance decision or administrative exception decision made pursuant to Section 5.1 may be appealed in accord with the procedures set forth in Sections 4.5.2 and 4.5.3.

(Ord. No. 859, § 1(Exh. A), 6-26-2023)

SECTION 4.6 SUSPENSION OF PERMITTING

Upon submission by a property owner or his agent of a request for a change in the Comprehensive Land Use Plan, or for a zoning change, or for the granting of relief on a property, no permits shall be issued, nor shall any actions be undertaken on the property that may be affected by the outcome of such application.

Upon the initiation of a Comprehensive Land Use Plan amendment, zoning change, or text amendment by the Planning Commission or City Council, no permits shall be issued, nor shall any actions be undertaken on any property that may be affected by the outcome of such application.

EXHIBIT B

**AN ORDINANCE BY THE CITY COUNCIL OF THE CITY OF ALPHARETTA, GEORGIA TO
AMEND THE UNIFIED DEVELOPMENT CODE OF THE CITY OF ALPHARETTA TO
ESTABLISH SHORT TERM RENTAL AS A PERMITTED USE FOR CERTAIN PROPERTIES; TO
PROVIDE FOR RELEVANT DEFINITIONS; TO ESTABLISH REGULATIONS FOR USE OF
PROPERTY FOR SHORT TERM RENTAL; TO REPEAL CONFLICTING ORDINANCES; AND
FOR OTHER PURPOSES.**

WHEREAS, pursuant to its Charter and other laws of the State of Georgia, the City of Alpharetta, Georgia ("City") has the power to adopt clearly reasonable ordinances, resolutions and regulations for the protection and preservation of the public health, safety and welfare of its citizens; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of the City, the Alpharetta City Council ("Council") desires to amend its Unified Development Code; and

WHEREAS, the Council desires to allow for short term rentals to be a permitted use in certain residential zoning districts within the City; and

WHEREAS, the Council desires to establish limits on the number and location of short-term rentals to preserve the residential character of platted residential subdivisions; and

WHEREAS, appropriate notice and hearing on the amendments contained herein have been carried out according to general and local law.

NOW, THEREFORE, the City Council of the City of Alpharetta, Georgia hereby ordains as follows:

1. Section 1.4 of Article I of the Unified Development Code of the City of Alpharetta, Georgia shall be amended by adding the following definition:

Short-term Rental: An accommodation for transient guests, rented for the purpose of overnight lodging for a period of less than thirty (30) days. For the purposes of this definition, a Short-term Rental shall include all housing types but shall exclude Bed and Breakfast establishments and Boarding Houses as they are defined by this Code. Short-term Rentals shall not constitute a Home Occupation as defined by this Code.

2. Table 2.2 of Article II of the Unified Development Code of the City of Alpharetta, Georgia shall be amended by adding "Short-term Rental" use as a permitted use ("X") in the AG, RE, R, R-22, R-15, R-12, R-10, R-4A, R-4D, R-8A/D, and R-10M zoning districts, and as a conditional use ("O") in the CUP zoning district.

3. Section 2.7 of Article II of the Unified Development Code of the City of Alpharetta, Georgia shall be amended by adding a new Section 2.7.1 to read as follows:

2.7.1 Short-term Rentals.

A. Short-term Rentals shall be allowed as a permitted use within the AG, RE, R, R-22, R-15, R-12, R-10, R-4A, R-4D, R-8A/D, and R-10M zoning districts, and shall be a conditional use within the CUP zoning district, subject to the following:

1. Short-term rental shall be limited to no more than one (1) residential lot or five percent (5%) of the residential lots within each platted subdivision, whichever is greater. Where a subdivision includes two (2) or more phases, the limit of the number of short-term rentals shall be applied to each phase within the subdivision.
2. Within platted subdivisions, no short-term rental may be located immediately adjacent to another short-term rental that is located along the same street or road.
3. Notwithstanding the provisions of subsection (A)(1) above, short-term rental shall be limited to no more than twenty-five (25) residential lots governed by a common homeowners/property owners association.

B. Notwithstanding the provisions of subsection (A) above, the allowance of short-term rentals in this Code shall not prevent private enforcement of private restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements.

4. Section 4.5.5(A) of Article IV of the Unified Development Code of the City of Alpharetta, Georgia shall be amended by repealing subsection (A) of Section 4.5.5 in its entirety and replacing with the following:

4.5.5 Exceptions.

A. General.

1. An exception requested as part of a rezoning or conditional use application shall be heard by the Planning Commission and decided by the City Council as part of the public hearing process related to the rezoning or conditional use application. All other exceptions (which do not exceed 50% of the stipulated requirement) shall be heard and acted

upon by the Board of Appeals, unless approved administratively by the Director or otherwise explicitly provided herein. Exceptions as provided under subsection (2)(l) below, or which exceed 50% of the stipulated requirement, shall be heard and acted upon by the City Council.

2. Exceptions shall be limited to relief from the following requirements of this Ordinance:

- a. Minimum building setbacks;
- b. Minimum building height;
- c. Buffers and screening;
- d. Signage in accordance with a coordinated signage plan;
- e. Minimum street frontage;
- f. Parking and loading requirements;
- g. Tree preservation;
- h. Signage height and copy area;
- i. Regulations pertaining to uses customarily accessory to dwellings located in residential zoning districts (See Section 2.3.3(C));
- j. Minimum building size
- k. Maximum impervious area; and
- l. Maximum number of short-term rentals in a platted subdivision or phase of a platted subdivision (See Section 2.7.1(A)(1)).

5. All remaining portions of the Unified Development Code of the City of Alpharetta, Georgia shall continue in full force and effect, and shall remain unaffected by this amendment.

6. **Severability.** It is the express intent of the Alpharetta City Council that this Ordinance be consistent with both federal and State law. If any provision of this Ordinance or the application thereof to any person or circumstances is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

7. **Conflicting Ordinances Repealed.** Any and all Ordinances or parts of Ordinances in conflict herewith shall be, and the same are, hereby repealed to the extent of such conflict.

8. **Effective Date.** This Ordinance shall become effective immediately upon adoption.

SO ORDAINED, the _____ day of _____, 2024.

CITY OF ALPHARETTA

By: _____
Jim Gilvin, Mayor

[SIGNATURES CONTINUED ON FOLLOWING PAGE]

[SIGNATURES CONTINUED FROM PRECEDING PAGE]

COUNCIL MEMBERS

Mayor Pro Tem Dan Merkel

Council Member Donald F. Mitchell

Council Member Brian Will

Council Member Douglas J. DeRito

Council Member John Hipes

Council Member Fergal M. Brady

(SEAL)

Attest:

Approved as to form and legal
sufficiency:

Lauren Shapiro, City Clerk

Molly Esswein, City Attorney

EXHIBIT C

**AN ORDINANCE TO AMEND CHAPTER 10 OF THE ALPHARETTA CODE OF ORDINANCES TO
ESTABLISH REGULATIONS TO APPLY TO SHORT-TERM RENTALS**

WHEREAS, the Mayor and Council of the City of Alpharetta, Georgia (the "City Council") are charged with the protection of the public health, safety, and welfare of the citizens of Alpharetta; and

WHEREAS, in the interests of the health, safety, and general welfare of the citizens of the City of Alpharetta, Georgia, the City Council desires to exercise its authority to adopt an ordinance regulating short-term rentals; and

WHEREAS, appropriate notice and hearing on the ordinance contained herein have been carried out according to general and local law.

NOW, THEREFORE, the City Council of the City of Alpharetta, Georgia hereby ordains as follows:

Section 1. The language attached hereto as Exhibit A, and incorporated herein by reference as if fully set forth herein, is hereby adopted and approved, and shall be codified as Article XV in Chapter 10 of the Code of Ordinances.

Section 2. All other ordinances shall continue in full force and effect and shall remain unaffected, except where such ordinance, or part thereof, conflicts herewith, in which case such ordinance, or part thereof, is hereby repealed.

Section 3. It is the express intent of the City Council of Alpharetta, Georgia that this Ordinance be consistent with both federal and state law. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared severable.

Section 4. This Ordinance shall become effective immediately following the date of adoption. However, in an effort to educate the community and to provide time for applications for licenses to be submitted and processed, no enforcement action shall be taken under this Ordinance until 180 days following the date of adoption.

SO ORDAINED, the _____ day of _____, 2024.

[SIGNATURES ON FOLLOWING PAGE]

CITY OF ALPHARETTA

By: _____
Jim Gilvin, Mayor

COUNCIL MEMBERS

Mayor Pro Tem Dan Merkel

Council Member Donald F. Mitchell

Council Member Brian Will

Council Member Douglas J. DeRito

Council Member John Hipes

Council Member Fergal M. Brady

(SEAL)

Attest:

Approved as to form and legal sufficiency:

Lauren Shapiro, City Clerk

Molly Esswein, City Attorney

Exhibit "A"

SHORT-TERM RENTAL ORDINANCE

Article XV in Chapter 10 of the Code of Ordinances

Sec. 10-430. – Purpose.

- a. The purpose of this Article is to establish standards for short-term rentals of privately owned residential structures rented to transient occupants, minimize adverse effects of short-term rental uses on surrounding residential properties and neighborhoods, and preserve the character of residential neighborhoods in which short-term rental use occurs.
- b. This Article is not intended to regulate hotels, motels, inns, bed and breakfast establishments, or non-vacation type rental arrangements including, but not limited to, boardinghouses, lodging houses, or rooming houses.

Sec. 10-431. – Applicability.

- a. It shall be unlawful for any owner of any property within the City to rent, operate, or advertise a short-term rental of property in a residential zoning district, or property with a residential use thereon, contrary to the procedures and regulations established in this Article, other provisions of this Code, or any applicable state law. A license shall be required to lawfully rent, operate, or advertise any property for short-term rental. Properties receiving a license under this Article shall comply with all applicable requirements of this Article.
- b. The restrictions and obligations contained in this Article shall apply to short-term rental activity at all times during which any short-term rental is marketed or used as a short-term rental.
- c. The licensing of short-term rentals in accord with this Article shall not prevent enforcement of additional restrictions that may be contained in restrictive covenants or other private contractual agreements or arrangements. The City shall not be responsible for enforcement of such covenants, agreements, or arrangements.
- d. A property subject to this Article that has been advertised or listed via the internet or other media sources (e.g. www.vrbo.com, www.airbnb.com, etc.) for short-term rental shall be prima facie evidence the property is being used as a short-term rental.
- e. Short-term rental activity is otherwise impermissible unless in full compliance with the City's Code of Ordinances, to include the Unified Development Code.

Sec. 10-432. – Definitions.

[The following words, terms, and phrases, when used in this Article, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning.]

Bedroom: A room that meets the building code requirements to be used as a sleeping room and for no other primary purpose.

Managing agency or agent: A person, firm or agency representing an owner or owners of a short-term rental.

Noise Regulations: Those regulations contained in Article V of Chapter 26 of the Alpharetta Code of Ordinances.

Owner: A person that holds legal and/or equitable title to private property.

Person: A natural human being, estate, association, firm, partnership, corporation, or other legal entity.

Private: Intended for or restricted to the occupants and/or guests of his or her short-term rental; not for public use.

Rental Term: The period of time a responsible person rents or leases a short-term rental.

Responsible Person: an occupant of a short-term rental who is at least twenty-one (21) years of age and who is legally responsible for ensuring that all occupants and/or guests of the short-term rental comply with all applicable laws, rules and regulations pertaining to the use and occupancy of the subject short-term rental.

Short-term Rental: an accommodation for transient guests, rented for the purpose of overnight lodging for a period of less than thirty (30) days. For the purposes of this definition, a short-term rental shall include all housing types but shall exclude Bed and Breakfast establishments and Boarding Houses, as they are defined by the Unified Development Code.

Sec. 10-433. – Property owners, local contact person, and responsible person.

a. Property Owners:

1. The owner and/or local contact person shall use reasonably prudent business practices to ensure the short-term rental is used in a manner that complies with all applicable laws, rules, and regulations pertaining to the use and occupancy of the subject short-term rental, and shall further use reasonably prudent business practices

to ensure the occupants and/or guests of the short-term rental do not create noise in violation of the noise regulations of this Code or disturbances, engage in disorderly conduct, or violate any applicable law, rule or regulation pertaining to the use and occupancy of the subject short-term rental.

b. Local Contact Person:

1. Each owner of a short-term rental shall designate a local contact person who has access and authority to assume management of the short-term rental and take remedial measures while the short-term rental is being rented to an occupant and/or guest. An owner of a short-term rental may designate himself or herself as the local contact person;
2. The local contact person shall be at least twenty-one (21) years of age;
3. There shall be only one (1) designated local contact person for a short-term rental at any given time;
4. The duties of the local contact person are to:
 - a. Respond to the location of the short-term rental 24 hours a day, 7 days a week, and within three (3) hours after being notified by a duly authorized representative of the City of the existence of a violation of this Article or any other provision of this Code, or any disturbance or complaint requiring immediate remedy or abatement regarding the condition, operation, or conduct of occupants of the short-term rental. This is not intended to impose a duty to act as a peace officer or otherwise require the local contact person to place himself or herself in a perilous situation. Whether the local contact person shall be required to respond to the location of the short-term rental to address a violation, disturbance, or complaint shall be determined in the discretion of the City officer or employee responding to said violation, disturbance, or complaint. Nothing in this Section shall be construed as limiting the City or any officer or employee thereof in responding to any violation, disturbance, or complaint or taking any enforcement action under this Article;
 - b. Receive and accept service of any notice of violation related to the use or occupancy of the short-term rental; and
 - c. Monitor the short-term rental for compliance with this division.
5. An owner may retain a managing agent, managing agency, operator, or representative to serve as the local contact person to comply with the requirements of this Section, including, without limitation, the permitting of the short-term rental, the management of the short-term rental, and the compliance with the conditions of the short-term rental license. The owner of the short-term rental is responsible for compliance with the provisions of this Section and the failure of an agent,

representative, or local contact person to comply with this Section shall be deemed noncompliance by the owner; and

6. The owner must immediately notify the Community Development Director in writing upon a change of local contact person or the local contact person's telephone number. This notification will be on forms prescribed by the Community Development Department. The new, revised short-term rental license will not extend the expiration date of the original short-term rental license, will be issued for a fee as established by the City Council, and must be posted in the short-term rental within ten (10) days of any change of local contact person information and before occupants can rent or occupy the short-term rental. Failure to do so within fourteen (14) days after such change shall, unless such time limit is extended for good cause, be reason for revocation of a license granted pursuant to this Article.

c. Responsible Person:

1. Every short-term rental shall be rented to a designated responsible person. The owner of the short-term rental is responsible for compliance with the provisions of this Article, and the failure to ensure the short-term rental is rented to a designated responsible person shall be deemed noncompliance by the owner.

Sec. 10-434. – Licenses and transferability.

a. Required Licenses:

1. The owner shall pay the required occupation tax and shall comply with all applicable provisions of Article III of Chapter 42 of this Code;
2. The owner shall collect and remit lodging excise taxes as required by Article V of Chapter 42 of this Code and the Official Code of the State of Georgia;
3. The owner shall timely pay all property taxes owed for the real property on which the short-term rental is located;
4. No owner or local contact person of a short-term rental shall rent, lease, or otherwise exchange for compensation all or any portion of such short-term rental without first obtaining a short-term rental license from the City;
5. A separate short-term rental license shall be required for each structure used for short-term rental;
6. Short-term rental licenses may be issued only to single-family housing units. No short-term rental license shall be issued for apartments, tents, yurts, truck campers, trailers, or other similar portable shelters, but not including accessory dwelling units associated with a Dwelling, 'For-Sale', Detached/Attached as contemplated in the City's Unified Development Code;

7. An owner of a short-term rental, or their designated representative, shall submit an application for a short-term rental license to the Community Development Department on an annual basis. The application shall be furnished on a form specified by the City, accompanied by a non-refundable license fee as established in this Section. Such application shall include:
- a. The complete street address of the property to be used as a short-term rental;
 - b. Ownership information, including the name, address, e-mail address, and telephone number of each person or entity with an ownership interest in the property to be used as a short-term rental, as well as proof of such ownership;
 - c. The name, address, telephone number, and email address of the local contact person for the short-term rental;
 - d. The number of bedrooms and approximate square footage in the short-term rental, and the maximum number of overnight and daytime occupants, as allowed by this Article;
 - e. A sworn statement from the applicant certifying that all designated bedrooms, including egress from all designated bedrooms, meet applicable safety code requirements, as required by Section 10-435(b);
 - f. The number and location of parking spaces allotted to the property to be used as a short-term rental, as required by Section 10-434(c)(7);
 - g. The owner's sworn acknowledgment that they have reviewed all regulations of the City pertaining to the operation of a short-term rental and understand the requirements for short-term rentals;
 - h. The local contact person's sworn acknowledgment that they have reviewed all regulations of the City pertaining to the operation of a short-term rental, understand the requirements for short-term rentals, and agree to perform the duties of the local contact person specified in this Article;
 - i. Acknowledgement that the owner or local contact person has or will post, at the short-term rental, the notice required in Section 10-435(a);
 - j. The owner's agreement to use his or her best efforts to assure that use of the premises by short-term rental occupants will not disrupt the neighborhood, and will not interfere with the rights of neighboring property owners to the quiet enjoyment of their properties;
 - k. Any other information that this Article requires the owner to provide to the City as part of an application for a short-term rental license;
 - l. Where the property to be used as a short-term rental is located within a platted subdivision, the owner shall submit a sworn statement confirming short-term rental is not prohibited by private restrictions that may be contained in restrictive covenants or other private contractual arrangements or agreements applicable to the property; and

- m. In cases where the short-term rental has an on-site septic system, a performance evaluation from the Health Department verifying condition of the on-site sewage management system, except that such a performance evaluation shall not be required for renewal applications. In cases where the short-term rental is serviced by sewer, documentation from the applicable County or City department providing sewer to the rental property verifying sewer capacity, except that such documentation shall not be required for renewal applications.
- 8. Any false statements or false information provided in the application are grounds for denial or revocation of a license, including the denial of future applications.
- 9. Upon the filing of a completed license application, the Community Development Director, or his or her designee, shall review the application for compliance with the requirements of this Article. Within thirty (30) days of the filing of the completed application, the Community Development Director, or his or her designee, shall either issue a short-term rental license to the applicant or issue a written notice of denial. Any license issued shall include a unique license number. A short-term rental license shall be issued to an applicant unless:
 - a. The applicant has had a short-term rental license revoked within the previous 12-month period;
 - b. The property taxes have not been paid and are delinquent;
 - c. The Health Department notifies the City of an inadequate septic system or other health concerns;
 - d. Issuance of a short-term rental license would not conform to conditions of zoning;
 - e. Issuance of a short-term rental license would not conform to the requirements or limitations for short-term rentals set forth in the Unified Development Code; or
 - f. The application does not meet the minimum requirements of this Article.
- 10. A decision to deny an application shall be issued in writing and may be appealed to the City Council. An appeal shall be filed with the Community Development Director in writing within thirty (30) days of the decision to deny an application for a license. A hearing on the appeal of the denial shall be conducted in accordance with the procedures set forth herein.
- b. License fee/renewal.
 - a. The short-term rental license application and any renewal application shall be accompanied by an application fee as established by the City Council.
 - b. All licenses granted under this Article shall expire on December 31st of each year. Applicants shall file a renewal application accompanied by the requisite

renewal fee with the City on or before the second Monday in December of each year without penalty. If an application for renewal is submitted after the second Monday in December, a new application shall be required, as renewal eligibility will not be considered past this date.

- c. A short-term rental license is not transferrable. Should ownership of a short-term rental change, a new license application shall be required prior to any use of the property as a short-term rental.
- c. All short-term rentals are subject to the following:
 - 1. The owner or local contact person shall, by written agreement with the responsible person, limit overnight occupancy of the short-term rental to the specific number of overnight occupants designated in the short-term rental license application;
 - 2. Any advertising of the short-term rental shall conform to information included in the short-term rental license and requirements of this Article, and shall include the short-term rental license number issued by the City, notification of the maximum occupancy, maximum number of vehicles allowed, and provisions regulating noise;
 - 3. Occupancy for short-term rentals: the number of overnight occupants shall not exceed two (2) persons per bedroom, and shall meet all life-safety codes, but in no case shall rental occupancy exceed fifteen (15) overnight persons total. The maximum capacity shall be based on the number of bedrooms. All occupants, regardless of age, are counted as persons;
 - 4. A bedroom shall be a room that is designed to be, or meets the building code requirements to be, used as a sleeping room and for no other primary purpose. Every bedroom shall have an emergency escape or rescue exit and a minimum ceiling height as follows:
 - a. Each bedroom shall have at least one (1) operable window or door for emergency escape or rescue that opens directly to the exterior of the residence. The emergency door or window shall be operable from the inside to provide a full, clear opening without the use of separate tools, and shall comply with all requirements of the International Residential Code ("IRC") as were in effect on the date the short-term rental was issued a Certificate of Occupancy; and
 - b. Bedroom ceilings shall comply with all requirements of the IRC as were in effect on the date the short-term rental was issued a Certificate of Occupancy.
 - 5. The owner or local contact person shall, by written agreement with the responsible person, limit daytime occupancy of the short-term rental to the specific number of daytime occupants designated in the short-term rental license application, with the number of daytime occupants not to exceed four (4) guests in addition to the total number of allowed overnight occupants, but in no case shall the daytime occupancy

of a short-term rental exceed nineteen (19) persons total. Overnight occupancy limitations shall apply between the hours of 11:00 PM and 7:00 AM;

6. Prior to permitting occupancy of a short-term rental by a transient occupant, the owner or the local contact person shall: (a) verify the rental is to a responsible person and obtain their name and address; (b) provide information about the short-term rental regulations to the responsible person; and (c) require written confirmation from the responsible person that he or she:
 - a. Has read the pertinent regulations;
 - b. Understands all applicable laws, rules, and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, the City's noise regulations;
 - c. Understands that they are bound to all applicable laws, rules, and regulations; and
 - d. Agrees to comply with all applicable laws, rules, and regulations, and agrees to be legally responsible for compliance by all occupants and/or guests of the short-term rental with all applicable laws, rules and regulations pertaining to the use and occupancy of the short-term rental, including, but not limited to, to the City's noise regulations.

This information shall be maintained by the owner or the local contact person for a period of one (1) year from the last day of each rental period.

7. Parked Vehicles:
 - a. Short-term rentals must have parking off the street sufficient for one (1) car for each bedroom being rented. Vehicles shall be parked only on designated hard surfaced areas with gravel, concrete or asphalt surfacing; and shall not be permitted outside such hard-surfaced areas (i.e. no parking in yards);
 - b. Required parking spaces must be located on the same property as the short-term rental; and
 - c. Vehicles shall not be parked on the City right-of-way or along any roadways at any time.
8. The owner and/or local contact person shall use best efforts to ensure that the occupants and/or guests of the short-term rental do not violate the noise regulations set forth in Article V of Chapter 26 of this Code by notifying the occupants of the rules regarding short-term rentals and responding when notified that occupants are violating laws regarding their occupancy. Any violation of the noise regulations by a guest at a short-term rental shall be considered a violation under this Article. It is not intended that the owner and/or local contact person act as a peace officer or place himself or herself in harm's way;

d. Transferability:

1. No short-term rental license issued under this Article shall be transferred or assigned or used by any person other than the owner or local contact person to whom it is issued, or at any location other than the one for which it is issued.
- e. For purposes of ensuring compliance with the regulations set forth in Section 2.7.1 of the Unified Development Code, licenses issued under this ordinance shall be issued on a first-come, first-served basis upon receipt of a complete application, provided that priority shall be given to timely submitted renewal applications.

Sec. 10-435. – Additional operational requirements and conditions.

a. Posted Information Notice:

1. Each short-term rental shall have a clearly visible and legible notice conspicuously posted within the short-term rental on or adjacent to the front door, containing the following information:
 - a. The name of the owner and local contact person of the short-term rental, and a telephone number at which that party may be reached on a 24-hour, 7 days a week, basis;
 - b. The name and address of the nearest hospital;
 - c. The maximum number of overnight occupants and/or daytime guests permitted to be at the short-term rental;
 - d. The maximum number of vehicles allowed to be parked on the property, including a sketch of the location(s) of the on-site parking spaces;
 - e. The trash pickup day and notification that trash and refuse shall not be left or stored on the exterior of the property unless it is placed in a curbside container, and that the curbside container shall not be placed sooner than 24 hours prior to the pickup day, and must be removed no later than 24 hours after pickup (If owner or operator provides daily trash removal then this notice is not necessary);
 - f. Notification that failure to conform to the parking and occupancy requirements of the short-term rental is a violation of this Article;
 - g. The times that quiet hours are to be observed per the noise regulations set forth in Article IV of Chapter 34 of this Code and a statement advising the occupant that any failure to comply with the noise regulations is a violation of this Article; and
 - h. A copy of the short-term rental license with the license number displayed.

b. Life Safety and Sanitation:

1. All designated bedrooms, including egress from all bedrooms, shall comply with all applicable safety codes as were in effect on the date the short-term rental was issued a Certificate of Occupancy.
2. Every bedroom, adjoining hallway, and common area shall be equipped with an operational smoke detector that meets current IRC standards and shall be maintained in good working order at all times. The placement and mounting of each smoke detector shall comply with all applicable requirements of the current IRC.
3. Each habitable floor shall be equipped with an operational carbon monoxide detector that meets applicable state law standards and shall be maintained in good working order at all times.
4. Each floor of the short-term rental shall be equipped with a fire extinguisher that is fully charged, not past expiration date, and that meets all National Fire Protection Association (NFPA) standards, including those as set forth in NFPA 10: Standard for Portable Fire Extinguishers.
5. Private swimming pools shall comply with the current International Swimming Pool and Spa Code.
6. The owner and/or local contact person shall maintain a house number that is visible from the street at all times.

Sec. 10-436. – Suspension or revocation of license.

- a. Any false statements or false information provided in the application are grounds for denial, suspension, or revocation of a short-term rental license, including the denial of future applications.
- b. Any violations or noncompliance with the provisions of this Article are grounds for denials, suspension, or revocation of a short-term rental license, including denial of future applications.
- c. *Discovery of an immediate health hazard.* Upon the discovery of an immediate health hazard to renters, the Community Development Director may suspend the short-term rental certificate until the hazard is remedied, as determined in the sole good faith discretion of the Community Development Director. If the hazard is not timely corrected, the short-term rental license may be revoked.
- d. Any suspension, revocation, or forfeiture of an issued license by the City Council shall occur only after notice and opportunity for a hearing before the City Council consistent with the procedures set forth in this Article. Reasons for suspension or revocation of a short-term rental license include, but are not limited to:
 1. A short-term rental, its owner, local contact person, responsible person, or occupants are found to be in violation of this Article or in violation of the noise regulations set forth in Article V of Chapter 26 of this Code, subject to criminal citation, prosecution, and penalties as outlined in Section 10-437.

2. An applicant furnished fraudulent or untruthful information in the application for a license, or omitted information required in the application for a license, or failed to pay all fees, taxes, or other charges imposed under the provisions of this Article, in which case the short-term rental license shall be immediately revoked.
3. A short-term rental does not meet the licensing qualifications set forth in this Article at any time such knowledge becomes known to the Community Development Director, in which case the short-term rental license shall be immediately revoked.
4. A short-term rental has been used as a short-term rental during a period of suspension of a license, in which case the short-term rental license shall be immediately revoked.

Sec. 10-437. – Violation and penalties.

- a. Any violation of this Article, including any violation of the noise regulations set forth in Article V of Chapter 26 of this Code, shall subject the licensed individual to the following progressive actions by the City Council, except that a short-term rental license may be immediately suspended or revoked as provided in Section 10-436 upon notice and hearing:
 1. The first violation within a consecutive 12-month period shall result in a fine in municipal court and a written warning notice of violation upon a finding of guilt or plea of guilty or nolo contendere in municipal court.
 2. The second violation within a consecutive 12-month period shall result in a fine in municipal court and a license suspension for a period of not less than thirty (30) days nor more than ninety (90) days upon a finding of guilt or plea of guilty or nolo contendere in municipal court.
 3. The third violation within a consecutive 12-month period shall result in a fine in municipal court and the revocation of the short-term rental license upon a finding of guilt or plea of guilty or nolo contendere in municipal court, and neither the owner nor local contact person shall be eligible to reapply for a license for a period of twelve (12) months from the date of revocation.
- b. Nothing contained in this Subsection shall be construed to preclude the City Council from suspending or revoking a license for a period exceeding those periods identified in Sections 10-437(a)(1),(2), or (3) or from revoking the license if the City Council determines in its discretion that such action is necessary and in the best interest of the public health, safety, and welfare of the City.
- c. In all cases, the mandatory suspension period may be mitigated by the City Council upon presentation of evidence that the licensee established practices and procedures to prevent the violation from occurring.
- d. Enforcement action may be brought against any individual, including, but not limited to, the owner, local contact person, responsible person, or occupants and/or guest(s) of a short-

term rental for violations of this Article and any other provision of this Code. Any violation of the provisions of this Article shall be enforced in municipal court to the full extent authorized by law, with a finding of guilt or plea of guilty or nolo contendere subjecting the licensed individual to the same administrative sanctions as set forth in Section 10-437(a)(1-3) regardless of whether the finding of guilt as against or the plea of guilty or nolo contendere was by the owner, local contact person, responsible person, or occupants and/or guest(s).

- e. Each day the short-term rental is marketed or rented for overnight accommodation without the necessary short-term rental license required under this Article shall constitute a separate violation.
- f. Failure of the owner or local contact person to respond as provided in Section 10-433 regarding the condition, operation, or conduct of occupants and/or guest(s) of the short-term rental in a timely and appropriate manner shall be grounds for imposition of penalties as set forth in this Article. It is not intended that an owner or local contact person act as a peace officer or place himself or herself in an at-risk situation.
- g. In addition to the penalties described above, any person violating the provisions of this Article by operating a short-term rental without a valid short-term rental license may be prosecuted according to the general penalties described in Section 1-8 of this Code.

Sec. 10-438. – Enforcement

- a. The City Public Safety Department and City Code Enforcement shall have authority to enforce this Article.
- b. Any complaints received by the City regarding a short-term rental may result in a notice of the complaint being directed to the local contact person designated in the short-term rental license, which may result in direction that the local contact person respond to the short-term rental as provided in Section 10-433(b)(4).
- c. Notice of any citations issued for violations of this Article shall be provided to the local contact person designated in the short-term rental license within one (1) week of the issuance of such citations.

Sec. 10-439. – Hearing on denial, suspension or revocation.

- a. Upon receipt of a timely appeal (accompanied by a fee established by the City Council) of an administrative denial, upon presentation of evidence to the Community Development Director of a violation of this Article, or upon a showing of any of the other occurrences set forth in Section 10-436, the Community Development Director shall schedule a hearing before the City Council and provide written notice to the adverse party of the time, place and date of the scheduled hearing by personal delivery or certified mail. The Community Development Director shall also state in the written notice the basis for the administrative denial or the violation or occurrence alleged that forms the basis for the denial or potential

suspension or revocation. After notice of hearing, matters scheduled for hearing may only be continued by agreement of the City Attorney and the adverse party and/or counsel for the adverse party.

- b. The City Council shall have the duty of conducting hearings concerning the denial, revocation, or suspension of a license. The standard of proof on all issues in the hearing shall be a preponderance of the evidence and a determination will be made on the basis of the evidence presented at the hearing.
- c. At the hearing, after presentation of the case against the adverse party, the adverse party will have an opportunity to present his/her case, to rebut the allegations made against him/her, and present whatever defenses he/she has. The adverse party shall have the right to be represented by an attorney, at the expense of the adverse party, and to present evidence and cross-examine opposing witnesses.
- d. At the conclusion of the hearing, the findings and conclusions of the City Council shall be forwarded to the Community Development Director, and it shall be the duty of the Community Development Director to provide written notification via personal delivery or certified mail to the adverse party of the decision of the City Council.
- e. The decision of the City Council shall be final unless appealed to the Superior Court of Fulton County within thirty (30) days of receipt of the Community Development Director's written notification to the adverse party of the City Council's decision.
- f. For purposes of this Section, notice shall be deemed delivered when personally served or when served by certified mail postage prepaid within three (3) days after the date of deposit in the United States Mail.