

## **Appendix A ZONING**

An ordinance regulating the location, construction, and use of buildings, structures, and the use of land in the City of Calhoun and for said purpose of dividing the city into districts.

### ***ARTICLE I. PREAMBLE AND ENACTMENT CLAUSE***

The mayor and council of the City of Calhoun, Georgia, hereby ordains, under the authority of the State of Georgia Constitution of 1983, article 9, section 2, paragraph 4, as amended, the following articles and sections.

### ***ARTICLE II. SHORT TITLE***

This ordinance shall be known and may be cited as "The Zoning Ordinance of the City of Calhoun, Georgia."

### ***ARTICLE III. DEFINITIONS***

#### **Section 3.1. Interpretation of certain terms and words.**

For the purpose of interpreting this ordinance, certain words or terms used herein shall be defined as follows: Words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural include the singular. The word "person" includes a firm, association, organization, partnership, corporation, trust and company as well as an individual. The word "lot" includes the word "plot," "parcel" or "tract." The word "building" includes the word "structure." The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied." The word "map," "zoning map" or "Calhoun zoning map" means the "Official Zoning Map of the City of Calhoun, Georgia." The word "ordinance" or "Ordinance" means "The Zoning Ordinance of the City of Calhoun, Georgia."

#### **Section 3.2. List of definitions.**

Except as specifically defined herein, all words used in this ordinance shall carry their customary meaning as defined in a standard dictionary.

1. *Abandonment*: To stop the use of a property intentionally. When the use of a property has ceased and the property has been vacated for 12 months, abandonment of use will be presumed unless the owner can show that a diligent effort has been made to sell, rent, or use the property for a legally permitted use.
2. *Abut*: To physically touch or border upon; or to share a common property line; or being separated from such a common border by a right-of-way, alley or easement.
3. *Accessory structure or use*: A subordinate building, structure or use which is located on the same lot on which the main building or use is situated and which is reasonably necessary and incidental to the conduct of the primary use of such building or main use.
4. *Alley*: A minor way used for service access to the back or side of properties otherwise abutting a street.
5. *Apartment*: A room or suite of rooms in a multiple-family structure, which is arranged, designed, used or intended to be used as a housekeeping unit for a single family.
6. *Assisted living facility*: A facility licensed by the State of Georgia for the transitional residency of elderly and/or disabled persons, progressing from independent living to congregate housing, within which are provided living and sleeping facilities, meal preparation, laundry services, transportation services and routine social and medical appointments and counseling.

7. *Buffer area*: A landscaped area intended to separate and partially obstruct the view of two adjacent land uses or properties from one another.
8. *Building*: Any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattels.
9. *Building coverage*: The horizontal area measured from the outside of the exterior walls of the ground floor of all principal and accessory buildings on a lot.
10. *Building permit*: Written permission issued by the proper municipal authority for the construction, repair, alteration or addition to a structure.
11. *Building, principal*: A building in which the primary use of the lot on which the building is located is conducted.
12. *Building setback line*: A line, usually fixed parallel to the lot line, beyond which a building, or any projection thereof, cannot extend, excluding uncovered steps, terraces, stoops or similar fixtures.
13. *City*: The City of Calhoun.
14. *Conditional use*: A use not ordinarily permitted but which may be permitted in a particular zoning district only upon showing that such use would not be detrimental to public health, safety or general welfare. Such uses may be required to meet additional standards as outlined in this appendix, and may be controlled as to the number, area and spacing from other uses and each other.
15. *Condominium*: A building or group of buildings, in which units are owned individually, and the structure, common areas and facilities are owned by all the owners on a proportional, undivided basis.
16. *Convenience store*: A use offering a limited variety of groceries, household goods, and personal care items, always in association with the dispensing of motor fuels as an accessory use, but in all cases excluding vehicle service, maintenance and repair.
17. *Cul-de-sac*: A local street, one end of which is closed and consists of a circular turnaround.
18. [Reserved.]
19. *District*: A part, zone or geographic area within the city within which certain zoning or development regulations apply.
20. *Dwelling, detached*: A building which is designed for and occupied by not more than one family and surrounded by open space or yards and which is not attached to any other building by any means.
21. *Dwelling, duplex*: A building that is divided horizontally into two dwelling units each of which has an independent entrance either directly or through a common vestibule and used by not more than two families.
22. *Dwelling, multiple or multifamily*: A building designed for and containing three or more dwelling units.
23. *Dwelling, quadruplex*: Four attached dwelling units in one structure in which each unit has two open space exposures and shares one or two walls with an adjoining unit or units.
24. *Dwelling, single-family*: A building designed for and containing one dwelling unit occupied by one family unit.
25. *Dwelling, triplex*: A building divided into only three dwelling units each of which has an independent entrance either directly or through a common vestibule and used by not more than three families.
26. *Dwelling unit*: Consists of one or more rooms, which are arranged, designed or used as living quarters for one family only. Individual bathrooms and complete kitchen facilities, permanently installed, shall always be included in each "dwelling unit."

27. *Family*: One or more persons occupying a dwelling unit and living as a single, nonprofit housekeeping unit; provided that a group of four or more persons who are not within the second degree of kinship shall not be deemed to constitute a family.

Notwithstanding the definition in the preceding paragraph, a family shall not be deemed to include four or more persons not within the second degree of kinship occupying a dwelling unit and living as a single nonprofit housekeeping unit, if said occupants are handicapped persons as defined in title VIII of the Civil Rights Act of 1968 as amended by the Fair Housing Amendments Act of 1988. Such unrelated individuals shall have the right to occupy a dwelling unit in the same manner and to the same extent as any family unit as defined in the first paragraph of this definition.

28. *Floor area*: The sum of the horizontal areas of each floor of a building, measured from the exterior walls or from the centerline of walls separating two buildings. The floor area measurement is exclusive of areas of unfinished basements and attics, attached garages, or space used for off-street parking or loading, breezeways, and enclosed and unenclosed porches and patios, and accessory structures.
29. *Frontage*: The length of any property line of premises, which abuts public right-of-way.
30. *Grade*: An average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.
31. *Group home*: A dwelling shared by non-related individuals who live together as a single housekeeping unit and in a long-term family-like environment in which staff persons provide care, education and participation in community activities for the residents with the primary goal of enabling the residents to live as independently as possible in order to reach their maximum potential. This use shall also apply to homes for the handicapped; however, the term "handicapped" shall not include current illegal use of or addiction to a controlled substance or alcohol, nor shall it include any person whose residency in the home would constitute a direct threat to the health and safety of other individuals. The term "group home" shall not include alcohol or drug treatment centers, work release facilities for convicts or ex-convicts, or other housing serving as an alternative to incarceration.
32. *Height*: The vertical distance between the highest part of a structure, sign or its supporting structure, whichever is higher, and the ground. The vertical distance from the grade, or its equivalent, to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of the gable, hip or gambrel roof.
33. *Home occupation*: An occupation conducted in a dwelling or dwelling unit for which the city would normally require a business license and shall specifically include the use of the subject premises by professional persons engaged in the practice of law, business or personal services. Further "home occupation" shall include the use of the premises by a manufacturer's representative providing that no merchandise shall be stored on the premises other than samples which may be transported by hand and which are usually carried by such salesman, agent or representative to prospects' office or place of business.
34. *Impervious surface*: A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water including streets, roofs, sidewalks, parking lots and other similar structures.
35. *Junkyard*: Any such commercial or noncommercial use in excess of ten days involving the storage or disassembly of disabled or wrecked automobiles, trucks, farm equipment, farm machinery, any vehicle, industrial equipment, or used appliances; commercial or noncommercial storage, baling or otherwise dealing in bones, animal hides, scrap metal, used paper, used cloth, used plumbing fixtures, used tires, and used brick, wood, stone or other building materials. Such uses shall be considered "junkyards" whether or not all or part of such operations are conducted inside a building or in conjunction with, addition to, or accessory to, other uses of the premises. The presence on any lot or parcel of land of two or more motor vehicles, which for a period exceeding 30 days, have not been capable of operating

under their own power and from which parts have been removed or are to be removed for reuse or sale, shall constitute prima facie evidence of a junkyard.

36. *Loft apartment or residence*: The upper room(s) or floor(s) of a building used as a single-family residence and meeting all building, electrical and fire safety codes imposed by any city ordinance or law of the State of Georgia and which has a sprinkler system and fire alarm system for safety purposes.
37. *Lot*: A portion or parcel of land devoted to a common use or occupied by a building or group of buildings devoted to a common use together with the customary accessories and open spaces belonging to the same.
38. *Lot coverage*: That amount of land covered or permitted to be covered by a building(s) excluding parking areas, driveways and walkways but including accessory structures measured in terms of a percentage of the total lot area.
39. *Lot depth*: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.
40. *Lot line*: A line of record bounding a lot which divides one lot from another lot or from a public or private street or any other public space.
41. *Lot width*: The distance between the side lot lines measured along the front building line of the lot as determined by the prescribed minimum front setback requirement.
42. *Lot of record*: A lot, not exceeding 25,000 square feet in area, which is a part of an approved subdivision, a plat of which has been recorded in the office of the Clerk of the Superior Court of Gordon County; or a parcel of land, not exceeding 25,000 square feet in area, the deed to which has been recorded in the office of the Clerk of the Superior Court of Gordon County.
43. *Manufactured home, mobile home*: "Manufactured home" means a structure transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on-site, is 320 or more square feet and which is built on a permanent chassis and is designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. A prefabricated home which complies with all of the requirements for single-family homes found in the city building code, and which occupies a single-family lot, shall not be included in this definition.  
  
"Mobile home" means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on a site is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976.
44. *Manufactured home park*: A parcel of land which has been planned and improved for the placement of manufactured homes or mobile homes for nontransient use.
45. *Massage clinic/corporation/parlor*: Any business where one or more massage therapists perform massage therapy.
46. *Massage therapist*. A person who performs massage on the human trunk or limbs.
47. *Massage therapy*. The manipulation of soft tissue for therapeutic purposes and includes, but is not limited to, effleurage (stroking skin without going deep), petrissage (kneading movement by lifting and grasping), tapotement (brisk blows in rapid alternating fashion), compression, vibration, friction, nerve strokes and other movements, whether by hand or with mechanical or electrical apparatus, for the purpose of muscular massage. This may include the use of oil, salt glows, hot and cold packs, and other recognized forms of massage therapy. Massage therapy shall not include a diagnosis,

- service or procedure normally provided by a doctor of medicine, doctor of chiropractic or doctor of podiatry, nor shall it apply to athletic trainers, technicians, or physical therapists who act by a prescription or under the supervision of a person authorized to practice medicine or surgery. Massage therapy shall not include any conduct or activity which is otherwise prohibited by state, federal or local law.
48. *Modular building*: A factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation into a permanent structure to be used for residential or commercial/business purposes having been built to state construction codes.
  49. *Motel*: A building containing four or more individual sleeping rooms or suites that are available to the general public for compensation for overnight lodging purposes and in which no provisions are made for cooking in any individual room or suite. Unless the context indicates otherwise, "motel" includes a hotel or motor lodge.
  50. *Motocross track*: A closed-circuit dirt racecourse designed for off-road motorcycle or dirt bike competitions.
  51. *Nonconforming use, building, lot, parcel of land*: A legally existing use or building which fails to comply with any provision of this ordinance either at the effective date of this ordinance or as the result of subsequent amendments.
  52. *Official zoning map*: A legally adopted map that conclusively shows the location and boundaries of zoned districts.
  53. *Open space*: An area that is intended to provide light and air, and is designed for environmental, scenic or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds, fountains, swimming pools, wooded areas and watercourses. Open space shall not be deemed to include driveways, parking lots, or other surfaces designed or intended for vehicular travel.
  54. *Party wall*: A firewall on an interior lot line, used or adapted for joint service between two buildings.
  55. *Residence*: A home or dwelling utilized as living quarters.
  56. *Residential district*: Any zone consisting primarily of residential dwelling units.
  57. *Rooming or boarding house*: A dwelling, other than a motel, hotel or motor lodge, where meals or housing accommodations for three or more persons are provided for hire.
  58. *Setback*: The required minimum distance between any structure or building, whether principal or accessory, and any lot line.
  - 58.1. *Setback line*: The line that is the required minimum distance of any structure or building from any lot line and that establishes the area within which the principal structure or building may be erected or placed.
  59. *Sign*: As defined in article X of this ordinance.
  60. *Site plan*: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including: topography, vegetation, drainage floodplains, marshes and waterways, open spaces, means of ingress and egress, utility services, landscaping, structures and signs, lighting and screening devices, and any other information that reasonably may be required in order that an informed decision can be made by the approving authority.
  61. *Stormwater*: Water which is derived from falling rain or melting snow or which rises to the surface in springs, and is diffused over the surface at the ground, while it remains in such diffused state, and which follows no defined course or channel, which does not gather into or form a natural body of water, and which is lost by evaporation, percolation, or natural drainage. Stormwater shall include the term "surface water" as it is defined under Georgia law.

62. *Street*: A public way, which affords the principal means of access to abutting properties.
63. *Street, arterial*: An interregional road conveying traffic between cities, counties and urban centers. These streets are usually state routes, owned and maintained by the Georgia Department of Transportation. Examples are: SR 156, 136, 225 and 3 (U.S. 41).
64. *Street, major and collector*: A street that conducts and distributes traffic between other residential streets of lower order in the streets' hierarchy and higher order streets or major activity centers. Examples are: Dews Pond Road, Richardson Road, Curtis Parkway and C.L. Moss Parkway.
65. *Street, minor*: A street whose sole purpose is to provide frontage for service and access to private lots. These streets carry only traffic having either destination or origin on the street itself. Examples are: Garden Hill Drive, Windsor Drive, Adair Street, and Timber Ridge Lane.
66. *Street, minor collector*: An access street that provides frontage for residential lots and may carry a small amount of residential through traffic collected only from tributary residential access streets. Examples are: Peters Street, Barrett Road, Meadow Lane and Belmont Drive.
67. *Structure*: Anything constructed or erected which requires location on the ground or attached to something having location on the ground.
- 67.1 *Temporary modular building*: A factory-fabricated transportable building to be used for commercial purposes consisting of units to be incorporated at a building site on a semipermanent foundation, to be removed only upon cessation of use or occupancy of the units, and having been built and assembled according to state construction codes and Department of Community Affairs (DCA) regulations. A temporary modular building may be maintained upon a building site for a period of time not to exceed three years, as determined by the mayor and council. Extensions, year to year, of such time may be granted by the mayor and council upon application of the owner or lessee of the property upon which the units are installed.
68. *Townhouses*: Attached houses in a row or group, each house separated from adjoining houses in the same row or group by firewalls and having fee simple title.
69. *Unit, dwelling*: One room or rooms connected together, constituting a separate, independent housekeeping establishment for owner or renter occupancy, and containing independent cooking and sleeping facilities and sanitary facilities.
70. *Vapor product*: Any noncombustible product containing nicotine that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine in a solution or other form. The term vapor product shall include any electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and any vapor cartridge or other container of nicotine in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. The term vapor product shall not include any product regulated as a drug or device by the United States Food and Drug Administration under Chapter V of the Food, Drug, and Cosmetic Act.
71. *Vapor shop*: A retail business substantially engaged in the retail sale of low THC oil, tobacco products, tobacco related objects, alternative nicotine products, vapor products, cannabidiol (CBD) or products containing CBD ("the subject products"). For the purposes of this definition, substantially engaged means one or more of the following conditions are met:
  - (a) Ten percent or more of the retail stock in trade consists of the subject products, as measured by the number of individual items available for purchase at any given time;
  - (b) Ten percent or more of the value of gross sales receipts for any day that the entity is open is derived from the sale of subject products;

- (c) The subject products make up ten percent or more of the retail value of the retail stock in trade;  
or
  - (d) Ten percent or more of the establishment's floor area is devoted to the marketing of the subject products.
72. *Variance*: A device which grants a property owner relief from certain provisions of a zoning ordinance when, because of the particular physical surroundings, shape or topographical condition of the property, compliance would result in a particular hardship as distinguished from a mere inconvenience or a desire to make more money.
73. *Yard*: An open space on the same lot with a principal structure or building, open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory structures or buildings are expressly permitted. This definition shall also include the following:
- (a) *Yard required*. The open space between a lot line and the yard line within which no structure or building shall be located except as otherwise provided in this appendix; and
  - (b) *Yard line*. A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required yard, which may also be referred to as a "building line" in common use.
74. *Yard, front*: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street and the front line of the building project [projected] to the side lines of the lot.
75. *Yard, rear*: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to side lines of the lot.
76. *Yard, side*: An open unoccupied space on the same lot with a principal building, situated between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.
77. *Zero lot line*: The location of a building on a lot in such a manner that one or more of the building's sides rests directly on a lot line.
78. *Zoning*: The power of the mayor and council to provide within their respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the use of property for which such zones or districts were established.
79. *Zoning decision*: The action by the mayor and council which results with:
- (a) The adoption or repeal of a City of Calhoun Zoning Ordinance;
  - (b) The adoption of an amendment to the City of Calhoun Zoning Ordinance, which changes the text of the zoning ordinance;
  - (c) The adoption or denial of an amendment to the City of Calhoun Zoning Ordinance, to rezone property from one zoning classification to another;
  - (d) The adoption or denial of an amendment to a zoning ordinance by the mayor and council to zone property to be annexed into the municipality;
  - (e) The grant or denial of a permit relating to a special use of property; or
  - (f) The grant or denial of a variance or conditions concurrent and in conjunction with a decision pursuant to subparagraphs (c) or (e);

- (g) Any action which changes, alters, amends or modifies the official zoning map of the City of Calhoun, Georgia, as amended which shall include, but is not limited to, any variance requests to depart from the established zoning requirements or regulations regardless of whether such decision is to be classified as "judicial" or "quasi-judicial;" or
- (h) Any recommendation by the zoning advisory board or any decision by the board of zoning appeals.

## **ARTICLE IV. ESTABLISHMENT OF DISTRICTS**

### **Section 4.1. Division into districts.**

For the purpose of this ordinance, the City of Calhoun is divided into 13 districts designated as follows:

1. R-1, Single-Family Residential 1 unit per acre.
2. R-1A, Single-Family Residential 2 units per acre.
3. R-1B, Single-Family Residential 3 units per acre.
4. R-2, Residential District.
5. R-2A, Residential District.
6. R-3, Residential District.
7. O-I, Office and Institutional District.
8. C-1, Central Business District.
9. C-2, General Business District.
10. C-N, Neighborhood Business District.
11. Industrial G, General Industrial District.
12. A-1, Agricultural District.
13. PRD, Planned Residential Development.

### **Section 4.2. District boundaries.**

The boundaries of each district are as shown on a map entitled "Official Zoning Map, Calhoun, Georgia," adopted May 21, 2001, and certified by the city clerk and amended periodically thereafter by the city council. Said map and all explanatory matter thereon accompanies and is hereby made a part of this ordinance. Said map shall be retained in the office of the city clerk.

### **Section 4.3. Rules for determining boundaries.**

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the zoning map, the following rules shall apply:

- 4.3.1. Where district boundaries are indicated as approximately following the centerlines of streets or highways, street lines, or highway right-of-way lines, such centerlines, street lines or highway right-of-way lines shall be construed to be such boundaries.
- 4.3.2. Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- 4.3.3. Where district boundaries are so indicated that they are approximately parallel to the centerlines of streets, highways, or railroads, or right-of-way of same, such district boundaries shall be construed as being

parallel thereto and at such distance therefrom, as indicated on the zoning map. If no distance is given, such dimension shall be determined by the use of the scale shown on said zoning map.

4.3.4. Where a district boundary line, as appearing on the zoning map, divides a lot in single ownership at the time of this enactment, the district requirements for the least restricted portion of such lot shall be deemed to apply to the whole thereof, provided that such extensions shall not include any part of such a lot more than 35 feet beyond the district boundary line.

## **ARTICLE V. APPLICATION OF REGULATIONS**

### **Section 5.1. Use.**

Except as hereinafter provided, no building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with all of the regulations herein specified for the district in which it is located.

#### **Section 5.1.1. Adoption and incorporation by reference the certain provisions of the Design Guidelines and Standards: Primary Connectors/Corridors & Gateways.**

- (a) *Adoption.* Except as hereinafter provided, no building, structure, or land indicated by a map on Page 2, Design Guidelines and Standards: Primary Connectors/Corridors & Gateways labeled as "Figure 1.1: Citywide Corridors and Gateways" shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered unless in conformity with the regulations contained within the separate Design Guidelines and Standards: Primary Connectors/Corridors & Gateways, Section 3: Design Guidelines: Corridors, Section 3.8: Building Design and Section 3.9: Signage found on pages 92 through 100 therein hereby specifically incorporated as a part of this zoning code and made a part thereof as if fully set forth herein.
- (b) *Minor deviations allowed.* The elements now mandated in the Design Guidelines and Standards: Primary Connectors/Corridors & Gateways, Section 3: Design Guidelines: Corridors, Section 3.8: Building Design and Section 3.9: Signage found on pages 92 through 100 of said document, are intended to be followed as outlined therein and throughout the remainder of this appendix without regard to other requirements for zoned districts. In the event the intent of this section can be achieved with minor deviations which do not substantially impact the goals or intent of the mandates of these sections, the City of Calhoun has the authority to modify the specific provisions by variance as applied for and approved by the procedure contained herein below. Any application for a variance concerning alternate architectural arrangement shall be accompanied with proposed elevations, building materials, and/or renderings necessary for the mayor and city council to make a determination whether the alternate proposal meets the intent of these requirements. The mayor and city council, as part of an approval, may include conditions, modifications or requirements necessary to mitigate any part of their decision.

### **Section 5.2. Height and density.**

Except as hereinafter provided, no building or other structure shall hereafter be erected or altered:

- 5.2.1. To exceed height limits;
- 5.2.2. To accommodate or house a greater number of families or occupy a smaller lot area per family; or
- 5.2.3. To have narrower or smaller rear yards, front yards, side yards, or other open spaces than herein required or specified; or in any other manner contrary to the provisions of the ordinance.

### **Section 5.3. Yard service to one building.**

Except as hereinafter provided, no part of a yard, or other open space, or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with this ordinance, shall be included as a part of a yard, open space, or off-street parking or loading space similarly required for any other building.

### **Section 5.4. Only one principal building.**

Except as hereinafter provided, every building or structure hereafter erected shall be located on a lot or tract as defined herein, and there shall not be more than one principal building on one lot, plus its accessory buildings, except as provided in article IX, section 9.4 of this ordinance.

### **Section 5.5. Reduction of lot area.**

Except as hereinafter provided, no lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot width or depth, front, side or rear yard, lot area per family, or other requirements of this ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public purposes.

### **Section 5.6. Street frontage.**

Except as hereinafter provided, no principal building shall be erected on any lot which does not have immediate frontage on at least one public street for a distance of not less than 25 feet.

### **Section 5.7. Corner and double frontage of lots.**

Except as hereinafter provided, on lots having frontage on more than one street in residential districts, the minimum front yard shall be provided for each street in accordance with the provisions of this ordinance.

### **Section 5.8. Inspection of required buffers.**

Except as hereinafter provided, in the event a screen, wall, fence, planted dividing strip, or any other type of buffer is required by this ordinance for any use, such screen, wall, etc. will be subjected to periodic inspections by the building inspector to determine that such required walls, fences, etc. are being properly maintained. Failure to maintain such required walls, fences, etc. to an acceptable standard may be deemed a violation of this ordinance.

### **Section 5.9. Septic tanks prohibited.**

No septic tank or septic system shall be installed in districts R-1, R-1A or R-1B, except in an existing lot(s) of record as defined in this ordinance.

## ***ARTICLE VI. GENERAL PROVISIONS***

### **Section 6.1. Continuance of a nonconforming use.**

The lawful use of any building or structure or land existing at the time of the enactment of or subsequent amendment to this ordinance may be continued subject to the restrictions contained in this ordinance even though such use does not conform with the provisions of this ordinance except that the nonconforming structure or use shall not be:

1. Changed to another nonconforming use;
2. Torn down and rebuilt as a nonconforming use;

3. Extended or enlarged except in conformity with this ordinance;
4. Reestablished after vacancy, nonuse or discontinuance for a continuous period of 12 months; or
5. Rebuilt, altered or repaired, except in conformity with this ordinance, after damage exceeding 50 percent of the assessed value of the improvements as determined by the records maintained in the office of the Gordon County Tax Assessor.

## **Section 6.2. Annexation.**

6.2.1. All territory which may hereafter be annexed to the City of Calhoun shall be so annexed in accordance with O.C.G.A. Art. 2, Ch. 36, T. 36 (O.C.G.A. § 36-36-20 et seq.), as amended (the 100 percent method); O.C.G.A. Art. 3, Ch. 36, T. 36 (O.C.G.A. § 36-36-30 et seq.), as amended (the 60 percent method); or O.C.G.A. Art. 4, Ch. 36, T. 36 (O.C.G.A. § 36-36-50), as amended (the annexation of unincorporated islands).

6.2.2. Upon the filing of an application for annexation, the landowner shall file an application to amend the zoning map of Calhoun, Georgia, for zoning consideration. At any time or after the date notice is provided to the governing authority of Gordon County, Georgia, as required under O.C.G.A. § 36-36-6, as amended, the city may begin the procedures required by section 14.2 of the zoning ordinance of the City of Calhoun, Georgia, for the zoning for property to be annexed into the City of Calhoun, Georgia.

6.2.3. Upon completion of the notice requirements and hearings required by section 14.2.2 of the zoning ordinance of the City of Calhoun, Georgia, the zoning classification approved by the mayor and council shall become effective on the later of:

1. The date the zoning decision is approved by the mayor and council; or
2. The date the annexation becomes effective pursuant to O.C.G.A. § 36-36-2, as amended.

6.2.4. No building permits, land disturbance or other development permits or utility extensions shall be authorized, granted or constructed upon newly annexed areas until a zoning classification of the newly annexed property has been approved by the mayor and council and all permits mandated by governmental regulatory agencies, to include, but not be limited to, the EPD, state fire marshal, DOT, Army Corps of Engineers, Department of Labor and Department of Agriculture, have been granted and received.

## **Section 6.3. Off-street automobile parking and storage.**

Except in the C-1, central business district, off-street automobile parking or storage space shall be provided on every lot on which any of the following uses are hereafter established. Such automobile parking or storage space shall be provided with vehicular access to a street or alley and shall be equal in area to at least the minimum requirements for the specific use as set forth below. Each off-street parking space shall be at least nine feet wide and 18 feet deep. The number, design and location of parking spaces provided to ensure handicapped access shall comply with the Americans with Disabilities Act (ADA) standards for accessible design.

6.3.1. If the required automobile parking or storage space cannot be provided on the same lot on which the principal use is located, the building inspector may permit such space to be provided on other off-street property, provided such space is within 500 feet of such principal use. Such space shall be associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.

6.3.2. All off-street automobile parking and storage space in residential districts shall be so arranged that vehicles will not be required to back onto a public street, road, or highway when leaving the premises.

6.3.3. Minimum requirements.

Use Classifications	Minimum Requirements
Single-family detached and attached residential structures	2 spaces for each dwelling unit. Spaces shall be side by side.
Two-family and multifamily residential structures	2 spaces for each dwelling unit
Rooming and boarding houses, hotels	1 space for each dwelling unit or guest room
Churches, synagogues, or other places of public assembly	1 space for each accommodation
Fraternal organizations, and other places of public assembly	1 space for each accommodation
Tourist homes, tourist courts, or motels	1 space for each accommodation
Hospitals, nursing homes or similar institutions	1 space for each 2 beds intended for patients, plus one space for each 3 employees
Retail businesses	3.5 spaces for each 1,000 square feet of sales floor area
Offices, including banks	3.5 spaces for each 1,000 square feet of total floor area
Filling stations	2 spaces for each gas pump, plus 3 spaces for each grease rack or similar facility
Mortuary or funeral parlor	1 space for each 4 seats in the chapel, 1 additional space for each 2 employees, 1 additional space for each resident family, and 1 additional space for each funeral vehicle
Restaurant or similar eating establishment	1 space for each 4 seats provided for patron use and 1 additional space for each 2 employees
Wholesaling	1 space for each 2 employees
Industrial	1 space for each 2 employees at maximum employment on a single shift
Schools	1 space for each six seats in the main assembly room

6.3.4. All off-street parking and turnarounds (industrial, commercial, and multi-family) shall be clearly defined by the use of concrete or paving material and shall have a vehicular turnaround. Single-family residential uses shall be exempt from the turnaround requirement.

1. Outdoor storage yards and less traveled interior drives in commercial and industrial areas may be surfaced with gravel.
2. Access driveways for off-street parking in single-family residential zoning districts of R-1, R-1A, and R-1B shall be allowed to use a gravel surface material with the exception that when gravel is used, a concrete or asphalt paved area shall be required to meet the road being accessed. Said paved area shall have a minimum length of five feet and a minimum width of 12 feet and of sufficient depth to accommodate conventional vehicular traffic. PRD zoning and platted subdivision shall not be allowed to use gravel material.

6.3.5. Drive-thru facilities and stacking lanes:

1. All uses and facilities providing drive-up or drive-thru service shall provide stacking lanes in compliance with the standards of this section.
2. Restaurants with drive-up or drive-thru facilities shall provide a minimum stacking space to accommodate eight vehicles. Additional space may be required by the city depending on the site plan and the distance required to ensure no traffic backs up into a roadway. A by-pass lane shall be required.

3. Banks, financial institutions, fast food service providers and other such businesses shall provide stacking lanes and spaces, including a by-pass lane as follows:

Number of Drive-thru Lanes	Total Number of Vehicles
1	6
2	10
Each additional lane	2 additional vehicles accommodated

**Section 6.4. Off-street loading or unloading space.**

Every building or structure used for business, trade, or industry shall provide space as indicated herein for the loading and unloading of vehicles off the right-of-way of the street or public alley. Such space shall have access to an alley or if there is no alley, to a street. Such space shall have at least 14 feet of vertical clearance. Such space shall be so arranged that no vehicle is required to back onto a public street, road, or highway in order to leave the premises.

- 6.4.1. Retail business: One space, ten feet by 25 feet, for each 3,000 square feet of floor area or any part thereof.
- 6.4.2. Wholesale and industry: One space, ten feet by 50 feet, for each 10,000 square feet of floor area or any part thereof.
- 6.4.3. Bus and truck terminals: Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loading or unloading at the terminal at any one time.

**Section 6.5. Required buffers.**

A buffer area shall be defined as that portion of a lot set aside for one space and/or visual screening purpose, pursuant to applicable provisions of this section, to separate different use districts and/or uses on one property from uses on another property of the same use district or a different use district. Buffers shall be natural/undisturbed areas of existing mature trees. Where substantially devoid of existing trees, or where it is necessary to disturb the existing natural area, a planted/landscaped buffer shall be established. Buffers shall provide year-round visual screening from the ground to a height of at least eight (8) feet.

- 6.5.1. An adequate buffer strip at least 50 feet in width shall be required and maintained between an area zoned R-1, R-1A, or R-1B (and any equivalent single-family residential zoning in unincorporated Gordon County that has contiguous parcels) and any area zoned as R-2, R-2A, R-3, or O-I. Such buffer shall be constructed and/or maintained by the owner of the land zoned R-2, R-2A, R-3, or O-I.
- 6.5.2. Said buffer area may not be used for any parking or for the erection of any permanent structure thereon except a fence, if desired. However, a buffer area may be used for vehicular access and utility easements and for drainage improvements required by the city based upon competent engineering studies.
- 6.5.3. Except as provided herein, the natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary to prevent a nuisance, or to thin such natural growth where too dense for normal growth, or to remove diseased, misshapen, or dangerous and decayed timbers. However, a slope easement may be cleared and graded where required to prevent soil erosion upon approval of the city building inspector.
- 6.5.4. An adequate buffer strip of at least 20 feet in width shall be required and maintained between any area zoned commercial, C-1, C-2, or C-N, and any area zoned residential, R-1, R-1A, R-1B, R-2, R-2A, R-3, O-I (and any equivalent single-family residential zoning in unincorporated Gordon County that has contiguous parcels). Such buffer shall be constructed and maintained by the owner of the land zoned as commercial.
- 6.5.5. Further, the owner of the land zoned as commercial shall also construct a fence along the edge of said required buffer area. Said fence shall be at least six feet in height and shall be constructed of masonry, ventilated redwood, cedar, chainlink fence with natural planting or other similar materials.

6.5.6. Said buffer area may not be used for any parking or for the erection of any permanent structure thereon except the required fence. Said buffer may be used for the construction of drainage improvements required by the city based upon competent engineering studies.

6.5.7. The lawful use of any building or structure or land existing at the time of the enactment of or subsequent amendment to this section may be continued subject to the restrictions contained in this section even though such use does not conform with the provisions of this section except that the nonconforming structure or use shall not be:

1. Changed to another nonconforming use;
2. Torn down and rebuilt as a nonconforming use;
3. Extended or enlarged except in conformity with this section;
4. Reestablished after vacancy or discontinuance for one year; or
5. Rebuilt, altered, or repaired, except in conformity with this section, after damage exceeding 100 percent of the assessed value of the improvements as determined from the tax records of Gordon County, provided, however, this provision shall not apply to owner-occupied dwellings.

6.5.8. An adequate buffer strip of at least 100 feet in width shall be required and maintained between any area zoned Ind-G general industrial district, and any area zoned residential, R-1, R-1A, R-1B, R-2, R-2A, R-3, O-1 (and any equivalent single-family residential zoning in unincorporated Gordon County that has contiguous parcels). Such buffer shall be constructed and maintained by the owner of the land zoned as industrial. Said buffer area may not be used for any parking or for the erection of any permanent structure thereon except a fence, if desired. However, a buffer area may be used for vehicular access and utility easements and for drainage improvements required by the city based upon competent engineering studies.

6.5.9. Where non-residential uses are expressly permitted in the R-1, R-1A or R-1B districts, there shall be a minimum landscaped buffer of 25 feet established or maintained on the non-residential property along any property line boundary with a residential property.

## **Section 6.6. Official zoning map.**

The official zoning map, as amended to contain all annexations, zonings and rezonings through the date of any application for a zoning decision as adopted, and copies shall be maintained in the office of the city administrator at city hall and the city council chambers at the Depot Community Room, 109 South King Street, Calhoun, Georgia.

## ***ARTICLE VII. USE REQUIREMENTS BY DISTRICTS***

### **Section 7.1. R-1, single-family residential (one unit per acre).**

*Purpose and intent.* The R-1 district is intended to be used for low density single-family detached housing and residentially compatible uses requiring large amounts of open space. The R-1 district as shown on the official zoning map of the City of Calhoun, Georgia, in existence as of the effective date of this ordinance includes the following districts: R-1A, and R-1B. As and when the zoning map is amended, the district designations of R-1A and R-1B shall be entered upon the lot(s) so designated.

7.1.1. *Permitted uses.* Within a R-1 single-family residential district, the following uses shall be permitted.

1. Single-family detached dwellings, but not including mobile homes.
2. Noncommercial horticulture and agriculture, except in front and side yard setbacks.
3. Noncommercial clubs and lodges.
4. Private parks and playgrounds.

5. Golf courses and driving ranges, provided:
  - a. Any building or structure established in connection with such use must be set back no less than 100 feet from any property line.
  - b. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring property.
6. Public buildings and utilities.
7. Neighborhood recreation centers or swimming pools, provided:
  - a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
  - b. Any building or structure established in connection with such use must be set back no less than 75 feet from any property line.
  - c. All pools must adhere to the standards of the Standard Swimming Pool Code, as contained in the Southern Building Code, as amended.
8. Religious institutions, churches, monasteries, mosques, temples and synagogues, provided:
  - a. All buildings shall be set back 75 feet from any property lines except along rights-of-way, in which case the front setback shall apply.
  - b. Reserved.
9. Accessory uses and structures incidental to any legal permitted use.
10. Home occupations, provided the following criteria are met:
  - a. Home occupations may be approved by the building inspector upon the application of the proposed principal in such form as the building inspector or his/her designee may direct.
  - b. No more than two persons shall be engaged in such home occupation, one of whom shall be a member of the family residing on the premises.
  - c. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and no more than 25 percent of the floor area of the dwelling unit or 500 square feet, whichever amount is less, shall be used for the conduct of the home occupation. Such space may be contained in a lawful accessory structure.
  - d. There shall be no assembly or group instructions in connection with the home occupation. Individual instruction on a one-on-one basis is permitted.
  - e. No product shall be sold on the premises. This provision shall not be construed as prohibiting sales by taking orders personally or by telephone when delivery of the merchandise is to take place elsewhere.
  - f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front or side yard.
  - g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
  - h. Any person who obtains authorization permitting the conduct of a home occupation shall be a member of the family residing on the premises, shall take substantially all of his/her overnight lodging at the dwelling, shall store substantially all his/her personal belongings which are used in normal daily life in the dwelling, and shall use the address of the subject dwelling as his/her address for legal purposes such as registration to vote and payment of personal property taxes.

11. Telecommuting.
12. Bed and breakfast unit consisting of a rooming unit which is rented by the owners to persons who are not related to the owner by blood, marriage or adoption, provided that:
  - a. Such rooming unit is within a single-family dwelling occupied by the owner as his/her principal residence.
  - b. All rooming units together occupy no more than one-fourth of the habitable floorspace of the dwelling.
  - c. Such rooming unit is normally rented to the same occupants for a period no longer than seven consecutive days.
  - d. No meal other than breakfast is served to guests.
  - e. No addition or alteration may be made to a dwelling for the purpose of adding a rooming unit to be rented as a bed and breakfast unit.
  - f. There are no signs on the property other than those normally permitted for a single-family residence under this ordinance.
  - g. Parking shall conform with the requirements contained in this ordinance.
13. Nursery schools and kindergartens provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the outdoor play area shall be enclosed by a solid fence having a minimum height of six feet; and provided that the principal building of such use shall meet all the yard requirements of the R-1 residential district.

7.1.1(a). *Buffer requirements.* Within a R-1 single-family residential district, any use permitted which abuts a single-family detached dwelling shall maintain a buffer area and fence as required under section 6.5 of this ordinance unless a specific buffer area is otherwise required for said use.

7.1.2. *Accessory structures.* Within a R-1 single-family residential district, the following criteria shall be met as to all accessory structures:

1. All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten feet from the side and 20 feet from the rear lot lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
2. When an accessory building is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
3. No accessory building shall be constructed upon a lot before the principal building.
4. No accessory structure may exceed the mean height of the principal building.
5. The area of the accessory building's footprint may not exceed 50 percent than that of the principal structure.
6. Swimming pools must be enclosed by a fence not less than four feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.

7.1.3. *Bulk and area regulation.* Within a R-1 single-family residential district, the following bulk and area regulations shall apply:

Minimum lot size	25,000 square feet
Maximum density	1 dwelling unit per acre
Minimum lot width	At least 125 feet along a public street/25 feet along the arc of a cul-de-sac
Maximum building height	40 feet
Minimum floor area	1,800 square feet
Maximum building coverage	35 percent
Front setback (arterial)	50 feet
Front setback (collector)	40 feet
Front setback (local)	35 feet
Side setback (major)	35 feet
Side setback (minor)	25 feet
Side setback	10 feet
Rear setback	35 feet

**Section 7.2. R-1A, single-family residential (two units/acre).**

*Purpose and intent.* The R-1A district is intended to be used for low density single-family detached housing and residentially compatible uses requiring large amounts of open space.

7.2.1. *Permitted uses.* Within a R-1A single-family residential district, the following uses shall be permitted.

1. Single-family detached dwellings, but not including mobile homes.
2. Noncommercial horticulture and agriculture except in front and side yard setbacks.
3. Noncommercial clubs and lodges.
4. Private parks and playgrounds.
5. Golf courses and driving ranges, provided:
  - a. Any building or structure established in connection with such use must be set back no less than 100 feet from any property line.
  - b. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring property.
6. Public buildings and utilities.
7. Neighborhood recreation centers or swimming pools, provided:
  - a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
  - b. Any building or structure established in connection with such use must be set back no less than 75 feet from any property line.
  - c. All pools must adhere to the standards of the Standard Swimming Pool Code, as contained in the Southern Building Code, as amended.
8. Religious institutions, churches, monasteries, mosques, temples and synagogues, provided:
  - a. All buildings shall be set back 75 feet from any property lines except along rights-of-way, in which case the front setback shall apply.
  - b. Reserved.

9. Accessory uses and structures incidental to any legal permitted use.
10. Home occupation, provided the following criteria are met:
  - a. Home occupations may be approved by the building inspector upon the application of the proposed principal in such form as the building inspector or his/her designee may direct.
  - b. No more than two persons shall be engaged in such home occupation, one of whom shall be a member of the family residing on the premises.
  - c. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and no more than 25 percent of the floor area of the dwelling unit or 500 square feet, whichever amount is less, shall be used for the conduct of the home occupation. Such space may be contained in a lawful accessory structure.
  - d. There shall be no assembly or group instructions in connection with the home occupation. Individual instruction on a one-on-one basis is permitted.
  - e. No product shall be sold on the premises. This provision shall not be construed as prohibiting sales by taking orders personally or by telephone when delivery of the merchandise is to take place elsewhere.
  - f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front or side yard.
  - g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
  - h. Any person who obtains authorization permitting the conduct of a home occupation shall be a member of the family residing on the premises, shall take substantially all of his/her overnight lodging at the dwelling, shall store substantially all his/her personal belongings which are used in normal daily life in the dwelling, and shall use the address of the subject dwelling as his/her address for legal purposes such as registration to vote and payment of personal property taxes.
11. Telecommuting.
12. Bed and breakfast unit consisting of a rooming unit which is rented by the owners to persons who are not related to the owner by blood, marriage or adoption, provided that:
  - a. Such rooming unit is within a single-family dwelling occupied by the owner as his/her principal residence.
  - b. All rooming units together occupy no more than one-fourth of the habitable floorspace of the dwelling.
  - c. Such rooming unit is normally rented to the same occupants for a period no longer than seven consecutive days.
  - d. No meal other than breakfast is served to guests.
  - e. No addition or alteration may be made to a dwelling for the purpose of adding a rooming unit to be rented as a bed and breakfast unit.
  - f. There are no signs on the property other than those normally permitted for a single-family residence under this ordinance.
  - g. Parking shall conform with the requirements contained in this ordinance.
13. Nursery schools and kindergartens provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the outdoor play area shall be enclosed by a solid fence having a minimum height of six feet; and

provided that the principal building of such use shall meet all the yard requirements of the R-1A residential district.

7.2.2. *Buffer requirements.* Within a R-1A single-family residential district, any use permitted which abuts a single-family detached dwelling shall maintain a buffer area and fence as required under section 6.5 of this ordinance unless a specific buffer area is otherwise required for said use.

7.2.2(a). *Accessory structures.* Within a R-1A single-family residential district, the following criteria shall be met as to all accessory structures:

1. All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten feet from the side and the rear lot lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
2. When an accessory building is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
3. No accessory building shall be constructed upon a lot before the principal building.
4. No accessory structure may exceed the mean height of the principal building.
5. The area of the accessory building's footprint may not exceed 50 percent than that of the principal structure.
6. Swimming pools must be enclosed by a fence not less than four feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.

7.2.3. *Bulk and area regulation.* Within a R-1A single-family residential district, the following bulk and area regulations shall apply:

Minimum lot size	15,000 square feet
Maximum density	2 dwelling units per acre
Minimum lot width	At least 100 feet along a public street/25 feet along the arc of a cul-de-sac
Maximum building height	40 feet
Minimum floor area	1,400 square feet
Maximum building coverage	35 percent
Maximum impervious surface	50 percent
Front setback (arterial)	40 feet
Front setback (collector)	35 feet
Front setback (local)	30 feet
Side setback (major)	25 feet
Side setback (minor)	10 feet
Side setback	10 feet
Rear setback	20 feet

**Section 7.3. R-1B, single-family residential (three unit/acre).**

*Purpose and intent.* The R-1B district is intended to be used for low density single-family detached housing and residentially compatible uses requiring large amounts of open space.

7.3.1. *Permitted uses.* Within a R-1B single-family residential district, the following uses shall be permitted.

1. Single-family detached dwellings, but not including mobile homes.
2. Noncommercial horticulture and agriculture except in front and side yard setbacks.
3. Noncommercial clubs and lodges.

4. Private parks and playgrounds.
5. Golf courses and driving ranges, provided:
  - a. Any building or structure established in connection with such use must be set back no less than 100 feet from any property line.
  - b. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring property.
6. Public buildings and utilities.
7. Neighborhood recreation centers or swimming pools, provided:
  - a. Lighting shall be established in such a way that no direct light shall cast over any property line nor adversely affect neighboring properties.
  - b. Any building or structure established in connection with such use must be set back no less than 75 feet from any property line.
  - c. All pools must adhere to the standards of the Standard Swimming Pool Code, as contained in the Southern Building Code, as amended.
8. Religious institutions, churches, monasteries, mosques, temples and synagogues, provided:
  - a. All buildings shall be set back 75 feet from any property lines except along rights-of-way, in which case the front setback shall apply.
  - b. Reserved
9. Accessory uses and structures incidental to any legal permitted use.
10. Home occupation, provided the following criteria are met:
  - a. Home occupations may be approved by the building inspector upon the application of the proposed principal in such form as the building inspector or his/her designee may direct.
  - b. No more than two persons shall be engaged in such home occupation, one of whom shall be a member of the family residing on the premises.
  - c. The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants and no more than 25 percent of the floor area of the dwelling unit or 500 square feet, whichever amount is less, shall be used for the conduct of the home occupation. Such space may be contained in a lawful accessory structure.
  - d. There shall be no assembly or group instructions in connection with the home occupation. Individual instruction on a one-on-one basis is permitted.
  - e. No product shall be sold on the premises. This provision shall not be construed as prohibiting sales by taking orders personally or by telephone when delivery of the merchandise is to take place elsewhere.
  - f. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in the neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in the required front or side yard.
  - g. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot.
  - h. Any person who obtains authorization permitting the conduct of a home occupation shall be a member of the family residing on the premises, shall take substantially all of his/her overnight lodging at the dwelling, shall store substantially all his/her personal belongings which are used in

normal daily life in the dwelling, and shall use the address of the subject dwelling as his/her address for legal purposes such as registration to vote and payment of personal property taxes.

11. Telecommuting.
12. Bed and breakfast unit consisting of a rooming unit which is rented by the owners to persons who are not related to the owner by blood, marriage or adoption, provided that:
  - a. Such rooming unit is within a single-family dwelling occupied by the owner as his/her principal residence.
  - b. All rooming units together occupy no more than one-fourth of the habitable floorspace of the dwelling.
  - c. Such rooming unit is normally rented to the same occupants for a period no longer than seven consecutive days.
  - d. No meal other than breakfast is served to guests.
  - e. No addition or alteration may be made to a dwelling for the purpose of adding a rooming unit to be rented as a bed and breakfast unit.
  - f. There are no signs on the property other than those normally permitted for a single-family residence under this ordinance.
  - g. Parking shall conform to the requirements contained in this ordinance.
13. Nursery schools and kindergartens provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area; and that the outdoor play area shall be enclosed by a solid fence having a minimum height of six feet; and provided that the principal building of such use shall meet all the yard requirements of the R-1B residential district.

7.3.2. *Buffer requirements.* Within a R-1B single-family residential district, any use permitted which abuts a single-family detached dwelling shall maintain a buffer area and fence as required under section 6.5 of this ordinance unless a specific buffer area is otherwise required for said use.

7.3.2(a). *Accessory structures.* Within a R-1B single-family residential district, the following criteria shall be met as to all accessory structures:

1. All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten feet from the side and the rear lot lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.
2. When an accessory building is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
3. No accessory building shall be constructed upon a lot before the principal building.
4. No accessory structure may exceed the mean height of the principal building.
5. The area of the accessory building's footprint may not exceed 50 percent that of the principal structure.
6. Swimming pools must be enclosed by a fence not less than four feet in height with a self-closing, self-latching gate and must comply with all applicable safety and health ordinances.

7.3.3. *Bulk and area regulation.* Within a R-1B single-family residential district, the following bulk and area regulations shall apply:

Minimum lot size	10,000 square feet
Maximum density	3 dwelling units per acre
Minimum lot width	At least 90 feet along a public street or 25 feet along the arc of a cul-de-sac
Maximum building height	40 feet
Minimum floor area	1,150 square feet
Maximum building coverage	35 percent
Maximum impervious surface	50 percent
Front setback (arterial)	40 feet
Front setback (collector)	30 feet
Front setback (local)	25 feet
Side setback (major)	25 feet
Side setback (minor)	10 feet
Side setback	10 feet
Rear setback	20 feet

**Section 7.4. R-2A residential district.**

Within a R-2A residential district, the following uses shall be permitted:

7.4.1. All uses permitted in a R-1 residential district, except no single-family detached dwelling unit shall be permitted in this district.

7.4.2. Two-family and multifamily dwellings; townhouses fee simple and condominiums.

7.4.3. *Bulk and area regulation.* Within a R-2A residential district, the following bulk and area regulations shall apply;

Minimum lot size	10,000 square feet for the first dwelling unit and 5,000 square feet for each additional dwelling unit
Minimum lot width	At least 100 feet along a public street/25 feet along the arc of a cul-de-sac
Maximum building height	40 feet
Minimum floor area	1 bedroom = 800 square feet 2 bedrooms = 950 square feet 3 bedrooms = 1,150 square feet
Maximum building coverage	35 percent
Front setback (arterial)	40 feet
Front setback (collector)	30 feet
Front setback (local)	25 feet
Side setback (major)	10 feet
Side setback (minor)	10 feet
Side setback	10 feet
Setback for common party walls	0 feet
Rear setback	20 feet

**Section 7.5. R-2 residential district.**

7.5.1. All uses permitted in a R-1 residential district, except no single-family detached dwelling unit shall be permitted in this district unless it is erected upon a lot of record which has been of record for 40 or more years as

of May 1, 2002. No two-family or multifamily dwellings (townhouses fee simple, condominiums, duplexes or triplexes) shall be permitted in any R-2 residential district upon any lot of record which has been of record for 40 or more years as of May 1, 2002. No two-family or multifamily dwellings (townhouses fee simple, condominiums, duplexes or triplexes) shall be permitted in any R-2 residential district upon any combination of lots of record which have been of record for 40 or more years as of May 1, 2002.

7.5.2. Two-family and multifamily dwellings (townhouses fee simple, condominiums, duplexes or triplexes). Separate bath/toilet shall be provided for each dwelling. No two-family or multifamily dwellings (townhouses fee simple, condominium, duplexes or triplexes) shall be permitted in any R-2 residential district upon any lot of record which has been of record for 40 or more years as of May 1, 2002. No two-family or multifamily dwellings (townhouses fee simple, condominiums, duplexes or triplexes) shall be permitted in any R-2 residential district upon any combination of lots of record which have been of record for 40 or more years as of May 1, 2002.

7.5.3. Buildings are limited to use of 35 percent of site area.

7.5.4. Two off-street parking spaces shall be provided on the site for each dwelling unit.

7.5.5. Buildings containing four or more dwelling units shall be considered to be apartment buildings. Sites must have 100 feet frontage on a public street. Total building area is limited to 25 percent. Two off-street parking spaces shall be provided on site for each dwelling unit, except in the case of public housing, which shall provide 1½ parking spaces on site for each dwelling unit. Each dwelling unit shall have separate bath/toilet and kitchen/dining areas.

7.5.6. Buildings shall be spaced at least 20 feet apart. The front of one building must not face the rear of another building on the site.

7.5.7. *Bulk and area regulations.* Within a R-2 residential district, the following bulk and area regulations shall apply:

Minimum lot size	7,500 square feet
Minimum lot width	At least 60 feet along a public street/25 feet along the arc of a cul-de-sac
Maximum building height	40 feet
Minimum floor area	1 bedroom = 800 square feet 2 bedrooms = 950 square feet 3 bedrooms = 1,150 square feet
Maximum building coverage	35 percent
Front setback (arterial)	40 feet
Front setback (collector)	30 feet
Front setback (local)	25 feet
Side setback (major)	10 feet
Side setback (minor)	10 feet
Side setback	10 feet
Setback for common party walls	0 feet
Rear setback	20 feet
Space between buildings	20 feet

**Section 7.6. R-3 residential district.**

Within a R-3 residential district, the following uses shall be permitted:

7.6.1. All uses permitted in a R-2 residential district.

7.6.2. Residential manufactured homes and mobile homes provided they are located in a manufactured home park which meets the requirements set forth in this ordinance.

7.6.3. Manufactured home parks and customary accessory uses, but not to include the sale of or service to manufactured homes or mobile homes, provided the following minimum standards are met:

1. The applicant presents plans and specifications for the proposed park in a form suitable for making the determinations required herein.
2. The proposed site shall contain a minimum of five acres.
3. There shall be a maximum of three manufactured or mobile home spaces per gross acre.
4. Each manufactured or mobile home space shall have a minimum lot area of 10,000 square feet with a minimum width of 50 feet.
5. A minimum of 50 percent of the total number of manufactured or mobile home spaces in the proposed park must be available for occupancy before any manufactured or mobile home space in the park may be occupied.
6. A planted buffer strip, not less than 25 feet in width, shall be located along lot lines of the park not bordering a street.
7. All sanitary facilities for the park shall be approved by the county health officer and/or the city building inspector. No septic tanks shall be permitted.

7.6.4. Motels, rooming and boarding houses.

7.6.5. Public and private clubs.

7.6.6. Accessory uses and customary home occupations, including professional offices of a doctor, dentist, lawyer, architect or similar use, provided such uses and occupations shall be conducted within the principal building and that no more than 30 percent of the floor area of the principal building shall be used for such purpose. There shall be no external evidence of such use except that one nonilluminated identification sign not exceeding two square feet in area shall be permitted.

7.6.7. *Bulk and area regulations.* Within a R-3 residential district, the following bulk and area regulations shall apply:

Minimum lot size	7,500 square feet
Minimum lot width	At least 50 feet plus 35 feet for each additional dwelling
Maximum building height	40 feet
Minimum floor area	1 bedroom = 800 square feet 2 bedrooms = 950 square feet 3 bedrooms = 1,150 square feet
Maximum building coverage	25 percent
Front setback (arterial)	30 feet
Front setback (collector)	25 feet
Front setback (local)	25 feet
Side setback (major)	10 feet
Side setback (minor)	10 feet
Side setback	10 feet
Setback for common party walls	0 feet
Rear setback	20 feet
Mobile home parks	See section 7.6.3

### Section 7.7. O-I office and institutional district.

Within the O-I office and institutional district, the following uses shall be permitted:

7.7.1. All uses permitted within the R-2 residential district.

7.7.2. Offices, including drive-in banks.

7.7.3. Public and semipublic utility stations and structures.

7.7.4. Customary home occupations and accessory uses, including professional offices of a doctor, dentist, lawyer, architect, or similar use, provided that such uses and occupations shall be conducted within the principal building and that not more than 30 percent of the floor area of the principal building shall be used for such purposes. There shall be no external evidence of such use except that one nonilluminated identification sign not exceeding two square feet in area shall be permitted.

7.7.5. Only attached outdoor business signs as permitted in section 10.7.

7.7.6. *Bulk and area regulations.* Within the O-I office and institutional district, the following bulk and area regulations shall apply:

Minimum lot size	7,500 square feet
Minimum lot width	60 feet
Maximum building height	40 feet
Minimum floor area	1,150 square feet
Maximum building coverage	35 percent
Front setback (arterial)	35 feet
Front setback (collector)	30 feet
Front setback (local)	25 feet
Side setback (major)	10 feet
Side setback (minor)	10 feet
Rear setback	20 feet

### **Section 7.8. C-1 central business district.**

7.8.1. *Permitted uses.* Within the C-1 central business district, the following uses shall be permitted:

1. Any retail business or service establishment.
2. Hotels, offices, banks, and theaters.
3. Automobile parking lots and garages.
4. Bus terminals.
5. Wholesaling.
6. Newspaper offices and printing establishments.
7. Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than 25 feet from any side or rear property line except where such side or rear property lines abut a street, in which case the setback shall be that required for such streets measured from the right-of-way. All buildings or structures, including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If on a corner lot, the means of ingress and egress shall be provided not less than 15 feet from the intersection of street lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian.
8. Attached outdoor advertising signs and business signs to buildings. Only on-premise signs allowed in C-1 area.
9. Public buildings and structures.
10. Public utility stations and structures.

11. Churches.
12. Automobiles sales and services.
13. Loft apartments or residences as defined in this ordinance.

**Section 7.9. C-2 general business district.**

7.9.1. *Permitted Uses.* Within a C-2 general business district, the following uses shall be permitted:

1. All uses permitted in the C-1 central business district but no loft apartments or residences.
2. Funeral parlors and mortuaries, provided any such use shall be located on a major street.
3. Tourist courts and motels.
4. Public and private clubs.
5. Veterinary clinics and/or animal hospitals, provided no part of any building, structure, pen, or enclosure is located closer than 50 feet to any property line.
6. Signs, including outdoor advertising, incidental or accessory advertising, and business signs, provided the required setback is observed.
7. Commercial recycling collection centers.
8. Warehousing.
9. Bulk and area regulations.

7.9.2. *Conditional Uses.* Within a C-2 general business district, the following uses shall require a conditional use permit:

1. Convenience shops.
2. Massage parlors.
3. Vapor shops.

7.9.3. *Bulk and area regulations.* Within the C-2 general business district, the following bulk and area regulations shall apply:

<b>Maximum building height</b>	Structure or building shall not exceed a height of 75 feet or four stories, whichever is the greater in height
<b>Front setback</b> (arterial, collector or local as defined by article III, section 3.2, numbers 63, 64, 65 or 66)	40 feet if head-on or perpendicular parking is provided at the building side; otherwise, 30 feet
<b>Side setback</b> (major or minor as defined by article III, section 3.2, numbers 64, 65, or 66)	40 feet if head-on or perpendicular parking is provided at the building side; otherwise, 30 feet
<b>Side yard</b> (as defined by article III, section 3.2, number 76)	20 feet required when abutting any type of residential district (see section 6.5 of this article); ten feet required when abutting any district other than any type of residential
<b>Rear yard</b> (as defined by article III, section 3.2, number 75)	20 feet required when abutting any type of residential district (see section 6.5 of this article); ten feet required when abutting any district other than any type of residential

7.9.4. *Bulk and area regulations.* All setbacks along Curtis Parkway from its northern intersection with Dogwood Drive to its intersection with Peters Street shall be 15 feet greater, at any angle, than the C-2 general business district requirements if the front, side or rear of any building, structure or sign to be erected

on the property fronts or faces Curtis Parkway; provided, however, said greater setback shall not apply to any property presently contiguous to any portion of Curtis Parkway, which is three lanes wide as of January 1, 2005.

**Section 7.10. C-N neighborhood business district.**

Within the C-N neighborhood business district, the following uses shall be permitted:

- 7.10.1. Any retail business or retail service establishment not otherwise mentioned in this section.
- 7.10.2. Theaters, but not including drive-in theaters.
- 7.10.3. Radio, television and appliance repair shops.
- 7.10.4. Offices, including drive-in branch banks.
- 7.10.5. Accessory uses clearly incidental to a permitted use and which will not create a nuisance or hazard.
- 7.10.6. Outdoor advertising signs and business signs, provided that all lighting be so shielded that it does not adversely affect adjacent residential areas.
- 7.10.7. Publicly owned and operated buildings and lands.
- 7.10.8. Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than 25 feet from any side or rear property line except where such side or rear property lines abut a street, in which case, the setback shall be that required for such streets measured from the right-of-way. All buildings or structures including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If on a corner lot, the means of ingress and egress shall be provided not less than 15 feet from the intersection of street lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian.
- 7.10.9. Churches, synagogues and similar places of worship.
- 7.10.10. Within the C-N neighborhood business district, every use shall be so constructed, maintained, and operated as not to be injurious or offensive to occupants of adjacent premises by reason of the emission or creation of noise, smoke, vibrations, dust, electrical disturbance, toxic or noxious waste material, odor, fire and explosive hazard, glare or traffic generation.
- 7.10.11. *Bulk and area regulations.* Within the C-N neighborhood business district, the following bulk and area regulations shall apply:

Maximum building height	35 feet
Front setback (arterial, collector or local)	40 feet if head-on or perpendicular parking is provided at the building front; otherwise, 30 feet
Side setback (major or minor)	40 feet if head-on or perpendicular parking is provided at the building side; otherwise, 30 feet
Side yard	20 feet, required only when abutting a residential district (see section 6.5)
Rear yard	20 feet, required only when abutting a residential district (see section 6.5)

**Section 7.11. Ind-G general industrial district.**

7.11.1 *Permitted Uses.* Within an Ind-G industrial district, the following uses shall be permitted:

- 1. Any industry which does not cause injurious or obnoxious noise, vibrations, smoke, gas fumes, odor, dust, fire hazard, or other objectionable conditions.
- 2. Truck terminals.

3. Wholesaling, warehousing, commercial recycling collections centers, scrap metal processors and industrial recycling processing centers.
4. Any retail or service establishment dependent upon or closely related to industry.
5. Storage yards, including building materials and lumberyards provided any such use is screened from view by a solid wall, planted screen or similar opaque partition at least six feet in height. Such partition shall comply with all setback requirements of this district. No junkyards or automobile junkyards shall be allowed in this district unless otherwise legally permitted in accordance with all of the provisions of Chapter 22: Businesses, Article III—Regulatory Licenses and Business Regulations, Division 5—Recycling Processing Centers for the Purchase, Sale or Processing of Post Consumer or Post Industrial Materials.
6. Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than 25 feet from any side or rear property line except where such side or rear property lines abut a street, in which case, the setback shall be that required for such streets measured from the right-of-way. All buildings or structures including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. If on a corner lot, the means of ingress and egress shall be provided not less than 15 feet from the intersection of street lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian.
7. Signs, including outdoor advertising, incidental or accessory advertising, and business signs.

7.11.2. *Conditional Uses.* Within an Ind-G industrial district, the following uses shall require a conditional use permit:

1. Motocross track.

7.11.3. *Bulk and area regulations.* Within an Ind-G industrial district, the following bulk and area regulations shall apply:

<b>Maximum building height</b>	Structure or building shall not exceed a height of 75 feet
<b>Front setback (arterial)</b> (defined by article III, section 3.2, number 63)	40 feet
<b>Front setback (collector)</b> (defined by article III, section 3.2, numbers 64 & 66)	35 feet
<b>Side setback</b> (major or minor as defined by article III, section 3.2, numbers 64, 65, or 66)	20 feet
<b>Side setback</b>	20 feet
<b>Rear setback</b>	20 feet

**Section 7.12. Manufactured homes for business or educational occupancy.**

- (a) Applications for the use of manufactured homes for business or educational occupancy in any zoning district in the city shall be made in accordance with article XIV, section 14.2 of this ordinance. When such uses are permitted, the use thereof cannot exceed 12 months. A renewal application must be obtained in the same manner from the mayor and council if an extension is desired. For the purpose of this section only, a manufactured home includes a structure constructed for the temporary use as a classroom for educational purposes (public or private), medical offices, construction site offices, and similar uses.
- (b) Trailers may be temporarily parked and used as bona fide construction offices and the quarters of a lone night watchman at the construction site, provided a construction office trailer permit is secured from the building inspector.

### **Section 7.13. A-1 agricultural district.**

The A-1 agricultural district is established to encourage the retention and development of suitable areas for common farm practices and various nonfarm uses, preservation of open space, the conservation and management of soil, water, air, game and other natural resources and amenities, and to discourage the creation or continuation of conditions which could detract from the function, operation, and appearance of areas to provide food supplies and to prevent or minimize conflicts between common farm practices and nonfarm uses.

7.13.1. Within an A-1 agricultural district, no building structure, land or water shall be used, except with one or more of the following uses:

1. All agricultural and horticulture uses;
2. Pastures and grasslands for the production of livestock;
3. Plant nurseries and greenhouses not involved with retail sales to the general public;
4. Poultry production;
5. Dairy farms;
6. Fish hatcheries;
7. Bait production;
8. Public owned/controlled parks and recreation areas;
9. Stables, barns, sheds, silos, granaries, windmills, and related agricultural uses;
10. Home occupations;
11. Single-family dwellings and customary accessory uses, including docks and boathouses;
12. Guesthouses;
13. Sawmills or related forestry uses;
14. Meat processing and temporary holding lots.

7.13.2. *Conditional uses.*

1. Cemeteries;
2. Kennels, including the commercial raising or breeding of dogs;
3. Public utility and service structures;
4. Country and golf clubs, fishing clubs and camps, marinas, gun clubs when located on lands comprising ten acres or more and making use of land in its predominantly natural state;
5. Private and public recreational uses, including golf courses, tennis courts, driving ranges, archery ranges, picnic grounds, boat launching ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries for native species, shooting preserves, target ranges, trap and skeet ranges, hunting and fishing areas, hiking and horseback riding trails;
6. Riding stables when located on lands of ten acres or more;
7. Tenant dwellings, one- and two-family, where the land use is for bona fide agricultural purposes; provided further that such structures house only those persons and their immediate family employed in carrying out such bona fide agricultural use;
8. Mobile homes and customary accessory uses.

7.13.3. *Building height.* No building or structure, except silos, granaries, windmills, barns, and other structures which are current to the operation of an agricultural enterprise, may exceed 35 feet in height.

7.13.4. *Building site area requirements.* The minimum building site area for each single-family dwelling unit or mobile home shall be one acre, and the site shall have a minimum width of 100 feet at the building line.

7.13.5. *Yard regulations.* The following minimum front, rear, and side yards shall be observed:

1. Front: 50 feet measured from the front property or lot line.
2. Rear: 30 feet measured from the rear property or lot line.
3. Side: Ten feet measured from the side property to lot line except where a side yard abuts a street or road, in which case, the side yard shall be 50 feet.

7.13.6. *Accessory buildings and structures.* Accessory buildings and structures which are not intended for use or used for the housing of livestock or poultry and are ancillary to the residential use shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard shall be a minimum of ten feet.

7.13.7. *Buildings and structures.* Buildings or structures which are intended for use or used for the housing or shelter of livestock or poultry and silos, granaries, windmills, barns, and similar structures which are concurrent to the operation of an agricultural enterprise shall observe a minimum setback of 50 feet from any property line and be spaced a minimum of 100 feet from any residence on an adjacent lot or parcel.

7.13.8. *Parking/loading requirements.* Off-street parking/loading shall be provided in accordance with article VI, sections 6.3 and 6.4.

#### **Section 7.14. PRD, planned residential development.**

- A. *Purpose and intent.* The PRD district is intended to allow flexible site planning and building arrangements under a unified plan of development so that innovative land planning methods may be utilized which foster natural resource conservation and neighborhood cohesiveness as well as neo-traditional developments. This may permit buildings to be clustered or arranged in an unconventional manner to maximize open space, create a pedestrian scale and provide other public benefits. In this district smaller lots than might otherwise be permitted under traditional zoning districts may be allowed. However, the purpose is not merely to allow smaller lots or reduce development requirements but to achieve other goals including the protection of sensitive environmental, historic, or aesthetic resources as well as the provision of site amenities such as parks, water features, pool/clubhouse, playground equipment, recreational facilities, open space, pedestrian plazas, walking trails, etc. The PRD district is not intended to encourage greater density of development, but rather to encourage ingenuity and resourcefulness in land planning techniques which result in quality residential patterns that conserve and create open space, reduce vehicle trips and provide stable developments, which enhance the surrounding area.
- A.1. *Building massing.* Street fronting building facades greater than 150 feet in length shall be modulated with breaks in wall surfaces and materials at intervals not to exceed 150 feet, measured parallel to the street. For buildings that are three stories or less in height, each floor shall be delineated through windows, belt courses, cornices lines, or similar architectural detailing.

B. *Permitted uses.*

1.

Minimum lot size (single-family detached dwelling)	7,000 square feet
Maximum density within PRD	6 dwelling units per gross acre
Minimum lot width	At least 50 feet along a public street or 25 feet along the arc of a cul-de-sac
Maximum building height	40 feet
Minimum floor area (single-family detached dwelling)	1,150 square feet
Minimum floor area (duplexes, triplexes, townhouses, condominiums or cottages)	1 bedroom - 800 square feet 2 bedrooms - 950 square feet 3 bedrooms - 1,150 square feet
Maximum building coverage	35 percent
Maximum impervious surface	50 percent
Front setback (arterial)	40 feet
Front setback (collector)	30 feet
Front setback (local)	25 feet
Side setback (major)	25 feet
Side setback (minor)	10 feet
Side setback	10 feet
Rear setback	20 feet

2. Duplexes and triplexes.
3. Townhouses and condominiums.
4. Private parks and playgrounds.
5. Assisted living, personal care and retirement home facilities, provided all necessary local and state licenses and/or certifications are obtained.
6. Accessory uses and structures incidental to any permitted use.
7. Commercial uses which are consistent with "mixed use" concept for PRD development and shall be limited to dining, service and retail business operations such as dry cleaners, restaurants, diners and clothing or other retail stores.

C. *Temporary/conditional uses.*

1. Home occupations (see standards set forth in section 7.1.1.10).
2. Garage sales, provided:
  - a. Sales may not last more than three consecutive days and are limited to one sale every three months.
  - b. No consignment goods may be offered for sale.
  - c. Sales are conducted between the hours of 8:00 a.m. and 7:00 p.m.
  - d. One sign per property frontage is allowed, maximum six square feet in size.

D. *Special uses permitted by city council.* Only those uses delineated in the approved general and detailed plans.

E. *Accessory structures.*

1. All such structures shall be located upon the same lot and to the side or rear of the principal use at least ten feet from side or rear lot lines. In cases of corner lots, the accessory structure may not be closer to any right-of-way than the principal building.

2. When an accessory building is attached to the principal building in any manner, it shall be deemed part of the principal structure and subject to all bulk and area requirements of same.
  3. No accessory building shall be constructed upon a lot before the principal building.
  4. No accessory structure may exceed the more restrictive of either 15 feet or the height of the principal building.
  5. The area of the accessory building's footprint may not exceed 50 percent than that of the principal structure.
- F. *Use limitations.*
1. No outside storage is permitted with residential uses, excluding firewood and lawn furnishings.
  2. All outside storage associated with nonresidential uses must be stored in a side or rear yard and screened from all streets and adjacent properties by a solid fence at least six feet in height. The building inspector may approve the substitution of plantings for the required fence. No livestock are permitted.
  3. All required open space and amenity areas submitted and approved in the site plan must be established, constructed and in operation no later than 75 percent of the total PRD project being permitted. The community development department shall cease issuing building permits until this requirement is fulfilled.
- G. *Landscape and buffer requirements.* When a PRD district abuts a single-family residential district or use, a 50-foot greenbelt buffer shall be established.
- H. *Procedure for establishment of planned development district.*
1. *General plan filed.* The owner or owners of the entire tract of land proposed to be included in the planned development districts shall file a general plan with a request for a change in zoning with the zoning advisory board for consideration and referral to the city council for recommendation. Six copies of the general plan shall be submitted. Said plan shall contain such information and representations required or deemed necessary by the city council, zoning advisory board and all applicable city departments to permit proper review. Such information and representations must include, but are not limited to, the following:
    - a. A statement describing why standard zoning districts are insufficient and how the proposed development conforms to those parameters and ideals set forth in the "intent and purpose" element of this district.
    - b. The general method of development and operation of the proposed general plan.
    - c. The boundaries of the tract of land included in the general plan, the computed area and the legal description thereof, the topography and other salient features of the tract by reference to a plat of survey prepared by a licensed land survey [surveyor].
    - d. The location and extent of existing and proposed public rights-of-way, easements and water and drainage courses bounding and within the tract included in the general plan by reference to a plan or drawing.
    - e. The location and type of existing buildings and structures proposed to be retained or removed by reference to a plan or drawing.
    - f. The general location of proposed buildings by reference to a plan or drawing and an indication of the use to be made of each building.
    - g. Dwelling unit density to be applied within the tract.
    - h. Minimum standards for lot development including setbacks, distances between buildings and house sizes.

- i. Architectural, facade or material requirements.
  - j. The maximum floor area designated for each use.
  - k. The percentage of development maintained as open space and/or recreation areas and impervious surfaces. A minimum of ten percent of the land must be preserved in open space, amenities, and/or recreation areas. Said open space/amenities shall be held in common by a legally constituted homeowners association with the financial capability to maintain the open space. For the purposes of calculation, open space does not include any public rights-of-way, parking lots, streets, required setback areas, storm water control measures or detention facilities.
  - l. Preliminary tree protection plan and screening standards.
  - m. Public transportation facilities or provisions (if any).
2. *Plan reviewed.* Said plan shall be reviewed by the zoning advisory board and a determination made as to whether the proposed plan is consistent with the intent and standards of this district and whether the development of the tract serves the public welfare. Such determination shall be made after an analysis prepared by the building inspection department. Said analysis shall include, but is not limited to, the availability of public access and utilities to the tract, neighboring property uses, and the effect on the efficient delivery of city services. A recommendation relating to the proposed plan shall be transmitted to the city council.
  3. *Council approval.* The city council, upon receiving the recommendation of the zoning advisory board relating to a planned development proposal, shall proceed in accordance with the requirements of law to consider amendment of the zoning map.
    - a. In the event the governing authority approves the general plan and changes the zoning by passing the required amendments to the zoning map, the requirements of the plan shall constitute the zoning regulations for the district, and the zoning maps shall be amended, unless subject to reversion as described herein.
    - b. No later than the expiration of 24 months following the zoning decision approval to permit the PRD use district, any owner and/or developer shall have commenced substantial efforts toward physical development and construction upon the subject real property or the approval shall expire and be thereby rendered void and invalid. For the purpose of this Code, the term "substantial efforts toward physical development and construction" shall require more than merely engineering plans, subdivision survey plats or the initial land disturbance activities for land development such as the clearing of trees or grading of soil without the installation of artificial infrastructure.
    - c. Should the council's approval for the PRD use district become rendered void and invalid with the expiration of 24 months without the required "substantial efforts toward physical development and construction," then the subject property shall revert to the prior approved use district classification. A new PRD zoning decision shall then be required following a new application.
  4. *Detailed plan filed.* Subsequent to all subdivision improvements being installed, a final detailed plan shall be reviewed and approved by the mayor and council. The detailed plan shall include, but is not limited to, the following:
    - a. The location and extent of public rights-of-way, easements and water and drainage courses bounding and within the tract included in the general plan by reference to a plan or drawing.
    - b. Minimum standards for lot development.
    - c. Open space and recreation area provisions (active and passive).
    - d. Detailed landscaping plan.

5. *Plan amendments.* Pursuant to the same procedures and subject to the same limitations by which plans were approved and amendments to the official zoning map adopted, such plans may be amended in whole or in part. Minor changes in use and intensity of use may not require an amendment to the general plan and may be submitted for approval in conjunction with the detailed plan.

**ARTICLE VIII. AREA, YARD AND HEIGHT REQUIREMENTS**

**Section 8.1. Charts.**

Area, yard and height requirements for the various districts shall be as follows: minimum lot size; minimum yard requirements; area in square feet; width in feet.

District	Lot Size			Maximum Building Coverage	Minimum Floor Area	Front Setback From:			Side Setback (Regular Streets)	Rear Setback	Maximum Building Height	Minimum Lot Width	Minimum Lot Width at Cul-de-Sac
	First Dwelling	First Additional Dwelling	Each Additional Dwelling			Arterial Street	Collector Street	Local Street					
R-1	25,000			35%	1,800	50	40	35	10*	35	40	125	25
R-1A	15,000			35%	1,400	40	35	30	10*	20	40	100	25
R-1B	10,000			35%	1,150	40	30	25	10*	20	40	90	25
R-2A	10,000	5,000	5,000	35%	**	40	30	25	10*	20	40	100	25
R-2	7,500			35%	**	40	30	25	10*	20	40	60	25
R-3	7,500			25%	**	30	25	25	10*	20	40	50	35
O-I	7,500			35%	1,150	35	30	25	10*	20	40	60	
C-1	See section 7.8												
C-2						***	***	***	***		75		
C-N						***	***	***	***		35		
Ind-G						40	35	35	20	20	60		
A-1	See section 7.13												

\*Side setbacks off streets (other than regular streets on above chart), density and impervious surface requirements:

District	Off Major Streets	Off Minor Streets	Setbacks: Common Party Walls	Space Between Buildings	Manufactured Home Parks	Maximum Dwellings Per Acre	Maximum Impervious Surface
R-1	35	25					
R-1A	25	10			See	2	50%
R-1B	25	10			section	3	50%
R-2A	10	10			7.6.3		
R-2	10	10	0	20			
R-3	10	10	0				
O-I	10	10					
Ind-G	10	10					

\*\*Minimum floor area in square feet for multifamily residences:

District	1-Bedroom	2-Bedroom	3-Bedroom
R-2A	800	950	1,150
R-2	800	950	1,150
R-3	800	950	1,150

\*\*\*Front, side and rear setbacks for commercial zoning districts C-2 and C-N:

Front setback (arterial, collector or local street)	40 feet if head-on or perpendicular parking is provided at the building front, otherwise 30 feet.
Side setback (major or minor street)	40 feet if head-on or perpendicular parking is provided at the building side, otherwise 30 feet.
Side yard	20 feet; only required when abutting a residential district (see section 6.5).
Rear yard	20 feet; only required when abutting a residential district (see section 6.5).

## **ARTICLE IX. EXCEPTIONS AND MODIFICATIONS**

### **Section 9.1. Lot of record.**

9.1.1. *Single lots.* Where the owner of a lot of record at the time of the adoption of this ordinance or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this ordinance, such lot may be used as a building site for a single-family residence in a district where residences are permitted.

9.1.2. *Adjoining lots.* If two or more adjoining lots of record with continuous frontage are in a single ownership at any time after the adoption of this ordinance and such lots individually are too small to meet the yard, width, and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this ordinance.

### **Section 9.2. Front yard setbacks for dwellings.**

The setback requirements of this ordinance for dwellings shall not apply to any lot where the average existing building setback line on lots located wholly or in part within 100 feet on each side of such lot, within the same block and zoning district, and fronting on the same side of the street as such lot, is less than the minimum setback required. In such case, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, and in no case less than ten feet from the street right-of-way.

### **Section 9.3. Height limits.**

The height limitations of this ordinance shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flagpoles, radio towers, television towers, masts, aerials, and similar structures.

### **Section 9.4. Group projects.**

A group project (including, but not limited to, residential, commercial, industrial, educational, medical, religious, or civic uses) of two or more buildings to be constructed on a plot of land of at least two acres not subdivided into customary streets and lots, and which will not be so subdivided, may be constructed provided:

- 9.4.1. Such uses are limited to those permitted within the district in which the project is located.
- 9.4.2. The overall intensity of land use is no higher, and the standard of open space is no lower, than that permitted on the district in which the project is located.
- 9.4.3. The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located.
- 9.4.4. The building heights do not exceed the height limits permitted in the district in which the project is located.

## **ARTICLE X. SIGN ORDINANCE**

### **Sec. 10.1. Title.**

This article shall be known and may be referred to as the "Sign Ordinance of the City of Calhoun."

### **Section 10.1.1. Authority.**

This article is enacted pursuant to the general police powers of the city and other authority provided by federal, state and local laws applicable hereto.

### **Section 10.1.2. Findings, purpose and intent.**

The mayor and city council find that there presently exists 98 miles of roads, streets, primary highways, and interstate highways within the city limits of which 12.77 miles are part of the primary highway system and 5.2 miles are part of the interstate highway system. There are presently 28 signs which can be categorized as billboards currently erected along and visible from I-75 and more than 17 similarly defined signs currently erected along and visible from the primary highway systems which pass through the city.

The mayor and city council find that the number, size, design characteristics, and locations of signs in the city directly affect the public, health, safety, welfare and property values in the community. The mayor and city council find that signs can become excessive, and that many signs are distracting and dangerous to motorists and pedestrians, may be confusing to the public, and substantially detract from the beauty and appearance of the city and associated property values. The mayor and city council find that there remains a substantial need directly related to the public health, safety and welfare to comprehensively address these concerns through the adoption of these regulations contained in this Code.

The purpose and intent of the mayor and city council in enacting the following regulations are as follows:

- (a) To protect the health, safety, and general welfare and property values of the citizens of the city through the enactment of a comprehensive set of regulations governing signs in the city.
- (b) To regulate the erection and placement of signs within the city in order to provide safe operating conditions for pedestrian and vehicular traffic without unnecessary and unsafe distractions to drivers and pedestrians.
- (c) To preserve the value of property on which signs are located and from which signs might be viewed.
- (d) To maintain an aesthetically attractive city in which signs are compatible with the surrounding area.
- (e) To maintain for the residents, workers, and visitors a safe and aesthetically attractive environment and to advance the aesthetic interests of the city.
- (f) To establish comprehensive sign regulations that effectively balance legitimate business and developmental needs with safe and aesthetically attractive environment for residents, workers, and visitors to Calhoun.
- (g) To provide fair and reasonable opportunities for the identification of businesses that are located within the city and to provide for the identification of the availability of products, goods, or services to promote economic vitality.

- (h) To ensure the protection of free speech rights under the State of Georgia and United States Constitutions within the city.
- (i) To establish a permit system to allow specific types of signs in zoning districts that are consistent with the uses, intent and aesthetic characteristics of the areas where the signs are to be located.
- (j) To allow certain signs that are of appropriate size, safe, unobtrusive and incidental to the principal use of the respective lots on which they are located, subject to the substantive requirements of this article but without a requirement for permits.
- (k) To provide for temporary signs in certain circumstances.
- (l) To place reasonable controls on nonconforming signs that are by definition contrary to the public health, safety, and welfare while protecting the constitutional rights of the owners of said nonconforming signs.
- (m) To prohibit all signs that are not expressly authorized by this article, to provide for the maintenance of signs, and to provide for the enforcement of the provisions of this article.

### **Section 10.1.3. Scope of regulations.**

- (a) It shall be unlawful for any persons to erect, construct, enlarge, move, alter or convert any sign or cause the same to be done within the city except in accordance with the provisions of this ordinance.
- (b) Non-commercial speech protected under the First Amendment of the United States Constitution and the Constitution of the State of Georgia shall be regulated by this ordinance only as to size of signage containing speech, the number and location of such signs, and such other reasonable time, place, and manner restrictions as are set forth in this Code. Any sign or structure used solely for the purpose of displaying a protected non-commercial message or protected non-commercial speech is exempt from all other aspects of this ordinance. Except, however, all sign structures shall remain subject to the City of Calhoun building codes, zoning requirements, and other relevant laws.
- (c) Protected non-commercial speech shall be permitted in any place commercial speech is permitted by this ordinance. Any sign provided for in any zoning district may contain non-commercial messages. To the extent any conflict arises between this provision and any other language found in this ordinance, this provision shall control.
- (d) Any sign or structure erected for the purpose of displaying a protected non-commercial message or protected non-commercial speech shall not be used for a commercial message or commercial speech unless such sign or structure is erected in conformance with all requirements of this ordinance and has received a sign permit as required by this ordinance.
- (e) For purposes of this ordinance a "non-commercial message" or "non-commercial speech" shall mean any message or speech that does not meet the definition of "commercial message of commercial sign" as defined by subsection 10.2(18) of this ordinance. Nothing herein shall be construed to prohibit a prosecution for violation of a criminal statute by the city or other duly constituted governmental authority or a civil action by the city or other private person or entity.

### **Section 10.2. Definitions.**

The words used in this ordinance shall have their normal meanings except as set forth below:

- (1) *Abandoned sign.* A sign shall be considered abandoned when the activity, message, business, product or service advertised is no longer conducted, available, or stated.
- (2) *Animated signs with illumination or effects.* A sign which contains the appearance of movement to depict action or to create a special effect or scene, including any electronic sign which contains anything other than static messages or changes its messages more often than permitted by this ordinance. This definition does not include signs that indicate only time and/or temperature and/or

stated electronic message provided such time/temperature/message signs do not change more than 12 times a minute.

- (3) *Area identification sign.* A sign, free-standing or affixed to a wall, which identifies a development, such as a shopping center, office or industrial park, or a residential subdivision or multiple-family project.
- (4) *Area of sign (or sign area).* The area of the face of the sign within a perimeter which forms the outside shape including any decorative trim or frame which forms an integral part of the display, but excluding the base or necessary support or uprights on which the sign may be placed.
- (5) *Awning/canopy.* A permanently affixed or installed cloth or canvas covering which hangs from a building facade or projects over the public walkway for beautification or shelter.
- (6) *Awning sign.* A sign, symbol, trademark or other message written on an awning attached to a wall. Awning signs are included in the definition of wall signs.
- (7) *Banner.* A sign of lightweight fabric, plastic, or other similar material other than paper that is intended to be hung either with or without a frame, possessing characters, letters, illustrations or ornamentation. These signs are of a temporary nature and must be secured or mounted at all corners to a structure or suspended between two poles. National flags, state and municipal flags, and official flags of businesses, institutions, or other organizations shall not be considered banners for the purposes of this ordinance.
- (8) *Billboard.* Any sign which shall not exceed a maximum sign area of 672 square feet. A billboard shall not exceed a height of 25 feet (excluding properties in a quadrant or extended quadrant).
- (9) *Block out zone.* An area that is measured from the intersecting points of the edge of a public right-of-way, street, road, highway, railroad right-of-way or driveway entrance into or exit from any public road extending 20 feet along the edge of same in each direction and closed so as to form a triangle in the corner created by the intersection.
- (10) *Buildable area of lot.* That area of a lot within the building setback lines as set by the City of Calhoun Zoning Ordinance within which a principal building or structure may be erected.
- (11) *Building facade area.* The height of the facade multiplied by the width of the facade equals the facade area.
- (12) *Building setback line.* The minimum yard requirement adjacent to any public street or property line set by the City of Calhoun Zoning Ordinance beyond which no part of a principal building or structure may be erected.
- (13) *Bulletin board.* A sign at a place of public assembly used to announce activities.
- (14) *Bunting.* A long-colored strip of cloth or other pliable material used for festive decorations containing no message, logo or emblem and must be attached to the structure.
- (15) *Canopy (or marquee).* A permanent roof-like shelter extending from part or all of the building face and constructed of some durable material such as fabric, metal, glass or plastic.
- (16) *Canopy sign.* A sign affixed to, imposed upon or painted on any permanent roof-like structure extending over a driveway or vehicle access area. Such signs may be mounted flush or suspended. A flush canopy sign is one that is mounted in such a manner that a continuous face with the canopy is formed. A hanging canopy sign is one suspended from or beneath the canopy.
- (17) *Changeable copy.*
  - (a) *Manually.* A sign on which copy or sign panels may be changed manually in the field, such as boards with changeable letters or changeable pictorial panels.
  - (b) *Electronically.* A sign on which copy or sign panels may be changed electronically from either in the field, or a centralized location, with changeable letters, graphics, logos or pictorial elements.

- (18) *Commercial message of commercial sign.* Any sign, wording, logo, or other visual representation that directly or indirectly identifies, names, advertises, or directs attention to a business operated for profit, or to a product, commodity, or service for sale or lease, to any other commercial interest or activity, or is otherwise intended to induce the purchase of goods, commodities, products, property, or services.
- (19) *Copy.* The wording, designs and other advertising display on a sign surface.
- (20) *Copy area.* The area in square feet that describes the total area occupied by the actual copy of a sign.
- (21) *Commemorative.* A sign that identifies a site of memorable public interest.
- (22) *Construction sign.* A temporary sign identifying a building or construction site and the architects, engineers, financial institutions, contractors and suppliers involved.
- (23) *Double-faced signs.* A sign which has two display areas against each other or where the interior angle formed by the display area is 60 degrees or less, where one face is designed to be seen from one direction and the other face from another direction.
- (24) *Dilapidated or neglected signs.* A sign (including sign structure) will be dilapidated or neglected if it does not present a neat and orderly appearance, which may be manifested by the following: rust or holes on or in the sign, or broken, missing, loose, or bent parts, faded or flaking paint, or non-operative or partially operative illumination.
- (25) *Directional.* Providing instructions for travel to or indicating the location of a place or event, whether by words, arrows or other symbols.
- (26) *Electronic interstate or highway sign.* These are electronic signs that are adjacent or visible from any interstate highway or state highway that is located within the municipal limits.
- (27) *Electronic sign.* A static message only, and shall not have any movement nor flashing on any part of the sign structure, design, or pictorial segment of the sign, nor shall such sign have varying light intensity during the display of any single message. Such signs may contain messages that may be changed at intervals by electronic process or by remote control. Said messages are displayed through the use of LED, LCD, plasma or other similar type panels or screens, including devices known as commercial electronic message signs and similar devices.
- (28) *Extended Interstate I-75 quadrant.* Any one of four rectangular areas of land located at each interchange with Interstate 75. The area begins 500 feet from the point where the pavement widens to accommodate the exit or entrance on the main traveled way, and extends for 2,035 feet along and adjacent to the Interstate DOT right-of-way. Said quadrant shall be 660 feet in width.
- (29) *Facade.* The exterior surface or face of a building. The front facade is the building wall, which contains the primary entry of the building. The side facade means the exterior walls other than the main or front view.
- (30) *Flags.* Any fabric, plastic or similar material containing distinctive colors, patterns, or symbols and which are used as an official symbol of any government, business, institution, or organization.
- (31) *Flashing.* A pattern of changing light illumination where the sign illumination alternates suddenly between bright illumination and fully non-illuminated for the purpose of drawing attention to the sign. The terms "flashing" excludes illuminated signs, which indicate only time and/or temperature provided that such time/temperature signs do not change or alternate messages more than 12 times a minute.
- (32) *Flashing sign.* A sign, the illumination of which is not kept constant in intensity at all times when in use, and which exhibits marked changes in lighting effects.
- (33) *Freestanding sign.* Any sign supported by structures or supports that are placed on, or anchored in, the ground and that are independent from any building or other structure.
- (34) *Ground level/grade level.* Means street level.

- (35) *Ground sign.* A free-standing sign connected, attached, secured or otherwise permanently affixed to the ground. This may include monument-style signs, pole signs, billboards, or similar signs affixed to the ground.
- (36) *Height.* The measure in linear feet from the highest point on the sign to the unaltered elevation of the ground at the base of the sign or directly beneath the sign. At the election of the permit holder, the height of a sign may be measured from the highest point on the sign to the level of the nearest road from which the sign is intended to be viewed.
- (37) *Illuminated signs, direct.* A sign designed to emit light.
- (38) *Illuminated signs, indirect.* A sign on which light is cast from a source other than the display area.
- (39) *Includes.* Denotes a partial definition.
- (40) *Indecent material.* Material is indecent if the sign depicts the following portions of human anatomy:
- (a) Any portion of the female breast below the top of the areola;
  - (b) Any portion of the male or female pubic hair, anus, cleft of the buttocks, vulva and genitals.
- (41) *Individual establishment.* A non-residential structure containing an office, business, store, shop, facility, institution, or groups thereof where the primary access point for the employees, tenants and customers is by a collective entryway instead of individual doorways to the outside. This includes buildings with multiple tenants provided the building's principal means of access is provided by common entry points.
- (42) *Inflatable advertising devices.* Includes air or gas filled signs, figures or balloons used for advertising purposes.
- (43) *Interior sign.* Signs intended to be viewed from the interior of a building.
- (44) *Interstate highway.* I-75 and any road of the state highway system which is a portion of the National System of Interstate and Defense Highways, as officially designated or as may hereafter be so designated by the Georgia Department of Transportation and approved by the United States Secretary of Transportation pursuant to 23 U.S.C. section 103, or any limited access highway as officially designated or as may hereafter be so designated by the Georgia Department of Transportation and approved by the United States Secretary of Transportation pursuant to the provisions of 23 U.S.C. Section 103.
- (45) *Legal lot of record.* A lot that meets the legal requirements set forth for the applicable zoning district.
- (46) *Lot or parcel.* Contiguous parcel(s) of land, legally platted and recorded as a legal lot of record, in single or common ownership, and not divided by a public street.
- (47) *Monument-style sign.* A sign other than a pole sign, in which the face of the sign is permanently mounted on an enclosed decorative base of brick, stucco, or rock and with a frame of brick, stucco, or rock within which advertising panels or copy area are contained.
- (48) *Major thoroughfare.* A street or highway having a right-of-way of 60 feet or more.
- (49) *Nonconforming sign.* Any lawfully erected sign, which, on the effective date of this ordinance, fails to comply with the requirements of this ordinance.
- (50) *Normal maintenance and repair.* Normal maintenance and repair includes painting and cleaning. However, normal maintenance or repair conclusively does not include any structural alternation, any modification that requires a building permit or any alternation that costs in excess of 50 percent of the value of the sign prior to such maintenance and repair. For purposes of this definition, the value of the sign shall be the replacement cost of the sign structure. The valuation of the sign as shown on the records of the tax assessor shall be presumed to be the replacement cost. If no amount appears in the records of the tax assessor for the individual sign, then the amount stated as the value of the sign on

the original sign permit application shall be presumed to be the replacement cost. These presumptions of replacement costs may be rebutted by a city approved appraisal.

- (51) *Obscene material.* Material is obscene if all of the following apply:
- (a) To the average person, applying contemporary community standards, taken as a whole, it predominantly appeals to the prurient interest, that is, a shameful or morbid interest in nudity, sex, or excretion; and
  - (b) The material taken as a whole lacks serious literary, artistic, political, or scientific value; and
  - (c) The material depicts or describes, in a patently offensive way, sexual conduct specifically defined in subparagraphs (1) through (5) of this paragraph:
    - (1) Acts of sexual intercourse, heterosexual or homosexual, normal or perverted, actual or simulated;
    - (2) Acts of masturbation;
    - (3) Acts involving excretory functions or lewd exhibition of the genitals;
    - (4) Acts of bestiality or the fondling of sex organs of animals; or
    - (5) Sexual acts of flagellation, torture, or other violence indicating a sadomasochistic sexual relationship.
- (52) *Owner.* Includes any person having possession of or control of a sign or owner of record of real property.
- (53) *Permanent sign.* Any sign attached to land or a building, roof, wall, awning, canopy, etc., by means of concrete, bolts, metal braces, wood, etc. and has a valid sign permit.
- (54) *Pole sign.* A sign that is mounted on a freestanding pole, pylon or other supports so that the bottom edge of the sign face is three feet or more above grade level and is independent of any other structure.
- (55) *Portable display sign.* Any sign not permanently affixed to the ground, including signs mounted or designated to be mounted on a trailer-type frame or portable wood or metal frame. Portable display signs are not included in the definition of freestanding signs.
- (56) *Primary highway.* Any road of the state highway system which is a portion of connected main highways, as officially designated or as may hereafter be so designated by the Georgia Department of Transportation and approved by the United States Secretary of Transportation pursuant to 23 U.S.C. Section 103.
- (57) *Prohibited sign.* Any sign, other than a legal nonconforming sign, not conforming to this ordinance.
- (58) *Public interest signs.* Sign in the public interest, erected by, or on the order of, a public officer in the performance of his or her duty such as public notices, safety signs, traffic and street signs, memorial plaques, and the like.
- (59) *Projecting signs.* A sign that is attached perpendicular to a building and extends horizontally from the plane of the building wall.
- (60) *Property frontage.* That portion of any lot or parcel of land which is bounded by the right-of-way of a public street, major thoroughfare, primary highway, or interstate highway (also sometimes referred to as "frontage").
- (61) *Roof line.* The top edge of the roof or the top of the parapet, whichever forms the top line of the building silhouette.
- (62) *Roof sign.* A sign erected, constructed, or maintained above the roof of any building. The sign or copy area shall not extend beyond the pitch boundaries or extremities of the roofline. Square footage is to be calculated the same as wall signage and will be deducted from the allowable wall sign area. Permit

applications shall be accompanied by a site plan, which shall be stamped by a registered engineer or architect as to dimensions, above requirements, and structural integrity.

- (63) *Rotating sign.* Any sign or portion of a sign that moves in a revolving or similar manner.
- (64) *Sidewalk or sandwich board sign.* A movable sign not secured or attached to the ground or surface upon which it is located. Placement is in the pedestrian zone directly adjacent to the building or structure. They shall contain as a part of the total sign area a changeable copy board (e.g., a chalk board or dry-erase board) for information that changes no less frequently than every 48 hours such as daily specials, menus, sale items, sermon topics, guest attendees, or entertainment options. Said signs shall not exceed three feet in height and shall not be wider than two feet in width. All such signs shall be double faced.
- (65) *Sign.* Any identification, description, illustration, symbol, statute or device, illuminated or non-illuminated, that is visible from any public place designed to advertise, identify, or convey information, including any landscaping where letters or numbers are used for the purpose of directing the public's attention to a product or location, with the exception of window displays and state or national flags, but including illuminated framing of windows or canopies or other illuminated strips or buildings, structures or signs. For the purpose of removal, sign shall also include all sign structures.
- (66) *Soffit sign.* A sign that hangs or is suspended beneath the cover of a walkway or beneath a support extending from a building.
- (67) *Temporary advertising device.* Banners, feather banners, streamers, pennants, balloons, inflatable advertising devices, string of lighting and similar advertising devices used during special events, temporary sales, or activities of limited duration on private property.
- (68) *Visible.* Means capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity.
- (69) *Wall sign.* A sign, including an awning sign, permanently attached to the exterior wall of a building.
- (70) *Window sign.* A sign painted upon or affixed as to be visible through a window.
- (71) *Zoning district.* The zoning designation of parcels of land under the City of Calhoun Zoning Ordinance.
- (72) *Zoning district DBD.* Downtown Business District as officially designated by the mayor and council of the City of Calhoun (also identified in this ordinance as the C-1 and C-2, Central Business District).
- (73) *Zoning district HD.* The Historic District established by Chapter 60 of the Code of Calhoun (the specific geographical description being found in section 60-53, Designation of historic district; boundary descriptions).
- (74) *Zoning district HIE.* The Highway Interstate Exchange zones are those properties that are directly adjacent to either a federal or state highway and the physical interchange with I-75. The following areas shall be considered Zoning District HIE for the purposes of this ordinance:
  - (a) *US 53.* The Zoning District HIE US 53 shall be limited to all of the properties that directly abut US 53, or have a primary point of ingress/egress on the highway, and shall be confined to no more than 100 yards west of the Richardson Road intersection, thence traveling east on the highway, and thus ending no farther than 100 yards east of the Outlet Center and Lover's Lane intersection.
  - (b) All other intersections of any municipal road, federal highway, or state highway and Interstate 75 shall be subject to the applicable municipal design guidelines to be adopted by the mayor and city council.

### Section 10.3. General provisions.

Unless a more restrictive setback is specified in conditions or zoning or in this ordinance, all signs shall be set back at least ten feet from all property lines or 20 feet from the edge of pavement if a private street. Except as otherwise provided in this article, the following general stipulations shall also apply to all signs:

- (a) *What signs are covered.* Unless specifically excluded herein, this ordinance shall govern any sign erected, maintained or located in the City of Calhoun. Signs wholly located within a structure or building and which are intended to be viewed from the interior of the building are not regulated by the ordinance.
- (b) *Definitions and specific provisions.* The names of sign types and other words have special meanings in this ordinance. Consult the definitions section of this ordinance and the other specific provisions to determine the meaning of words and the regulations that apply to each type of sign.
- (c) *Other laws still apply.* All signs shall comply with all federal, state, and city laws, ordinances, codes, and rules. Compliance with the terms of this ordinance shall not operate to relieve any individual, corporation or other entity of any other duty imposed by law.
- (d) *Geographical applicability.* The provisions of this ordinance shall apply to all of the property located within the municipal limits. Three special zones are contained within this area that require additional or specified restrictions on signage, to wit:
  - (1) The Downtown Business District, as defined and regulated later in this article;
  - (2) The Historic District, as defined and established by section 60-53, Designation of historic district; boundary descriptions, of the Calhoun Code; and
  - (3) The interchanges of state or federal highways and the federal interstate system that are located within the municipal limits which are designated as Highway Interstate Exchange zones.
- (e) *Maintenance and appearance of signs.* All signs shall be maintained in good condition and present a neat and orderly appearance. Any sign showing gross neglect, or which becomes dilapidated, or which is surrounded by an unmaintained ground area, may be required to be repaired or removed as set forth below. The code enforcement officer or building inspector, upon finding any of such conditions, shall give the owner a minimum of ten days' written notice to correct the deficiencies or to remove the sign or signs. If the owner refuses to correct the deficiencies or remove the sign, the code enforcement officer or building inspector may issue a citation under the enforcement provisions of this article, or the Code of Calhoun.
- (f) *Illumination of signs.* The light from the illuminated sign shall not be of an intensity or brightness that interferes with the peace, comfort, convenience, and general welfare of residents or occupants of adjacent or nearby properties.
- (g) *Property rights of others must be respected.* Issuance of a permit hereunder shall not serve to waive any applicable protective covenants or private rights of property ownership. All permits issued or signs erected remain subject to the criminal penalties and restrictions contained and outlined in O.C.G.A. § 16-7-58. Placement of posters, signs, or advertisements on public or private property without permission is prohibited.
- (h) *Safety.* At a minimum, no sign or other obstruction of vision, including, but not limited to, poles or other support structures, with a height greater than three feet, shall be permitted within an area beginning at the intersection of any right-of-way lines of any streets, roads, highways, driveways, curb cuts or railroads, and extending 20 feet along each such right-of-way, and closed by a straight line connecting the end points of the said 20-foot sections of the right-of-way lines (block out zone).
- (i) *Signs shall not be similar to traffic control devices.* No sign or illumination shall be used, constructed, maintained or located at any location where it may interfere with or obstruct the view of an authorized traffic control device. Nor shall any sign be used, constructed, maintained, or located where it, by reason of its position, shape, wording or color, may be confused with an authorized traffic control device or emergency vehicle device or markings.

- (j) *Lights.* Series, lines or rows of lights supported by cables or other physical means typically associated with auto sales lots shall be a minimum of 25 feet from the edge of the street or out of the right-of-way, whichever is farthest from the street.
- (k) *Electrical and structural safety.* All electrical signs and all electrical devices that illuminate signs or otherwise operate signs are subject to approval of the City of Calhoun Building Inspector or his designee. All such signs and electrical devices shall only be allowed if listed by an approved testing laboratory or agency and installed in conformance with that listing. All signs shall be built in compliance with all applicable building and electrical codes.
- (l) *Content of sign.* This ordinance shall not regulate the specific content of signs. Any sign, display or device allowed under this ordinance may contain commercial or noncommercial copy unless otherwise specified herein, except that such copy shall not contain obscene or pornographic material or advertise an illegal activity. This ordinance will, in no way, infringe upon any person's constitutional rights.
- (m) *Expiration of permit.* A sign permit shall expire six months after the issuance of the permit if construction of the sign has not commenced within that time. A sign permit shall expire 12 months after the issuance of the permit if construction of the sign is not completed within that time. If construction has not begun or been completed as required by this subsection, then a new application must be submitted and the permitting process commenced anew.
- (n) *Structural/safety.* Any sign within this ordinance attached to a building must meet the City of Calhoun Building Code Requirements.
- (o) *Changeable copy signs (manual).* Such signs shall be allowed only as an addition to or in conjunction with a permitted freestanding sign and must be permanently affixed to said sign. Changeable copy signs shall not be allowed to stand alone. Such signs shall be deducted from allocated freestanding sign area.
- (p) *Clearance from high voltage power lines.* Signs shall be located not less than 12 feet horizontally or 13 feet vertically from overhead electrical conductors which are energized in excess of 750 volts. Signs located in the vicinity of electrical conductors energized with less than 750 volts shall maintain clearances in accordance with the National Electric Safety Code. Copies of said code are on file with the building inspector. In no case shall a sign be installed closer than 36 inches from any electrical conductor or public utility guy wire.

### **Section 10.3.1. Nonconforming signs.**

- (a) The city finds that nonconforming signs may adversely affect the public health, safety and welfare. Such signs may adversely affect the aesthetic characteristics of the city, and may adversely affect public safety due to the visual impact of said signs on motorists and the structural characteristics of said signs. It is the policy of the city to encourage compliance of all signs within the city with the terms and requirements of this ordinance. This provision shall not have the effect of excusing any violation of any other ordinance, chapter, or section, nor shall this provision have the effect of permitting the continued existence of any unsafe sign or any sign that is not in a good state of repair.
- (b) Signs lawfully existing on the effective date of this ordinance, which do not conform to the provisions of this ordinance upon the date of enactment/adoption, shall be deemed to be legal nonconforming "grand-fathered" signs and may remain under the terms of this section.
- (c) Nothing in this section shall be deemed to prevent keeping in good repair a nonconforming sign. No repairs other than minor maintenance and upkeep of nonconforming signs shall be permitted except to make the sign comply with the requirements of this ordinance. A nonconforming sign that has been declared by the building inspector of the City of Calhoun to be unsafe because of its physical condition shall not be repaired, rebuilt, or restored unless such repair or restoration will result in a sign which conforms to all applicable provisions of this ordinance.
- (d) The copy contained within the copy area of a "grand-fathered" nonconforming sign may be changed so long as such a change may not change, increase or otherwise alter either the height or sign area.

- (e) A nonconforming sign shall not be enlarged, structurally altered/reconstructed or substantially rebuilt except in conformance with this ordinance, but it may be repaired to the extent necessary to maintain it in a safe and sanitary condition. The sign shall not be rebuilt, altered or repaired after damage exceeding 50 percent of its replacement cost at the time of destruction, except in conformity with this ordinance.
- (f) A nonconforming sign shall not be moved for any distance on the same lot or to another lot unless such change in location will make the sign conform to the provisions of this ordinance, and meet the applicable permit requirements.
- (g) If a nonconforming sign is removed or discontinued for any period of time to exceed 180 days, except for maintenance, the subsequent erection, modification, or renewed use shall no longer be considered "grandfathered." Any action taken outside of this period of time shall only be in accordance with the provisions of this ordinance.
- (h) When a nonconforming sign is destroyed, toppled, or structurally impaired by force majeure and such nonconforming sign cannot be restored through normal maintenance and repair as defined in this ordinance, this shall not constitute a sufficient reason for grant of a variance to re-erect the nonconforming sign.
- (i) Any sign permit approved and/or issued by the city prior to the enactment of this ordinance shall remain valid. However, the approved nonconforming sign construction shall be constructed within 120 days of permit approval or said permit shall expire.
- (j) Any modification of a nonconforming sign to convert to an electronic sign shall only be performed in accordance with the provisions of this ordinance.

**Section 10.3.2. Prohibited signs.**

Any sign not specifically identified in this article as a permitted sign shall be prohibited. The following signs are prohibited in any zoning district in the City of Calhoun.

- (1) Any temporary advertising device except as specifically allowed under this ordinance.
- (2) Signs that produce noise or sounds capable of being heard even though the sounds produced are not understandable sounds. This provision does not prohibit radio transmissions used in conjunction with any sign.
- (3) Signs that emit visible smoke, vapor, particles or odors.
- (4) Signs that are erected or maintained upon trees, utility poles or painted or drawn upon rocks or other natural features.
- (5) Inflatable advertising devices except as specifically allowed under this ordinance.
- (6) Signs which purport to be, or are in imitation of, or resemble an official sign or traffic sign.
- (7) Roadside bench, covered shelter or bus-shelter advertising signs.
- (8) Animated or flashing signs.
- (9) Search lights, beacons or similar devices.
- (10) Signs or other advertising structures that contain obscene or indecent material.
- (11) Roof signs except as otherwise allowed herein.
- (12) Rotating signs (excludes barber pole signs).
- (13) Signs which advertise an activity which is illegal under the laws of Georgia, federal laws or regulations, or any City of Calhoun ordinance.
- (14) Signs or advertising devices attached to any vehicle or trailer parked so as to be visible from a public right-of-way for the purpose of providing advertisements of products, services or events or directing people to a business or activity, except for a common carrier or other vehicle which is used for daily

transportation with a valid license plate. Any allowable vehicle or common carrier having a sign attached thereto as a part of the operational structure of the vehicle is to be parked in a legal parking space belonging to the business or on the property to which the sign makes reference. No signs on trailers or other non-motorized vehicles will be allowed under this provision.

- (15) Signs placed in parking spaces, which are required to meet the minimum parking requirements.
- (16) Signs not in good repair, specifically including any sign which is in a state of disassembly, or any sign that has its internal lighting exposed to view.
- (17) Abandoned signs which advertise an activity, business, product or service no longer conducted or available.
- (18) Sign copy on litter receptacles, vending machines, or like structures, except for copy indicating products sold, dispensed, or distributed from within the structure upon which the sign copy appears (e.g., sign copy on vending machines shall be permitted if restricted to products sold, dispensed or distributed from the machine).
- (19) Twirling, sandwich-type, sidewalk or curb-type signs, and portable display signs, shall be prohibited.
- (20) No signs other than those belonging to local or state governments, public service agencies, railroads and the like shall be located in a public right-of-way.
- (21) Trailer signs: Changeable copy signs designed to be transported periodically from place to place or designed to be supported on wheels, whether or not such wheels have been removed, are prohibited except as specifically allowed under this ordinance.

### **Section 10.3.3. Interpretation, construction and severability.**

- (a) *Interpretation.* The words used in this ordinance in the present tense shall include the future. Singular words include the plural, and plural words include the singular. For the sake of brevity, masculine and feminine pronouns shall be mutually inclusive and shall also include the neuter (i.e., corporations). Sub-headings and/or examples are inserted for the convenience of the reader and shall not operate to limit the effect of any provision.
- (b) *Construction.* The provisions of all other applicable city, state and federal laws shall apply. This ordinance shall not be construed to create a right to maintain a sign in violation of any other law, in violation of any protective covenant or in violation of the property rights or other rights of any person or entity. In the event that any provision of this ordinance regulates the same activity, conduct or any aspect of signage that is also regulated by city, state or federal law, then the provision most restrictive of signage shall govern. In the event that any provision of this ordinance is in genuine conflict with any state or federal law or requirement, the conflict shall be resolved in accordance with law.
- (c) *Severability.* The provisions, sections, paragraphs, sentences, clauses, phrases and terms of this ordinance are severable. In the event that any portion or any specific application of this ordinance is held to be unconstitutional or otherwise invalid, such invalidity shall not affect the other portions or other applications of this ordinance.

### **Section 10.4. Permits generally.**

- (a) Except as otherwise provided herein, no sign shall be used, constructed, maintained, located, replaced, expanded or relocated unless a sign permit has been issued by the City of Calhoun.
- (b) A new sign permit shall be required for any structural alterations, other than normal, maintenance and repair as defined in this ordinance.

- (c) No permit issued for a sign under the provisions of this ordinance shall be deemed to constitute permission or authorization to maintain any sign that violates any provision of this ordinance, any other ordinance, state law or federal law.
- (d) Any sign requiring a permit for which a permit has not been secured shall be removed immediately. Removal shall be the joint and severable responsibility of the sign owner, the sign erector and any party that procured the erection of the sign.

#### **Section 10.4.1. Permit application.**

All signs in this ordinance, regardless of location within the municipal limits, shall require a permit, except for the following:

- (a) Numerals displayed for the purpose of identifying property location not to exceed eight inches in height;
- (b) Flags;
- (c) Window signs if contained within the interior of the location, business, organization, or residence;
- (d) Political campaign signs provided:
  - (1) Such signs shall be located on privately owned property with a minimum of one foot setback from any publicly maintained right-of-way or easement, shall not be located in any medians and must be with proper authorization of the property owners; and
  - (2) All signs with a copy area in excess of four square feet shall be removed within 30 days after the relevant election; and
- (e) Any bench, or similar structure, which might contain a commercial or non-commercial message, of which said message is ancillary to the primary public purpose of said bench or structure, and when same is located entirely on private property and is not adjacent to any street right-of-way.

#### **Section 10.4.2. Who may apply.**

- (a) Permits shall be issued only to:
  - (1) The owner of the real property where the sign is to be located;
  - (2) A lessee who has the right to install or maintain a sign on the real property where the sign is to be located; or
  - (3) The erector of the sign.
- (b) An applicant that is a lessee shall produce a copy of the lease or a written statement from the owner of the real property that the applicant has the right to maintain a sign on the property. A sign erector shall produce a copy of a current occupational tax certificate and proof of insurance or bond as required by the bond and insurance section of this ordinance. Application may be made by the owner, lessee or an agent of the owner or lessee.

#### **Section 10.4.3. Application.**

Application for a sign permit shall be filed with the city on forms furnished by the city. The application for a permit shall contain the identification and address of the property on which the sign is to be erected; the names, addresses and telephone numbers of the sign owner, sign erector, property owner, lessee (if applicable) and the agent making the application (if applicable); the type of sign as classified by this ordinance; and such other pertinent information as the city may require to insure compliance with the provisions of this ordinance and other applicable ordinances of the city. The city may require that the application be accompanied by two copies of the following: site plans showing location of structures upon the property on which the sign is to be located and the

location of the sign in relation to the structures, property lines, public rights-of-way, and other signs, plans, specifications and structural details showing the type and manner of construction, attachment to buildings or in ground erection; and a visual representation of the completed sign. The city may require said plans to bear the signature and seal of a registered land surveyor, professional engineer, architect or land planner. Each application shall include a signed statement from the landowner or possessor of the property giving consent to entry onto the property for the purpose of inspection and enforcement of this ordinance. If classification of the road on which the property fronts is of importance to the permit process, the city may require the applicant to submit certified documents from the Georgia Department of Transportation or the United States Department of Transportation or their successors regarding the classification of the road.

#### **Section 10.4.4. Processing of application.**

Review of an application deemed to be complete by the city and notification to the applicant of either approval or denial shall in no case extend for a period of time exceeding 30 days from the date of the city's receipt of the completed application. Notification to the applicant can be made either by certified mail return receipt requested, by fax to the number provided on the application, or by hand delivery by the city marshal's office on or before the thirtieth day after the city's receipt of the application. Should the process exceed 45 days, it shall be deemed that the application is approved, and the building inspector shall issue a permit to the applicant. Issuance of a permit shall in no way prevent the city from later declaring the sign to be illegal if the structure fails to substantially comply with the specifications submitted in the application or some new information of illegality or non-conformance is discovered.

#### **Section 10.4.5. Procedure upon denial.**

- (a) *Grounds for denial.* The building inspector shall deny all applications for signs that do not comply with this ordinance. Written notification to the applicant listing the reasons for denial shall be provided.
- (b) *Revocation of permits and certificates.* The building inspector may revoke a sign permit or certificate of compliance in those cases where an administrative determination has been duly made that false statements or misrepresentations existed as to material facts in the application or plans upon which the permit of approval was based.
- (c) *Suspension of permits and certificates.* The building inspector may suspend a sign permit or certificate of compliance where an administrative determination has been duly made that an error or omission on the part of either the permit applicant or a government agency existed in the issuance of the permit or certificate. A new permit or certificate shall be issued in place of the incorrect permit or certificate after correction of the error or omission.
- (d) *Fees.* The application for a permit shall be accompanied by the appropriate permit fee as established by the governing body of the City of Calhoun from time to time.

#### **Section 10.4.6. Variances.**

There shall be no deviation from the terms of this chapter unless the mayor and city council, acting as a body, have granted a variance. Variances from the provisions of this chapter may be applied for and granted in the same procedural manner as variances from the city zoning ordinance. For a variance to be granted from this chapter, each of the following must be shown:

- (a) No characteristics contrary to the public interest or this chapter will be promoted;
- (b) No resulting variance shall create an effect or condition contrary to the public safety and welfare;
- (c) Relief shall not impair the purposes of this chapter;
- (d) A unique hardship exists because of an extraordinary and exceptional condition(s) pertaining to the particular piece of property in question because of a characteristic of its size, shape, and topography; and

- (e) The condition causing the hardship is unique and is not common to the region in general.

Note: Economic or financial hardship alone may not be sufficient to support the grant of a variance. Signs that are nonconforming as of the effective date of this chapter shall be granted automatic variance with no further action required on the part of permit holders. Variance procedures shall apply to new signs erected thereafter.

#### **Section 10.4.7. Appeals.**

Any individual whose application has been denied or revoked may appeal the decision of the building inspector to the City of Calhoun Board of Zoning Appeals within 30 days of notification of denial or revocation. Once an applicant has notified the building inspector of their intent to appeal, a hearing will take place within 60 days of the appeal being filed with the building inspector. If a hearing cannot take place within the 60-day limit, then the appeal is determined in favor of the applicant.

#### **Section 10.5. Enforcement and penalties.**

- (a) *Enforcement personnel.* The enforcement of this ordinance shall be within the jurisdiction of the city's code enforcement personnel and all law and code enforcement personnel of the City of Calhoun. The enforcement personnel shall have such powers as are reasonably necessary to enforce and give effect to this ordinance.
- (b) *Public nuisance.* Any violation of this ordinance is hereby declared to be a public nuisance.
- (c) *Maintenance and repair.* Every sign, including, but not limited to, those signs for which permits are required or for which no permits or permit fees are required, shall be maintained in a safe, presentable and good structural material condition at all times, including the repair or replacement of defective parts, painting, repainting, cleaning, and other acts required for the maintenance of said sign. The building inspector shall require compliance with all standards of this code. If the sign is not made to comply with adequate safety and maintenance standards, the building inspector shall require its removal in accordance with this section.
- (d) *Abandoned signs.* Except as otherwise provided in this ordinance, any sign which is located on property which becomes vacant and unoccupied for a period of three months or more, or any sign which pertains to a time, event, or purpose which no longer applies, shall be deemed to have been abandoned. Permanent signs applicable to a business temporarily suspended because of a change of ownership or management of such business shall not be deemed abandoned unless the property remains vacant for a period of six months or more. Abandoned signs shall be removed by the owner of the premises on which the sign is located.
- (e) *Dangerous or defective signs.* No persons shall maintain or permit to be maintained on any premises owned or controlled by him any sign which is in a dangerous or defective condition. Any such sign shall be removed or repaired by the owner of the premises or the owner of the sign. Upon failure of the owners to remove or repair a dangerous or defective sign, the building inspector shall proceed as described in subsection (i) of this article.
- (f) *Unlawful signs.* No person shall erect or permit to be erected any sign which does not comply with the provisions of this ordinance.
- (g) *Sign in right-of-way.* Any sign located in or projecting over a public right-of-way at the time of the effective date of this ordinance which was subject to removal or relocation at the owner's expense, pursuant to a permit or other ordinance of the city, shall be removed by the owner or altered at the owner's expense to comply with the regulations of this ordinance.
- (h) *Removal of temporary signs.* Upon adoption of this ordinance, any temporary sign, portable display sign or device included in this ordinance shall be removed or made to conform to the provisions of this ordinance within 60 days of the date of notification by the building inspector or his designee. All subsequent violations shall be remedied within 14 days of the notification.

- (i) *Removal of signs by the building inspector.* The building inspector or his designee shall cause to be removed any sign that endangers the public safety such as an abandoned, dangerous, or materially, electrically or structurally defective sign or a sign for which no permit has been issued. The building inspector or his designee shall prepare a notice which shall describe the sign and specify the violation involved and which shall state that if the sign is not removed or the violation is not corrected within ten days the sign shall be removed in accordance with the provisions of this section.

All notices mailed by the building inspector or his designee shall be sent by certified mail. Any time periods provided in this section shall be deemed to commence on the date of the receipt of the certified mail, or refusal of the person to whom it is addressed to accept same.

The notice shall be mailed to the owner of the property on which the sign is located, the owner of the sign and the occupant of the property. If any of such persons is unknown or cannot be found, notice shall be mailed to such persons' last known address, if any, and posted on the sign or on the premises.

Any person having an interest in the sign or the property may appeal the determination of the building inspector ordering removal or compliance by filing a written notice of appeal with the board of zoning appeals within ten days after receipt of the notice.

Notwithstanding the above, in cases of emergency, the building inspector or his designee may cause the immediate removal of a dangerous or defective sign without notice.

- (j) *Disposal of signs-costs.* Any sign removed by the building inspector pursuant to the provisions of this section shall become the property of the city and may be disposed of in any manner deemed appropriate by the city. The cost of removal of the sign by the city shall be considered a debt owed to the city by the owner of the sign and the owner of the property, and may be recovered in an appropriate court action by the city. The costs of removal shall include any and all incidental expenses incurred by the city in connection with the sign's removal.

When it is determined by the building inspector that said sign would cause an imminent danger to the public safety, and contact cannot be made with a sign owner or building owner, no written notice shall have to be served. In this emergency situation, the building inspector may correct the danger, all costs being charged to the sign owner and property owner.

If it shall be necessary for the building inspector to remove a sign pursuant to the provisions hereof, and it should be practicable to sell or salvage any material derived in the aforesaid removal, he may sell the same at private or public sale at the best price obtainable, and shall keep an account of the proceeds thereof. Such proceeds, if any, shall be used to offset the costs of removal to be charged to the sign owner or property owner. The city may file a suit in court to collect any excess over such cost, and the cost of the removal shall be levied as an assessment against the property on which the sign is located.

- (k) *Invalid permits.* The building inspector may issue a removal order when it has been determined that a permit was improperly issued, that the permit was issued on the basis of misstatement of fact or fraud, that the sign has not been constructed in compliance with this ordinance or with the specification of the application or site plans, that the sign permit has expired or that the sign is otherwise not in compliance with this ordinance. In the event a sign is not removed after receipt of a removal order by the owner of such sign or property, the building inspector may institute legal proceeding hereunder against the property owner, sign owner, lessee, sign erector or a combination of the above.
- (l) *Civil actions.* The city through the building inspector in his official capacity or any individual or entity whose property interests are directly affected may bring a civil action to seek injunctive and other relief to enforce this ordinance.
- (m) *Citations.* Any violation of this ordinance may be tried upon citations issued by the building inspector of the City of Calhoun. Without limitation, sign erectors, sign owners and such other parties responsible for the violation may be cited for violation of any provisions of this ordinance.

- (n) *Penalties.* In addition to any other penalty provided in this ordinance or in any separate resolution, the penalty and/or fine for any one sign found in violation of this ordinance, tried upon a citation or upon an accusation and, as provided for in section 1-9 of the City of Calhoun Code of Ordinances, shall be punished by a fine not exceeding \$1,000.00, imprisonment for a term not exceeding 12 months or both. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.
- (o) *Prosecutor.* The city attorney and/or his assistants shall prosecute all violations of this ordinance unless the mayor and city council of the City of Calhoun appoint a special city prosecutor for violations of this ordinance.
- (p) *Remedies cumulative.* All remedies and penalties specified in this ordinance are cumulative.

### **Section 10.6. Bonds and insurance.**

All persons engaged in the business of erecting, installing, altering, relocating, constructing or maintaining signs for compensation must post a bond or show proof of insurance in the amount of \$25,000.00 for property damage for any one claim and public liability insurance in the amount of \$100,000.00 for injuries, including accidental death to one person and possess a current occupational tax certificate at the time any sign permit is obtained. Said bond or insurance shall cover any and all damages, demands or expenses of every character, which may occur as a result of such erection, installation, alteration, or relocation.

### **Section 10.7. Freestanding signs.**

All signs under this section require a permit. Freestanding signs in all zoning districts, except those located in zoning district DBD and zoning district HD, shall comply with the following:

- (a) One, maximum 32 square foot, freestanding monument sign as required in section 5.1.1 of this chapter, not to exceed eight feet in height, shall be permitted for each street on which the lot has frontage. (Excludes lots abutting U.S. Highway 41 also known as South Wall Street and North Wall Street, State Route 53 and Spur 53, State Route 136, State Route 156, State Route 225, Curtis Parkway, Lovers Lane Road, Outlet Center Drive, Belwood Road, Clarence King Drive, Marine Drive, Richardson Road, Executive Drive, South Industrial Boulevard, WC Bryant Parkway, River Street, McDaniel Station Road, Mauldin Road, North Industrial Boulevard, I-75 and lots in the zoning districts R-1, R-1A, R-1B, R-2, R-2A, R-3 and O-I.)
- (b) One, maximum 75 square foot, freestanding monument sign as required in section 5.1.1 of this chapter, not to exceed 15 feet in height, shall be permitted for each street on which the lot has frontage on the following industrial/commercial streets: Curtis Parkway, Lovers Lane Road, Outlet Center Drive, Belwood Road, Clarence King Drive, Marine Drive, Richardson Road, Executive Drive, South Industrial Boulevard, WC Bryant Parkway, River Street, McDaniel Station Road, Mauldin Road, North Industrial Boulevard.
- (c) Lots (excluding properties within the residential zoning districts of R-1, R-1A, R-1B, R-2, R-2A, and O-I) abutting U.S. Highway 41 also known as South Wall Street and North Wall Street, State Route 53 and Spur 53, State Route 136, State Route 156, State Route 225, and I-75, shall be allowed one, maximum 120 square foot, freestanding pole sign for each frontage on said highways, not to exceed 25 feet in height.
- (d) Residential zoning districts (R-1, R-1A, R-1B, R-2, R-2A, R-3 and O-I) shall be allowed one, maximum eight square foot, freestanding sign for each street on which the lot has frontage, shall have a maximum height of six feet, shall not be directly illuminated, and shall not have changeable copy.
- (e) Residential zoning districts (R-1, R-1A, R-1B, R-2, R-2A, R-3 and O-I) shall be allowed one, maximum 32 square foot, monument sign for each street on which the lot has frontage on industrial/commercial streets and state routes as identified in subsection (b) and (c) of this article, shall have a maximum height of eight feet, shall not be directly illuminated, and shall not have changeable copy.

- (f) Location. If a lot has more than one street frontage and a freestanding sign is proposed on each street, then the freestanding sign allowed on each frontage can be no closer to the intersection of said streets than half the distance of the frontage on each street.

### **Sec. 10.7.1. Freestanding sign exceptions for zoning district HIE.**

Lots found in the areas designated zoning district HIE shall be allowed one freestanding sign for the unique need for visibility by traveling vehicles on Interstate 1-75 and shall be allowed one freestanding pole sign that is 100 feet in height, not to exceed 300 square feet.

### **Section 10.8. Wall signs/canopy signs/awning signs.**

All signs under this section require a permit. Wall signs, canopy signs and awning signs in all zoning districts, except residential, shall comply with the following:

- (1) Wall signs shall have an aggregate area not exceeding 1.5 square feet for each linear foot of building face parallel to a street lot line or ten percent of the wall area to which it is attached, whichever is less, not to exceed 180 square feet. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately. Canopy and awning signs shall be deducted from allocated wall sign area.
- (2) Height: No wall sign that projects more than four inches from the building surface on which it is attached shall be less than eight feet above the finished elevation at its lowest extremity. A wall sign shall not project above the vertical wall to which it is attached.
- (3) Wall, canopy or awning signs shall not have changeable copy unless approved as a marquee sign.
- (4) Marquee wall signs may be substituted for wall signs for uses as approved such as theaters and hotels where their use is customary. Such signs shall not extend above the roofline of the building nor extend more than two feet from the face of the building upon which secured. Allowable sign dimensions shall be the same as for wall signs.
- (5) No wall sign shall project more than 24 inches from the building surface on which it is attached.

### **Section 10.9. Temporary advertising devices.**

Businesses and institutions may exhibit balloons, banners, flags or streamers related to an activity or even having a specific duration, or the end of which is related to a specific action, usually lasting only a few days at a time. Examples include grand opening events, seasonal sales events, close-out sales, fund raising, educational programs, graduations, concerts, movies, and other short term events or activities.

- (a) *Grand opening promotions.* Banners, feather banners, streamers, pennants, string lighting, and similar temporary advertising devices shall be permitted on private property during the initial promotion or "grand opening" of a business, service provider, school, office, faith community, or other form of organization, no more than five days prior to opening and no longer than 30 days after the date of the opening. Banners of this type shall be no larger than 32 square feet in size.
- (b) *All other uses.* Except for the period of time described in subsection (a), all other uses of temporary advertising devices shall be governed by the following:
  - (1) *Duration.* Such signs may be permitted and exhibited for a period not to exceed 30 days, said period being measured from calendar month and day to future calendar month and day (ex. March 3rd to April 3rd). Each business owner will be permitted a maximum of six temporary advertising devices in a 12-month period.
  - (2) *Maintenance.* No person shall maintain or permit to be maintained on any premises owned or controlled by that person any temporary advertising device which is in a dangerous and defective

condition. Any such sign shall be removed or repaired by the permittee of the sign, the owner of the premises, or as otherwise provided in this article.

- (3) *Permit.* A temporary advertising device permit is required along with a fee per the provisions contained within the permitting provisions of this ordinance.
  - (4) *Setback.* All such signs and devices shall be set back a minimum of five feet from the public road right-of-way.
  - (5) *Size.* Banners and portable signs shall be a maximum of 32 square feet in area.
- (c) *Air- and gas-filled (inflatable) devices.* Inflatable advertising devices may be employed as temporary advertising devices provided that the footprint area required for said devices does not exceed 200 square feet (including all tie-down or other support structures) and does not visually block adjacent businesses or tenants.

### **Section 10.10. Zoning district DBD sign regulations.**

*Calhoun Downtown Business District.* This section applies to the zoning district DBD (also identified in this ordinance as the C-1, Central Business District) officially designated by the mayor and council of the City of Calhoun now and in the future. All definitions and other matters relating to signs as contained in other existing city ordinances shall remain in full force and effect to the extent that they are consistent with this ordinance. Within the DBD district, the intent of sign regulation is to ensure visual compatibility with the scale and character of the surrounding architecture so as not to allow signs to obstruct architectural features. All signs under this section require a permit.

#### **Section 10.10.1. General regulations for zoning district DBD.**

The following shall be applicable to all signs found within the geographical boundaries of the zoning district DBD, and may or may not be additionally subject to the restrictions and provisions for signs found within the zoning district HD:

- (a) In no case shall a sign applied to a building be allowed to obscure any significant architectural details of a building face, nor shall a wall sign be so designed as to cover existing windows.
- (b) Each ground floor business may not have more than two signs. These signs may be window signs, awning, canopy, wall signs, or a combination thereof; and an identification sign at the front and rear of the building. Each upper-level business of a building may display one identification sign.
- (c) Businesses which are located in corner buildings are allowed one additional sign to the two normally allotted, to be located on the side or rear wall of the building.
- (d) Wall signs shall have an aggregate area not exceeding 1.5 square feet for each linear foot of building face parallel to a street lot line or ten percent of the wall area to which it is attached, whichever is less, not to exceed 180 square feet. Where a lot fronts on more than one street, the aggregate sign area facing each street frontage shall be calculated separately. Canopy and awning signs shall be deducted from allocated wall sign area.
- (e) No sign shall be closer than 18 inches to an adjacent property line and shall not be installed or extend over a party wall.
- (f) Signs shall be concentrated near the pedestrian level. Signs shall not obscure important architectural details or features such as windows, transom panels, sills, moldings, and cornices. Wall signs identifying commercial establishments shall be placed within the area immediately above the storefront. Said area should be confined to the vertical distance separating windows on the ground and the second floor, or should be no more than two feet in height, whichever is lesser. Signs on adjacent storefronts within the same building should be coordinated in height and proportion and use the same signage format.

- (g) Sign colors should complement the building facade. Signs shall not contain more than three colors, except in instance of an illustration. Dark background with light-colored lettering is traditional. Examples of preferred background colors are burgundy, forest green, chocolate brown, black, charcoal, and navy. Preferred lettering colors are ivory, white, or gold.

### **Section 10.10.2. Permitted sign in the zoning district DBD.**

- (a) *Window signs.* Each ground level business having glass directly oriented to a street may use all of that glass area as one allowable sign, but no single window shall be covered more than 30 percent. Window signs on or above the second floor will be limited to identification and instructional signs and cover no more than 30 percent of any one window.
- (b) *Wall and awning signs.* The maximum sign area for wall and awning signs shall be calculated as described in subsection 10.8.(1) of this appendix. For any building which houses multiple businesses, the building facade area used to calculate maximum size of wall and canopy signs allowed for each business will be defined as the individual business' linear frontage (primary facade) times the height of the building as measured at its highest point above the frontage.
- (c) *Owner, organizational or business identification sign.* In addition to the two signs described under subsection 10.10.1(b), each business, owner or organization will be allowed one on premises identification sign not to exceed two square feet in area. These identification signs may be painted on windows or doors, or may be painted on valances or skirts of approved awnings. They may not be illuminated. In addition to the sign restrictions above, no wall or canopy sign on a one- or two-story building may exceed five feet in vertical dimension. No canopy or wall sign on a building of three or more stories may exceed a maximum vertical dimension of ten feet.
- (d) *Instructional signs.* These signs are allowed, however they shall not exceed one square foot in area.
- (e) *Lighting.* All signs (except monument signs in subsection (f) below) may be illuminated directly or with indirect lighting provided that indirect light sources are shielded from other buildings and do not create glare or visual discomfort to pedestrians at street level. Neon window and wall signs are permitted as long as they conform to all other restrictions within this ordinance.
- (f) *Monument signs (freestanding ground based signs).* These shall be the only freestanding signs permitted in this zoning district, and same shall not exceed four feet in height, and shall not exceed 24 square feet in area. Monument signs must be set back at least ten feet from the public right-of-way. The following additional restrictions also apply:
  - (1) Signs may not be directly illuminated.
  - (2) Shall be constructed of materials consistent with the building architecture.
  - (3) May only be used as identification or professional signs.
  - (4) May not contain other messages or be used as a base to hang temporary signs for sales or events.
  - (5) Signs shall not be electronic signs.

### **Section 10.10.3. Prohibited signs in the DBD district.**

Unless otherwise permitted by subsection 10.10.2, the following are prohibited anywhere within the geographical area designated as zoning district DBD:

- (a) Signs painted directly onto roofs, retaining walls, fences, or buildings' facades or walls.
- (b) Freestanding pole signs, or other non-monument signs.
- (c) Fluorescent day-glow colored signs.
- (d) Wind and light activated glitter signs.

- (e) Electronic or flashing signs.
- (f) Streamer and non-official flags.

### **Section 10.11. Zoning district HD sign regulations.**

- (a) *Purpose.* In support and furtherance of its findings and determination that the historical, cultural and aesthetic heritage of the city is among its most valued and important assets and that the preservation of this heritage is essential to the promotion of the health, prosperity and general welfare of the people, the mayor and council have adopted certain restrictions and regulations in the historic district as designated by chapter 60 - Historic Preservation in the Calhoun Code.
- (b) *Application to signs.* While the primary purpose of the zoning district HD is the regulation of structures and buildings, the provisions of chapter 60 are applicable as a part of this sign ordinance as well. These restrictions are in addition to those imposed in general by this ordinance, as well as those specifically required for the zoning district DBD.
- (c) *Certificate of appropriateness.* Upon the effective date of this ordinance, no material change or new sign in the zoning district HD shall be made or be permitted to be made by the owner or occupant thereof unless or until an application for a certificate of appropriateness has been submitted to and approved by the Calhoun Historic Preservation Commission.

### **Section 10.12. New zoning districts.**

If a new zoning district is created after the adoption of this ordinance, no signs shall be permitted therein until this ordinance shall be amended to include such district.

### **Section 10.13. General use of electronic signs throughout the City of Calhoun.**

Electronic signs with electronically changeable copy may be permitted in all sign districts, with the exception of the zoning district DBD and the zoning district HD, with the following restrictions:

- (a) The sign may utilize only static text or images or a combination thereof (not moving).
- (b) No video of any kind allowed.
- (c) The reader board panels cannot occupy more than 40 percent of the face of the sign or structure upon which it is applied to, nor may it be the primary sign advertising the place of business.
- (d) Electronic signs with electronically changeable copy may not operate at brightness levels of more than 0.20 foot candles above ambient light levels as measured at a distance of 150 feet.
- (e) The owner of said electronic sign with electronically changeable copy shall arrange for an annual certification of the lumens showing compliance by an independent contractor and provide said certification to the City of Calhoun.
- (f) Each sign must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.
- (g) The owner of said electronic sign with electronically changeable copy shall provide to the City of Calhoun contact information for a person who is available to be contacted at any time and who is able to turn off the electronic sign promptly after a malfunction occurs. If at any time more than five percent of the electronic sign with electronically changeable copy display lights malfunctions or is no longer working, the owner of said electronic sign shall make repairs to the sign within 60 days or the sign will require removal.
- (h) If the City of Calhoun finds that the electronic sign with electronically changeable copy causes a glare or otherwise impairs the vision of the driver of a motor vehicle, the owner of the sign, within 24 hours of a request by the city, shall reduce the intensity of the sign to a level acceptable to the city.

- (i) No message or image may be displayed for less than five seconds.
- (j) No message may be repeated at intervals of less than five seconds.
- (k) No flashing signs, messages or components.
- (l) Electronic signs with electronically changeable copy shall meet the same installation and permitting requirements and inspections as set out for electrical signs and all other signs.

### **Section 10.14. Billboards.**

Billboards require a permit. Billboards are allowed in developed commercial and industrial zoning districts only and shall comply with the following:

- (1) Billboards shall be allowed a maximum sign and copy area of 672 square feet.
- (2) Billboards shall not exceed a height of 25 feet (excluding properties in a quadrant or extended quadrant).
- (3) Billboards shall be set back at least 100 feet from the right-of-way of a public street, or highway, and 25 feet from all property lines and buildings on the site, including billboards located in a quadrant or extended quadrant.
- (4) Billboards shall be a minimum of 500 feet from the residential zoning districts R-1, R-1A, R-1b, R-2, R-2A, R-3 and O-I.
- (5) Billboards shall be minimum of 1,500 feet from all other billboards (excluding properties in a quadrant or extended quadrant) on the same side of the primary highway or major thoroughfare.
- (6) Illumination of billboards shall not be direct. All illuminated signs shall use base mounted fluorescent or mercury vapor lights and shall be activated by photoelectric cells. Additional lighting, including, but not limited to, neon, animation, and running or flashing lights are prohibited.
- (7) Only freestanding billboards are allowed. Billboards are not allowed to be attached to or painted on any building or any other natural or manmade structure or object other than the supporting structure specifically built for said sign.
- (8) Billboards visible from or located along the main traveled way of Interstate Highway 75 will only be located in an extended quadrant only in an area 2,035 feet long beginning 500 feet from the point where the pavement widens on the main traveled way in the contiguous quadrant to accommodate the exit or entrance ramp. No more than four billboards will be permitted in any quadrant or extended quadrant, and no such sign shall exceed 70 feet in height and may not be located within 500 feet of another billboard on the same side of Interstate 75; provided, however, that such billboard may be located within 500 feet of another billboard when the signs are separated by a building or other obstruction so that only one sign face located within the 500-foot zone is visible from Interstate Highway 75 at any time.
- (9) Billboards legally existing on the effective date of this ordinance may be continued, even though such signs do not conform to this provision. Such nonconforming signs shall not be expanded, relocated, or replaced by another nonconforming sign, except that the substitution of interchangeable poster panels, painted boards, or demountable material on nonconforming signs shall be allowed.
- (10) No such nonconforming sign shall continue after the discontinuance of the nonconforming use for a period of six months.

### **Section 10.15. Electronic billboards signs.**

Electronic signs with electronically changeable copy employed as billboards require a permit. Electronic signs with electronically changeable copy as billboards are allowed in developed commercial and industrial zoning districts only and shall comply with the following:

- (a) All electronic signs with electronically changeable copy shall contain static messages only, and shall not have movement nor flashing on any part of the sign structure, design, or pictorial segment of the sign, nor shall such sign have varying light intensity during the display of any single message.
- (b) All electronic signs with electronically changeable copy with electronically changing text, graphics, pictures, or combination thereof shall not operate at brightness levels of more than 0.20 foot candles above ambient light levels as measured at 300 feet from the sign location.
- (c) The owner of said electronic billboard sign shall arrange for an annual certification of the lumens showing compliance by an independent contractor and provide said certification to the City of Calhoun.
- (d) Each sign must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change.
- (e) No electronic billboard sign shall be located within 5,000 feet of another electric billboard sign on either side of the road.
- (f) Electronic signs with electronically changeable copy containing changing text, graphics pictures or combination thereof shall meet the same installation and permitting requirements and inspections as set out for electrical signs and all other signs.
- (g) The owner of said electronic billboard sign shall coordinate with the local authorities to display, when appropriate, emergency information important to the traveling public including, but not limited to, Amber Alerts or alerts concerning terrorist attacks or natural disasters. Emergency information messages shall remain in the advertising rotation according to the protocols of the agency that issues the information.
- (h) The owner of said electronic sign with electronically changeable copy shall provide to the City of Calhoun contact information for a person who is available to be contacted at any time and who is able to turn off the electronic sign promptly after a malfunction occurs. If, at any time, more than 20 percent of the electronic copy area lights malfunction or are no longer working, the owner of said electronic billboard sign shall make repairs to the sign within 60 days, or the sign will require removal.
- (i) If the City of Calhoun finds that the electronic billboard sign causes a glare or otherwise impairs the vision of the driver of a motor vehicle, the owner of the sign, within 24 hours of a request by the city, shall reduce the intensity of the sign to a level acceptable to the city.
- (j) Each sign must comply with all Georgia Department of Transportation rules and regulations applicable to electronic billboards with changing copy where not in conflict with this ordinance.

### **Section 10.16. Indemnity.**

By accepting any permit or other permission to erect and maintain a sign or by acting in the erection or maintenance of a sign pursuant to such permit or other permission pursuant to this ordinance, the permit holder, property owner, lessee (if any), sign erector, their agents, servants, employees and assigns agree to hold harmless and indemnify the city, its officers, agents, servants, and employees from any and all claims for damages, including death; including, but not limited to, those resulting from the erection, alteration, relocation, construction or maintenance of a sign permitted or authorized under this ordinance.

### **Section 10.17. Inspection.**

- (a) City code enforcement personnel are hereby empowered to enter into or inspect any building, structure, or premises upon which a sign subject to this ordinance is located for the purpose of inspecting the sign, its structural and electrical connections and to ensure compliance with the provisions of this ordinance and other applicable ordinances. Inspections shall be carried out during reasonable business hours, unless an emergency exists.
- (b) This provision is in addition to and without prejudice to the rights of other inspectors and regulators to enter into and inspect premises.

## **ARTICLE X-A. TOWERS AND ANTENNAS**

### **Section 10-A.1. Findings and purposes.**

The mayor and council find that the provisions of the present zoning ordinance do not adequately address the placement of towers and antennas within the jurisdictional limits of the city; that the Telecommunications Reform Act of 1996 allows the city to control the placement, construction and modification of communication towers; and that with the advent of enhanced technology the demand for personal communications services will cause an increased need for additional towers and transmission facilities within the jurisdictional limits of the city. The purpose of this ordinance is to balance the interests of the residents of the City of Calhoun, telecommunications providers, telecommunications customers, and developers of tower and antennas facilities in the siting of telecommunications facilities, towers and antennas within the City of Calhoun so as to protect the health, safety and integrity of residential neighborhoods by:

1. Providing for the appropriate location and development of tower facilities in such locations, which promote public safety and the general welfare and serve the residents and businesses of the city;
2. Minimizing, through proper siting, screening, and design the potential for visual blight and incompatibility and the proliferation of towers and antennas;
3. Promoting tower safety through proper engineering and siting;
4. Promoting and maximizing the shared use or collocation of new and existing towers;
5. Encouraging the use of existing structures for antennas locations as an alternative to the development of additional single use towers; and
6. Accommodating the increased demand for tower facility development.

### **Section 10-A.2. Definitions.**

As used in this ordinance the following terms shall have the meanings indicated:

1. *Antenna*: Shall mean any exterior apparatus designed for the sending and/or receiving of electromagnetic waves for telephonic, radio, television, or personal wireless services. For the purposes of this ordinance, the term "antenna" does not include any tower and antenna under 70 feet in total height which is owned and operated by an amateur radio operator licensed by the Federal Communications Commission or any device designed for over-the-air reception of radio or television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service, or any cable television head-end or hub towers and antennas used solely for cable television services.
2. *FAA*: Shall mean the Federal Aviation Administration.
3. *FCC*: Shall mean the Federal Communications Commission.
4. *Guy tower*: Shall mean a tower supported, in whole or in part, by guy wire(s) and ground anchors.

5. *Height*: Shall mean the vertical distance of any structure measured from the bottom of the base of the structure at ground level to the highest point of such structure.
6. *Lattice tower*: Shall mean a telecommunications tower having open-framed supports on three or four sides and constructed without guy wires and ground anchors.
7. *Monopole towers*: Shall mean a telecommunications tower consisting of a single pole, constructed without guy wires or ground anchors.
8. *Preexisting towers and antennas*: Shall mean any conforming tower or antenna for which a building permit has been properly issued prior to the effective date of this ordinance. The owner of a nonconforming, preexisting tower or antenna shall submit the annual certification to the building inspector required under section 10-A.5.2 of this ordinance.
9. *Telecommunications facilities*: Shall refer to antennas and towers, either individually or together.
10. *Tower*: Shall mean a structure, such as a lattice tower, guy tower, or monopole tower, constructed as a freestanding structure or in association with a building, other permanent structure or equipment (alternative tower structure), on which is located one or more antennas intended for transmitting or receiving analog, digital, microwave, cellular, telephone, personal wireless service or similar forms of electronic communication. The term includes microwave towers, common carrier towers, and cellular telephone towers.
11. *Tower site*: Shall mean an area in the City of Calhoun where the construction, erection and maintenance of a tower is permitted.

### **Section 10-A.3. Exclusions.**

The following shall be exempt from this ordinance:

1. Any tower and antenna under 70 feet in total height which is owned and operated by an amateur radio operator licensed by the FCC.
2. Any device designed for over-the-air reception of television broadcast signals, multichannel multipoint distribution service or direct broadcast satellite service.
3. Any telecommunications facility located on property owned, leased or otherwise controlled by the City of Calhoun, Georgia, or Gordon County, Georgia, provided a license or lease authorizing the telecommunications facility has been approved by the respective governing body.
4. Any cable television head-end or hub towers and antennas used solely for cable television services.

### **Section 10-A.4. Placement of towers in zoning districts.**

Any person or entity desiring to obtain a building permit to construct and erect a tower within any zoning district in the City of Calhoun shall file a written application entitled "Application to Amend the Zoning Map of Calhoun, Georgia for Zoning Consideration" available at the Calhoun city hall and pay a fee as set and established from time to time by the mayor and council. The application shall state it is made to request a change of the then existing zoning where the applicant desires to place the tower to a zoning district to be designated as tower site as defined herein. The application will be reviewed and considered as a zoning decision, and the procedures set forth in section 14.2 of this zoning ordinance of the City of Calhoun, Georgia, shall be applied and followed. In addition to those requirements contained elsewhere in this section X-A and the zoning ordinance of the City of Calhoun, Georgia, the zoning advisory board and the mayor and council shall consider the following factors in determining whether to approve or deny the rezoning request:

1. Height of proposed tower or antenna;
2. Proximity of the tower to residential structures, schools, day care centers, nursery schools, recreation areas, playgrounds, parks, hospitals and churches;

3. Nature of uses of adjacent and nearby properties;
4. Surrounding topography, tree coverage and foliage;
5. Design of the tower, with particular reference to design characteristics that have the effect of reducing visual obtrusiveness;
6. Proximity to other antennas or towers;
7. Availability of suitable existing antennas or towers or other structures.

In approving the rezoning request, the mayor and council may impose additional zoning conditions to the extent determined necessary to buffer or otherwise minimize adverse effects of the proposed tower or antenna on surrounding properties. Should the rezoning request be denied, the decision shall be in writing supported by substantial evidence as contained in a written record of the proceedings.

### **Section 10-A.5. General requirements.**

The location and construction of towers governed by this ordinance shall comply with the following requirements:

1. *Construction/inspections.*
  - a. Towers shall be constructed and maintained in compliance with applicable building codes, industry standards, and standards for towers published by the Electronic Industries Association, as amended from time to time. Tower owners shall be responsible for periodic written inspections of such towers at least every 12 months to ensure structural integrity. Such inspections shall be conducted by a structural engineer with a current license issued by the State of Georgia. The results of such inspection shall be submitted to the building inspector and shall be maintained by the tower owner(s) and available for public review upon request.
  - b. If, upon inspection, the building inspector concludes that a tower fails to comply with such codes and standards and poses a danger to persons or property, then upon written notice thereof to the owner, the owner shall have 30 days to bring such tower into compliance. Should the owner fail to bring the tower into compliance within 30 days, the city may remove such tower at the owner's expense pursuant to O.C.G.A. §§ 41-2-8—41-2-12.
2. *Regulatory compliance.* Tower owners shall annually certify in writing to the building inspector in January of each year that each tower is in compliance with standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owner(s) of the towers and antennas governed by this ordinance shall bring such tower or antennas into compliance with such revised standards and regulations unless a different compliance schedule is mandated by the controlling agency.
3. *Security.* All towers, except alternative tower structures, shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an anti-climbing device.
4. *Advertising.* Except for the owner's identifying nameplate, advertising on towers shall be prohibited. Sign control, as set forth in article X of the City of Calhoun Zoning Ordinance, shall apply to any issues regarding signage.
5. *Tower lighting.* Illumination is prohibited on towers, except where required by the FCC or FAA, as necessary for air traffic safety. When illumination is required, documentation shall be provided with the application identifying the type of illumination required and any available alternatives. The mayor and council may review alternative permissible illumination and may approve the design causing the least disturbance to the surrounding uses and views.

6. *Access.* Access for maintenance vehicles shall be the right-of-way, which would most minimize interference with public traffic. Proposed sites which lack frontage on a public or private road shall provide an easement at least 20 feet wide with at least 12 feet graveled or paved travelway.
7. *Hazardous/volatile substances.* Use of a lot by a tower shall be prohibited when another principal use, on the same lot, includes the storage, distribution, or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas, dangerous chemicals, or hazardous waste when such materials are not part of an emergency power source for the tower facilities.
8. *Maintenance/operation structures.* Maintenance/operation structures adjacent to any tower facility area shall be used only to house equipment and other supplies directly in support of the tower. Such structures shall not be used for offices, vehicle storage or for any continuous human occupation. Any equipment not used in direct support of a tower site shall not be stored on the site.
9. *Historic sites.* Tower facilities shall not be attached to or mounted to historically significant buildings, structures, or places identified by placement upon the National Register of Historic Places, by designation as a state historical site, by designation by the Gordon County Historical Society as a historic site, or as part of a locally designated historic district.
10. *Setbacks and separations.* All towers shall comply with the following standards, except that existing alternative tower structures are exempt from the minimum setback and separation requirements of this section; provided, however, that such alternative tower structure must be a conforming use within the zoning district in which it is located for this setback exemption to apply as a matter of right.
  - a. All towers and antennas shall set back at least a distance equal to the height of the tower plus 15 feet from any dwelling, zoning district line, or public property.
  - b. All towers and maintenance/operation structures (including guy wires) shall comply with the setbacks as required by the zoning district in which the tower is to be located.
  - c. The height limitations applicable to buildings in the zoning districts in which the tower or alternative tower structure is located shall not apply to such facilities or structures as a result of the tower or antenna.
11. *Buffers and screening.*
  - a. Tower sites shall be landscaped with a buffer of plant materials such that the view of the base of the tower is screened from any public rights-of-way, public property, and any R-1, R-1A, R-1B, R-2, R-2A, R-3, O-I and A-1 zoned property.
  - b. In locations where the visual impact of the tower would be minimal, this landscaping requirement may be reduced or waived altogether by the building inspector upon specific findings by the building inspector.
  - c. Existing mature growth and natural landforms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited upon large, wooded lots, natural growth around the perimeter of the property may be sufficient if so determined by the building inspector upon specific findings by the building inspector.
  - d. In buffer construction, native vegetation shall be preserved to the fullest extent possible.
12. *Visual impact.*
  - a. Towers shall maintain a galvanized matte steel finish or be painted a natural, earth-toned color, unless otherwise required by the FAA.
  - b. The design of buildings and structures at the base of the tower facility site shall use materials, colors, textures, screening, and landscaping which create the greatest level of compatibility with the natural environment and existing land use patterns.

- c. Antennas installed on an alternative tower structure and supporting electrical and mechanical equipment shall be of a natural color that is similar to or complements the color of the alternative tower structure.
- d. Tower antennas shall be designed to be visually compatible with the exterior of the alternative tower structure to which they are to be attached.

**Section 10-A.6. Shared use/collocation.**

New tower sites may not be permitted if there is an existing technically and commercially reasonable space available for shared use/collocation on preexisting towers and antennas or existing conforming towers and antennas.

1. The application for a permit to develop a tower shall demonstrate that no existing tower or alternative tower structure can accommodate the proposed antenna. Evidence submitted to demonstrate that no existing tower or alternative tower structure can accommodate the proposed antenna shall consist of any or all of the following:
  - a. Certification that no existing tower or alternative tower structures are located within the geographic area necessary to meet the applicant's engineering requirements.
  - b. Certification that existing tower or alternative tower structures have insufficient height and cannot be modified to accommodate the applicant's engineering requirements.
  - c. Certification that existing tower or alternative tower structures do not have sufficient integrity or strength and cannot be modified to support the proposed antenna and related equipment.
  - d. Certification that the proposed antenna would cause interference with the antenna on the existing tower or alternative tower structure, or the antenna on the existing tower or alternative tower structure would cause interference with the applicant's proposed antenna.
  - e. Certification that the fees, costs or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing unreasonably exceed market costs.
  - f. Certification that property owners of existing towers are unwilling to reasonably accommodate the applicant's needs.
  - g. The applicant demonstrates that there are other objective limitations, which render existing towers unsuitable.
2. Permit applicants for towers shall certify and demonstrate their intent to allow the shared use of such facilities with other tower apparatus which does not interfere with the primary purpose of the tower or such applicant shall document that the reserved space on the tower is to fulfill the owner's future needs. All applicants shall identify how the applicant will make available such shared use/collocation.

**Section 10-A.7. Additional application requirements.**

In addition to the application submitted pursuant to section 10-A.4 of this ordinance, the application to amend the zoning map of Calhoun, Georgia, for zoning consideration shall have attached thereto the following:

1. *Inventory of existing towers.* An inventory of the applicant's existing towers which are within the City of Calhoun and Gordon County, Georgia, including all municipal corporations located therein and including areas within one-half mile of the border thereof, including the specific locations, heights, and designs of each such tower.
2. A description of the proposed tower's area of service.

3. Photo simulations or rendering of the proposed tower illustrating the potential visual impact. For towers exempt from further review, this section shall be satisfied by photos or drawings of similar towers.
4. A site plan or plans to scale specifying the proposed location and dimensions of tower(s), size of maintenance/operation buildings or uses, access, parking, fences, landscape plans, existing and adjacent land uses.
5. A site plan for alternative tower structures shall show adjacent rights-of-way, buildings, and structures, including the structure's height and dimensions, proposed antenna location on the structure or building and adjacent land uses.
6. A report from a professional engineer, currently licensed in Georgia, documenting the following:
  - a. Tower heights and design, including technical engineering, economic and other pertinent factors governing the proposed tower design.
  - b. Total anticipated capacity of the structure, including number and types of antennas which can be accommodated.
  - c. Evidence of structural integrity of the tower structure.
  - d. Failure characteristics of the tower and demonstration that the site, setbacks, and separation from other uses are of adequate size or distance to protect the safety of the general public and all of nearby landowners.
7. A written statement from the owner of the tower certifying that the proposed tower site complies with regulations administered by the FAA and FCC, or stating that the tower is exempted from these regulations.
8. Evidence of compliance with collocation requirements set forth in section 10.A.6.
9. Any additional information which may be reasonably requested by the building inspector, the zoning advisory board or the mayor and council, in order to evaluate fully and to review the proposed tower site and the potential impact of a proposed tower and/or antenna.

### **Section 10-A.8. Nuisances/abandoned towers.**

1. Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.
2. Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from the city notifying the owner(s) of such abandonment, the city may remove such tower and/or antenna and place a lien upon the property for the costs of removal.

The city may pursue all legal remedies available to it to ensure that abandoned telecommunications facilities are removed. Delay by the city in taking action shall not in any way waive the city's right to take action. The city may seek to have the telecommunications facility removed, regardless of the owner's or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

3. If the owner of an abandoned tower or antenna wishes to use such abandoned tower or antenna, the owner first must apply for and receive all applicable permits and meet all of the conditions of this ordinance as if such tower or antenna were a new tower or antenna.

### **Section 10-A.9. Preexisting towers/nonconforming uses.**

1. All telecommunications facilities operative on the effective date of this ordinance shall be allowed to continue their present usage as a nonconforming use and shall be treated as a nonconforming use in accordance with section 6.1 of article VI, zoning ordinance of the City of Calhoun, Georgia. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted on such existing telecommunications facilities. New construction other than routine maintenance shall comply with the requirements of this ordinance.
2. Placement of an antenna on a nonconforming structure shall not be considered an expansion of the nonconforming structure.

### **Section 10-A.10. Penalty for violation of ordinance.**

1. Any person who attempts to erect or erects a telecommunications facility covered by this ordinance without having first obtained the necessary building permit, special use permit or variance in the manner provided in this ordinance shall be deemed in violation of this ordinance. Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of this ordinance shall be guilty of violating a duly adopted ordinance of the city and shall be punished either by a fine not to exceed \$1,000.00 or by imprisonment not to exceed six months or both. The court shall have the power and authority to place any person guilty of violation of this ordinance on probation and to suspend or modify any fine or sentence. As a condition of such suspension, the court may require payment of restitution or impose other punishment allowed by law.
2. If any structure is erected, constructed, reconstructed, altered, repaired, converted or maintained in violation of this ordinance or without obtaining the required permits, or if any building, structure or land is used in violation of this article, the city attorney, in addition to any other remedies, may institute proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use or to correct or abate such violations.

Each and every day such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use continues may be deemed a separate offense.

### **Section 10-A.11. Coordination with federal law.**

Whenever the city finds that the application of this ordinance would unreasonably discriminate among providers of functionally equivalent personal wireless services or prohibit or have the effect of prohibiting the provision of personal wireless services, a conditional use permit waiving any or all of the provisions of this ordinance may be granted.

## ***ARTICLE XI. ADMINISTRATION, ENFORCEMENT AND PENALTIES***

### **Section 11.1. Zoning enforcement officer.**

The provisions of this ordinance shall be administered and enforced by the City of Calhoun building inspector (hereinafter "building inspector.")

### **Section 11.2. Building permit required.**

It shall be unlawful to commence the excavation or filling of any lot for any construction of any building, to commence construction of any building, to commence the moving or alteration of any building, or to commence the development of land for a use not requiring a building until the building inspector has issued a building permit for such work.

### **Section 11.3. Application for building permit.**

All applications to the building inspector for building permits shall be accompanied by plans in duplicate, drawn to scale, showing:

1. The actual dimensions of the lot to be built upon;
2. The size of the building erected;
3. The location of the building on the lot;
4. The location of existing structures on the lot, if any;
5. The number of dwelling units the building is designed to accommodate;
6. The setbacks lines of buildings on adjoining lots;
7. The layout of off-street parking and loading spaces;
8. Any plans and studies required under the City of Calhoun soil and erosion control ordinance; and
9. Such other information as may be essential for determining whether the provisions of this ordinance are being observed.

#### **Section 11.3.1(a). Stormwater drainage.**

The building inspector may refuse to issue a building permit should the inspector, after a physical inspection of the lot and construction which is the subject of the permit application, determine such construction and improvement would materially alter the flow of stormwater drainage and endanger the health, safety, welfare and property of the general public by utilizing one or more of the following criteria:

1. Obvious physical obstruction of stormwater drainage.
2. The location of the lot in an area historically known to flood with surface water drainage though not in a floodplain.
3. The total area of any residential lot or apartment complex is more than 30 percent covered by impervious improvements such as, but not limited to, roof area, parking lots, driveways, patio areas, pools, pool decks, etc.
4. Visible signs of erosion upon the subject property or upon properties in the immediate area.
5. Any evidence, physical or historical, that the property or any part thereof is a natural collection area for stormwaters.
6. Failure to have a grant or reservation of easement in writing in recordable form for use of the lot or adjoining property for stormwater drainage.
7. Failure to plan and maintain a buffer area with adequate grass, trees, shrubs, etc. leading to excessive soil erosion and water runoff.

#### **Section 11.3.1(b). Stormwater drainage plan.**

Any applicant denied a building permit by the building inspector under the provisions of section 11.3.1(a) may apply for a reconsideration of said building permit application provided such requested reconsideration is made in writing to the building inspector and accompanied by a written stormwater drainage plan which as a minimum shall include:

1. A vicinity map indicating a north arrow, scale, boundary lines of the site, and other information necessary to locate the development site.
2. A general description of the topographic and soil conditions of the development site.

3. A narrative description of the stormwater management facilities to be used and their effects on the development and adjoining properties (piping, retention areas, grass, trees, ground cover, swales, etc.).
4. A general description of the adjacent property and a description of the existing structures, buildings, and other fixed improvements located on surrounding property.
5. A sketch plan to accompany the narrative, which shall contain:
  - a. A site location drawing of the proposed project indicating the location of the proposed project (buildings, driveways, parking lots, utilities, yards) in relation to existing roadways, jurisdictional boundaries, adjacent properties, drainage areas, easements, rights-of-way;
  - b. All areas within the site, which will be included in the land disturbing activities, shall be identified, drawn, and the total disturbed area calculated as square feet and percentage of the total site;
  - c. Anticipated starting and completion dates of the various stages of land disturbing activities and the expected date the final stabilization will be completed;
  - d. Stormwater flows, conveyances, and directions will be included in the narrative and sketch plan. Estimated volumes and velocities shall be shown;
  - e. How and who will be responsible for operating and maintaining the stormwater management plan in the future.
  - f. The stormwater management plan shall be certified by the person(s) responsible for the land disturbing activity.

**Section 11.4. Construction progress.**

Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within six months of the date of issue or if the work authorized by the permit is suspended or abandoned for the period of one year.

**Section 11.5. Penalties for violation.**

Any person violating any provision of this ordinance may be tried upon a citation or upon an accusation and, as provided for in section 1-7 of the City of Calhoun Code of Ordinances, shall be punished by a fine not to exceed \$1,000.00, imprisonment for a term not exceeding six months, or both. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense.

**Section 11.6. Remedies.**

In case any building is erected, constructed, reconstructed, altered, repaired, converted or maintained, or any building or land is used in violation of this ordinance, the building inspector, or any other appropriate city authority or any person who would be damaged by such violation, in addition to other remedies, may institute injunction, mandamus, or other appropriate action or proceeding to prevent the violation in the case of each building or use of land.

***ARTICLE XII. BOARD OF ZONING APPEALS***

**Section 12.1. Establishment of board of appeals.**

A board of zoning appeals is hereby established. Said board shall consist of the members of the city council of the City of Calhoun.

## **Section 12.2. Proceedings of the board of zoning appeals.**

The board of appeals shall be structured as follows: The mayor for the City of Calhoun shall serve as the chairman, the mayor pro tem shall serve as vice-chairman, and the members of the city council shall serve as members. Members of the board of appeals shall serve concurrent terms to that of their election to the city council. The city clerk shall serve as the secretary to the board of appeals. The board of appeals shall adopt rules and bylaws in accordance with the provisions of this ordinance. Meetings of the board shall be held at the call of the chairman and at such other times as the board may determine. The chairman, or in his absence, the vice-chairman, may administer oaths and compel the attendance of witnesses by subpoena.

The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the board and shall be a public record. All meetings of the board of appeals shall be open to the public.

## **Section 12.3. Powers and duties of the board of appeals.**

The board of zoning appeals shall have the following powers and duties:

12.3.1. *Administrative review.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the building inspector in the enforcement of this ordinance.

## **Section 12.4. Appeals, hearings, and notice.**

Appeals to the board of appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of the City of Calhoun affected by any decision of the building inspector. Such appeal shall be taken within 60 days by filing with the building inspector and with the board of appeals a written notice of appeal specifying the grounds thereof. The building inspector shall forthwith transmit to the board all documents and papers constituting the record upon which the action appealed from was taken.

The board of appeals shall fix a reasonable time for the hearing of appeals or other matters referred to it and give at least 15 days' but no more than 45 days' public notice thereof, as well as due notice to the parties in interest, and decide the same within a reasonable time. Upon a hearing, any party may appear in person, or by agent or by attorney.

## **Section 12.5. Stay of proceedings.**

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the building inspector certifies to the board of appeals after the notice of appeal shall have been filed with such inspector that by reason of facts stated in the certificate a stay would, in such inspector'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 the board of appeals or by a court of record on application, on notice to the building inspector, and on due cause shown.

## **Section 12.6. Decisions of the board of appeals.**

In exercising its power, the board of appeals may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the building inspector and may issue or direct the issuance of a building permit.

The concurring vote of a majority of members of the board shall be necessary to reverse any order, requirement, decision or determination of the building inspector, or to decide in favor of the applicant on any matter which it is required to pass under this ordinance, or to effect any variation of this ordinance.

On all appeals, applications and other matters brought before the board of appeals, said board shall inform, in writing, all the parties involved of its decisions and the reasons therefor. Recourse from a decision by the board of appeals shall be to a court of competent jurisdiction in such matters.

## ***ARTICLE XIII. ZONING ADVISORY BOARD***

### **Section 13.1. Establishment of zoning advisory board.**

A zoning advisory board is hereby established. Said board shall consist of five members appointed by the city council for overlapping terms of three years. A nonvoting chairman shall be appointed by the mayor and council and shall serve at the pleasure of the mayor and council until his or her successor is appointed. Initial appointments of other board members shall be as follows: one member for one year, two members for two years, and two members for three years. Each successive appointment shall be for three years. Any vacancy in the membership of the zoning advisory board shall be filled for the unexpired term in the same manner as the initial appointments. Members shall be removed for cause by the city council upon written charges and after a public hearing. Members shall serve without pay but may be reimbursed for any expense incurred in the performance of their duties. One of the members shall be on the city council. No other member shall hold public office or any position in the municipality, except the chairman.

### **Section 13.2. Proceedings of the zoning advisory board.**

Following formation, a vice-chairman shall be elected from its members who shall serve for one year or until reelected or until his/her successor is elected. The board shall appoint a secretary who may be a municipal employee.

Meetings of the board shall be held at least once each month and more often if the chairman determines it necessary. A quorum shall consist of any three voting members. The board may request the attendance of any city official, city employee, or applicant it deems necessary to determine all the facts regarding the request in order to reach a fair and impartial decision. The board shall keep minutes of its proceedings showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact. The records of the board shall be maintained at city hall or other location designated by the city council for a period of seven years. All records and meetings of the board shall be open to the public. The chairman or vice-chairman shall present the findings and recommendations to the city council at the appropriate meetings regarding the matter in question.

### **Section 13.3. Powers and duties of the zoning advisory board.**

The zoning advisory board shall have the following powers and duties:

13.3.1. The board shall review each annexation ordinance, petition or proposed legislative action regarding amending the City of Calhoun's boundaries. The board shall review the request, considering the city's long-range growth plans, the extension of utilities, and the type of zoning desired using the standards for considering zoning decisions adopted by the mayor and council as set out in article XIV, section 14.3 of the City of Calhoun Zoning Ordinance. The board shall conduct such review in accordance with the procedural requirements set out in article XIV, section 14.7 of this zoning ordinance.

13.3.2. The board shall review each zoning request for property newly annexed into the City of Calhoun and amending the City of Calhoun's boundaries using the zoning ordinance, the long-range growth plans, the extensions of utilities and the standards for considering zoning decisions adopted by the mayor and council as set out in article XIV, section 14.3 of the zoning ordinance. The board shall conduct such review in accordance with the procedural requirements set out in article XIV, section 14.7 of this zoning ordinance.

13.3.3. The board shall review each zoning variance request using the zoning ordinance, the long-range growth plans, the extension of utilities and the standards for considering zoning decisions adopted by the mayor and council as set out in article XIV, section 14.3 of the zoning ordinance. The board shall conduct

such review in accordance with the procedural requirements set out in article XIV, section 14.7 of this zoning ordinance.

13.3.4. The board shall review each zoning change request using the zoning ordinance, the long-range growth plans, the extension of utilities and the standards for considering zoning decisions adopted by the mayor and council as set out in article XIV, section 14.3 of the zoning ordinance. The board shall conduct such review in accordance with the procedural requirements set out in article XIV, section 14.7 of this zoning ordinance.

13.3.5. The board shall review each conditional use application using the long-range growth plans, the extension of utilities and the standards for considering zoning decisions adopted by the mayor and council as set out in article XIV, section 14.3 of the zoning ordinance. The board shall conduct such review in accordance with the procedural requirements set out in article XIV, section 14.7 of this zoning ordinance.

13.3.6. The board shall review other zoning matters as requested by the city council. The board shall conduct such review in accordance with the procedural requirements set out in article XIV, section 14.7 of this zoning ordinance.

13.3.7. The board shall attend at least one annual training session conducted by the city attorney or his designee dealing with current trends, procedures, laws and legal precedents concerning land use, zoning and annexation matters.

## ***ARTICLE XIV. ZONING PROCEDURES AND HEARINGS***

### **Section 14.1. Authority.**

This chapter, including the Calhoun zoning map, may be amended from time to time, but no amendment to these zoning requirements and procedures shall become effective unless it shall have been proposed by, or shall first have been submitted to, the mayor and council of the City of Calhoun for review. Action shall not be initiated for a zoning amendment affecting the same parcel more often than once every 12 months.

### **Section 14.2. Procedures for requesting a zoning decision.**

Any landowner requesting a zoning decision (change) shall file a written application entitled "Application to Amend the Zoning Map of Calhoun, Georgia for Zoning Consideration" available at Calhoun city hall. The application shall contain no less than the following:

- (a) Name and address of the applicant;
- (b) Description of the property in such a manner to identify same to a lay person;
- (c) Current zoning;
- (d) Current use of property;
- (e) Names and addresses of all present landowners who bound the property on all sides whether or not separated by any public or private street or road or natural boundary;
- (f) Names and addresses of lessees of the property; and
- (g) Requested zoning classifications or variance and reason for change or need.

Said application shall be sworn to be true and correct and shall be signed by the landowner or authorized representative requesting the relief stated in the application. The application, along with a fee as prescribed in the adopted fee schedule, shall be presented to the City of Calhoun. The applicant shall mail a copy of said application to all present adjoining landowners who bound the property on all sides whether or not separated by any public or private street or road or natural boundary and any lessee of the property. Said application shall be mailed by certified mail, return receipt requested, and said proof of receipt shall be filed with the City of Calhoun prior to any

public hearing called to consider said application. The written consent of any adjoining landowner or lessee shall be accepted in lieu of postal receipt of notice.

### **Section 14.3. Standards for considering zoning decisions.**

- (a) The mayor and council of the City of Calhoun find that the increasing urbanization of this municipality requires that certain uniformity in procedures and standards be adopted to ensure that zoning decisions will be made consistently and wisely and in keeping with the long-range requirements of the public health, safety and welfare. The mayor and council further find that the issues pertaining to annexation of territory to the municipality, zoning changes, and zoning variances within the municipality are commonly similar and therefore should be considered in the same manner at the municipal level subject only to the mandates of state and federal laws and regulations. The mayor and council further find that the procedures required by this chapter will help the citizens of this municipality in presenting and articulating their viewpoints on zoning matters and will ensure that zoning matters are made on the basis of a record which will contain matters.
- (b) Zoning standards. The term "zoning proposal" shall mean to include an annexation request, a rezoning request and a zoning variance request.
- (c) The mayor and council, the zoning advisory board and the board of zoning appeals shall use the following standards when considering a zoning decision:
  - (1) Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
  - (2) Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
  - (3) Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
  - (4) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools.
  - (5) Whether there will be capital costs for capital improvements to serve the area. Capital costs shall include water mains, sewer mains, new street pavement or widening, new fire stations or equipment, new police stations or equipment, and other like costs.
  - (6) Whether the zoning proposal is in conformity with the policy and intent of the land use plan.
  - (7) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for their approval or disapproval of the zoning proposal.
  - (8) Whether there are other factors relevant to balancing the interest in promoting the public health, safety, morality or general welfare against the right to the unrestricted use of property.

The foregoing zoning standards are guidelines, and each zoning decision will present unique characteristics, so the guidelines set out in this chapter are to be considered, but need not all be met for a zoning decision to be approved.

### **Section 14.4. Additional standards for consideration of a variance request limited to specified real property.**

- (a) Where the mayor and council find that strict compliance with the provisions of this chapter would result in practical difficulty or unnecessary hardship, the mayor and council may, upon application from the property owner, grant a variance from the terms of this chapter so that the spirit and intent of this chapter shall be observed, public safety and welfare secured, and substantial justice done.
- (b) Factual findings required. Such variance may be granted in such individual cases of unnecessary hardship upon consideration by the mayor and council of the standards for considering zoning decisions as set out in

article XIV of the City of Calhoun Zoning Ordinance and finding that one or more of the following conditions exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
  - (2) The application of this ordinance to the particular piece of property would create an unnecessary hardship;
  - (3) Such conditions are peculiar to the particular piece of property involved;
  - (4) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this chapter, provided, however, that no variance may be granted for a use of land or building or structure that is prohibited by this chapter.
- (c) Limitations on variances; improper variance requests. The following shall also serve to limit or bar the grant of a variance:
- (1) The variance request cannot seek to totally remove a requirement or to exempt a property or applicant entirely from any zoning or other use regulation or requirement.
  - (2) The variance request shall only be given to alter a numeric value, or modify a requirement due to hardships such as those listed in subparagraph (b)(1) above.
  - (3) The variance request application shall not be accepted if the variance seeks something that cannot be varied, or to eliminate rather than modify a requirement or regulation.
  - (4) The variance request application shall not be accepted if the variance is contradictory to this chapter, such as reducing a requirement to zero or totally eliminating a requirement.
  - (5) No variance request shall be granted when the hardship was created by the property owner or his predecessor, and shall include any request for a variance based upon a shape or topography hardship for any lot or parcel of record not existing prior to February 21, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or predecessor that do not justify a variance.
- (d) The procedure by which the mayor and council will consider any request for a variance shall be governed by the procedures for zoning decisions as outlined in this article, provided that notice of the public hearing shall be provided to the owner of the property that is the subject of the application by mail at least 15 days but not more than 45 days prior to the public hearing, and the sign and published notice shall be posted at least 15 days but not more than 45 days prior to public hearing.

**Section 14.5. Hearings on proposed zoning decisions; notice of hearing; nongovernmental initiated actions; reconsideration of defeated actions; procedure on zoning for property annexed into municipality.**

- (a) These policies and procedures shall govern the conducting of:
- (1) Any public hearing held by the mayor and council of the City of Calhoun when considering any annexation request, zoning request after annexation, rezoning request, zoning variance request and any change or amendment to the City of Calhoun Zoning Ordinance whether considered to be judicial or quasi-judicial in nature, all of which are hereinafter referred to as "zoning decisions";
  - (2) Any public hearing held by the zoning advisory board concerning a zoning decision whether considered to be judicial or quasi-judicial in nature; and
  - (3) Any public hearing held by the board of zoning appeals concerning a zoning decision. The mayor and council, the zoning advisory board and the board of zoning appeals are hereinafter referred to as the "zoning authority" whether considered to be judicial or quasi-judicial in nature.

- (b) Any request for a zoning action resulting in a zoning decision shall provide for a hearing on the proposed action. Where the proposed action includes any combination of zoning decisions under subparagraphs (c), (e), or (f) of definition number 79 of article III, section 3.2 for the same property, only one hearing shall be required. At least 15 but not more than 45 days prior to the date of the hearing, the local government shall cause to be published within a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing. The notice shall state the time, place, and purpose of the hearing.
- (c) If a request for a zoning decision requests the rezoning of property and the rezoning is initiated by a party other than the local government, then:
  - (1) The notice, in addition to the requirements of subsection (b) of this section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and
  - (2) A sign containing information required by local ordinance or resolution shall be placed in a conspicuous location on the property not less than 15 days nor more than 45 days prior to the date of the hearing.
- (d) If a request for a zoning decision requests the rezoning of property and the amendment to the zoning ordinance to accomplish the rezoning is defeated by the local government, then the same property may not again be considered for rezoning until the expiration of at least six months immediately following the defeat of the rezoning by the local government or conclusion of related judicial proceedings.
- (e) If a request for a zoning decision requests the zoning or rezoning of property to be annexed into the City of Calhoun, then:
  - (1) Such municipal local government shall complete the procedures required by this article for such zoning, except for the final vote of the mayor and council, prior to adoption of the annexation ordinance or resolution or the effective date of any local act, but no sooner than the date the notice of the proposed annexation is provided to the governing authority of the county as required under O.C.G.A. § 36-36-6;
  - (2) The hearing required by subsection (b) of this section shall be conducted prior to the annexation of the subject property into the municipality;
  - (3) In addition to the other notice requirements of this article, the municipality shall cause to be published within a newspaper of general circulation within the territorial boundaries of the county wherein the property to be annexed is located a notice of the hearing as required under the provisions of subsection (b) or (c), as applicable, of this article and shall place a sign on the property when required by subsection (c) of this article; and
  - (4) The zoning classification approved by the municipality following the hearing required by this article shall become effective on the later of:
    - a. The date the zoning is approved by the municipality;
    - b. The date that the annexation becomes effective pursuant to O.C.G.A. § 36-36-2; or
    - c. Where a county has interposed an objection pursuant to O.C.G.A. § 36-36-11, the date provided for in paragraph (8) of subsection (c) of said statutory provision.
- (f) When a proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, a public hearing shall be held on the proposed action. Such public hearing shall be held at least six months and not more than nine months prior to the date of final action on the zoning decision. The hearing required by this subsection shall be in addition to any hearing required under subsection (a) of this article. The mayor and council shall give notice of such hearing by:
  - (1) Posting notice on the affected premises in the manner prescribed by subsection (b) of this article; and

- (2) Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency. The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper.

- (g) When the mayor and council shall delegate power to make a zoning decision to the zoning advisory board or the board of zoning appeals, either board shall provide for a hearing on each proposed action described in paragraph (1.2) of O.C.G.A. § 36-66-3. Notice of such hearing shall be provided at least 15 days but no more than 45 days prior to the quasi-judicial hearing, with such notice being made as provided for in subsection (b) of this section and with additional notice being mailed to the owner of the property that is the subject of the proposed action.

- (h) (1) Notwithstanding any other provisions of this chapter to the contrary, when a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, such zoning decision must be adopted in the following manner:

- a. The zoning decision shall be adopted at two regular meetings of the mayor and council, during a period of at least 15 days but not more than 45 days apart; and
- b. Prior to the first meeting provided for in subparagraph a. of this paragraph, at least two public hearings shall be held on the proposed action. Such public hearings shall be held at least three months and not more than nine months prior to the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 p.m. and 8:00 p.m. The hearings required by this paragraph shall be in addition to any hearing required under subsection (b) of this section. The local government shall give notice of such hearing by:
  1. Posting notice on each affected premises in the manner prescribed by subsection (b) of this section; provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area; and
  2. Publishing in the legal organ a notice of each hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The published notice shall be at least nine column inches in size and shall not be located in the classified advertising section of the newspaper. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording officer of the local government and in the office of the clerk of the superior court of the county of the legal situs of the local government for the purpose of examination and inspection by the public. The local government shall furnish anyone, upon written request, a copy of the proposed amendment, at no cost.

- (2) The provisions of paragraph (1) of this subsection shall also apply to any zoning decisions that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of a local government or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of a local government to multifamily residential uses of property.

- (3) This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property or when the local government adopts a zoning ordinance or zoning map applicable to the entire land area under the governance of the local government, as opposed to a subset of parcels of land under the governance of the local government.

#### **Section 14.6. Sign requirements for posted notice.**

- (a) Any sign or signs required herein by this article to be posted on any lands for any zoning decision addressed by this article containing the time, place and purpose of any proposed or required public hearing shall be placed in a conspicuous location on the property not less than 15 days nor more than 45 days prior to the date of the hearing unless otherwise specifically required by any provision of this article or state code.
- (b) Any sign or signs shall face toward all public streets, alleys, sidewalks or other public property adjoining said property. Such signs shall be placed not more than 50 feet from the boundary line of said property and shall be placed where they can easily be seen from all public streets and property adjoining said property unless otherwise specifically required by any provision of this article or state code.

#### **Section 14.7. Conducting public hearing for zoning decisions.**

All public hearings called by any zoning authority of the City of Calhoun shall be conducted in the following manner:

- (1) The mayor or hearing officer (hereinafter "presiding officer") will introduce zoning decision matters listed on the regular council meeting agenda under "Public Hearings and Comments." The items will be listed and introduced in alphabetical order.
- (2) Before the zoning advisory board and the board of zoning appeals the zoning decision matters listed will be introduced in alphabetical order by the chairman or designee (hereinafter "presiding officer") who will then follow the procedures hereinafter set forth except that such zoning decision matter shall require only one initial reading before the public hearing is opened and action can be taken.
- (3) The presiding officer shall read the application for the zoning decision for the second time prior to the public hearing being opened and then open the public hearing.
- (4) The presiding officer shall ask for a report from the city administrator and/or the building inspector as to the publications of public notice of said hearing, the placing of the required signs on the property containing notice of said hearing, and proof of notice of application to all adjoining landowners.
- (5) The presiding officer shall ask for the recommendation of the zoning advisory board chairman and/or his designee prior to receiving other comments.
- (6) The applicant for the zoning decision may make a presentation if the applicant desires.
- (7) The applicants may be questioned by the zoning authority.
- (8) The zoning authority shall receive comments from the general public in support of and in opposition to the zoning application request. Any person speaking in support of or in opposition to the zoning application request is specifically advised to disclose any financial interests as required by O.C.G.A. § 36-67A-1 et seq.
- (9) Each person making comments shall first give their name and address for the record, prior to making comments or presenting documents.
- (10) The applicant for the zoning decision will be permitted to rebut negative comments.
- (11) The presiding officer shall then close the public hearing. The zoning authority will discuss in open meeting the zoning application request among themselves.

- (12) After discussion and deliberation, the zoning authority may do any of the following:
- a. Continue the matter to the zoning authority's next regular meeting and thereafter for one or more regular meetings to allow for further study and consideration. Any additional information or materials received by the zoning authority shall be reported at the next regular meeting after receipt of said information and materials, and comments shall be received which address said materials and information and all related relevant facts; or
  - b. Approve the zoning decision; or
  - c. Deny the zoning decision; or
  - d. Approve the zoning decision with specified conditions; or
  - e. Approve a different zoning decision from the one requested, if better suited to the area. Should the public hearing be continued to a subsequent regular meeting, the presiding officer may allow additional comments in favor of and in opposition to said zoning application request under the same procedures set forth hereinabove;
  - f. Following completion of the zoning matters under "Public Hearings and Comments" portion of the agenda, the meeting will continue with other business as scheduled on the agenda;
  - g. The presiding officer at any public hearing of a zoning decision shall set such time limits for each side of the presentation of data, evidence and opinions supporting or opposing the zoning decision. Such time limit for each side shall be equal and shall not be less than ten minutes to each side.

#### **Section 14.8. Procedures; defeated zoning decisions and withdrawal of applications.**

Unless specifically addressed by the provisions of this article or state code, if the zoning decision is denied by the mayor and council, no new application for a zoning decision concerning the same property or any part thereof will be considered until the expiration of at least six months immediately following the denial of the zoning decision by the mayor and council or the conclusion of related judicial proceedings. Any landowner who files an application to amend the zoning map of Calhoun, Georgia, and wishes to withdraw same must do so at least 72 hours before the matter is to be considered by the zoning advisory board or the mayor and council, otherwise, said application shall remain on the agenda and be acted upon by the zoning advisory board or mayor and council at the scheduled meeting, unless the failure to withdraw the application was caused by emergency or personal hardship.

### ***ARTICLE XIV-A. CONDITIONAL USE PERMITS***

#### **Section 14-A.1. Generally.**

Any use listed in this appendix as a conditional use requiring a conditional use permit must comply with the procedures in this article.

#### **Section 14-A.2. Procedures.**

- (a) An applicant for a conditional use permit shall file an application on forms provided by the city. The grant or denial of a conditional use permit shall follow the procedures for a rezoning, as specified in sections 14.2 to 14.3 and 14.5 to 14.7, unless modified by the provisions of this article, provided that notice of the public hearing shall be provided to the owner of the property that is the subject of the application by mail at least 15 days but not more than 45 days prior to the public hearing, and the sign and published notice shall be posted at least 15 days but not more than 45 days prior to the public hearing.

- (b) Any use which may be authorized by a conditional use permit may be approved by the mayor and city council only if, in the exercise of the mayor and city council's discretion, they find that:
- (1) A proper application has been filed in accordance with the requirements of this article;
  - (2) A recommendation has been received from the zoning advisory board in accordance with the provisions of article XIII of this chapter;
  - (3) The applicant is in compliance with the particular conditions for the proposed conditional use that are required by this article;
  - (4) The use is consistent with the purposes and intent of this article; and
  - (5) After considering the application and the facts, and the standards for making a zoning decision contained in section 14.3, the mayor and city council determine that the standards are satisfied such that the benefits of and need for the proposed conditional use outweigh any possible harmful effects, negative impacts, or damages to the neighboring properties or the city in general. In making this determination, the city council may consider the effects of the proposed use on traffic, public infrastructure and services, aesthetics, property values, the peaceful enjoyment of private property in the community, and other relevant factors.
- (c) An application for an industrial use that is otherwise permitted by right in Ind-G nevertheless requires a conditional use permit when the particular development meets the definition of a development of regional impact (DRI) in the metropolitan tier of the rules and regulations of the Georgia Department of Community Affairs. This is because such uses have the potential to have significant impacts both to the city and the region. The zoning advisory board shall not hold its public hearing until after DRI review has been received from the Northwest Georgia Regional Commission. In addition to the standards for the exercise of the zoning power and standards in paragraph (b) above, the applicant should address, and the zoning advisory board and mayor and city council should consider, any comments received or recommendations made as part of the DRI review.

### **Sec. 14-A.3. Action by the mayor and city council.**

The mayor and city council shall consider all evidence in the record in making their decision. This article is automatically a part of the record in each case, as is the entire application file. The mayor and city council shall have the power to table the application for further information to be presented, or to remand the application to the zoning advisory board if new information has been presented that they have not considered. The mayor and city council shall have the power to grant, deny, or grant with further specific conditions imposed.

### **Sec. 14-A.4. Conduct of the hearing.**

Public hearings on conditional use applications shall be conducted in the manner provided for zoning decisions in section 14.7.

### **Sec. 14-A.5. Appeals to superior court.**

Appeals of any decision to deny or grant a conditional use permit shall be filed within 30 days by filing an appeal to the county superior court in the manner provided by law.

### **Sec. 14-A.6. Reapplication.**

An application for a conditional use permit which has been denied shall not be resubmitted for a period of 12 months.

## ***ARTICLE XV. LEGAL STATUS PROVISIONS***

### **Section 15.1. Conflict with other regulations.**

Whenever the regulations of this ordinance require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other statute, the regulations and requirements of this ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this ordinance, the provisions of such statute shall govern.

### **Section 15.2. Separability.**

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.