

§3-4 TREE PROTECTION

CONTENTS

§3-4-1	PURPOSE
§3-4-2	DEFINITIONS
§3-4-3	TREE PROTECTION DURING DEVELOPMENT
§3-4-3.1	Applicability
§3-4-3.2	Tree Save Areas
§3-4-3.3	Canopy Cover Requirements
§3-4-3.4	Replacement Trees
§3-4-3.5	Protection of Trees during Construction
§3-4-4	STREET TREES REQUIRED
§3-4-5	PROTECTION OF PUBLIC TREES
§3-4-5.1	Right to Plant
§3-4-5.2	Permit Required
§3-4-5.3	Liability
§3-4-6	PRUNING
§3-4-6.1	Pruning Standards
§3-4-6.2	Tree Topping

§3-4 TREE PROTECTION

Commentary: Trees provide many benefits for a community, including reducing air and noise pollution, reducing water pollution and flooding, providing natural habitat, preventing erosion, raising property values, and enhancing a community's image. This module provides a tree protection ordinance that protects trees during the development process, requires street trees, and protects public trees.

§3-4-1 PURPOSE AND INTENT

Trees improve air and water quality, reduce soil erosion, reduce noise and glare, provide habitat for desirable wildlife, moderate the climate, and enhance community image and property values. Therefore, it is the intent of these regulations to encourage the protection and provision of trees through sound, responsible land development practices. It is also the intent of these regulations to protect public trees and promote a healthy community forest.

1 §3-4-2 DEFINITIONS

2

3 For the purposes of this Resolution [Ordinance], the following words are defined:

4

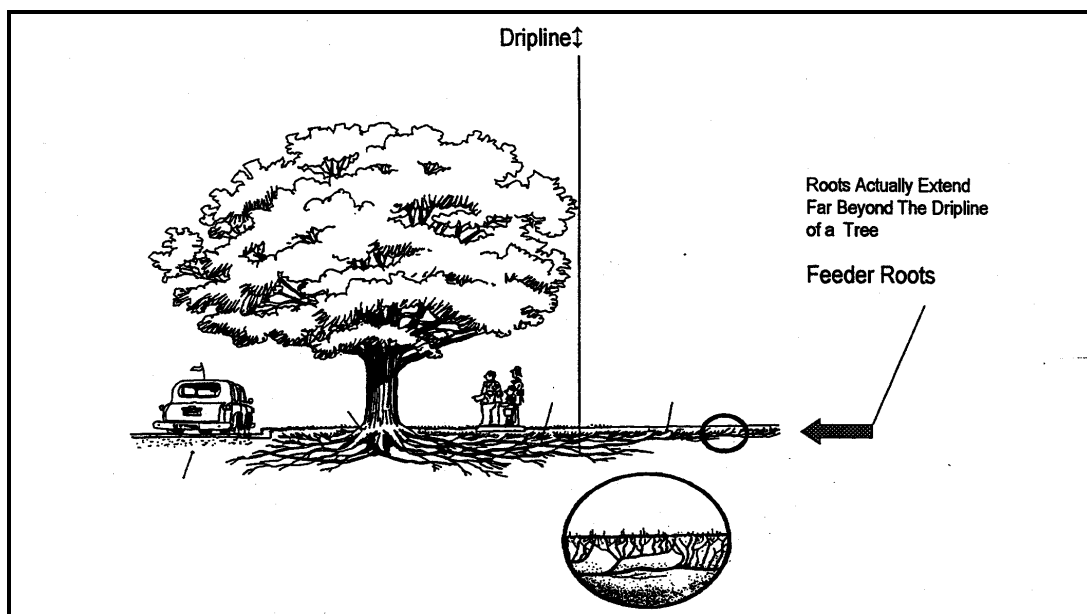
5 Critical Root Zone - (CRZ): The minimum area beneath a tree which must be left
 6 undisturbed in order to preserve a sufficient root mass to give a tree a reasonable
 7 chance of survival. The CRZ will typically be represented by a concentric circle
 8 centering on the tree's trunk with a radius equal in feet to one and one-half times the
 9 number of inches of the trunk diameter. EXAMPLE: The CRZ radius of a 20-inch
 10 diameter tree is 30 feet (see Figure 3-4-2.1).

11

12 Figure 3-4-2.1

12

13 Example of a Critical Root Zone.



14

15 Source: Adapted from Fulton County Tree Preservation Ordinance.

15

16

17 Development activity: Any alteration of the natural environment that requires the
 18 approval of a land use permit. Development Activity shall also include the "thinning" or
 19 removal of trees from any undeveloped land, including that carried out in conjunction
 20 with a forest management program, and the removal of trees incidental to the
 21 development of land or to the marketing of land for development.

1 Tree: Any self-supporting, woody perennial plant usually having a single trunk diameter
2 of three inches or more that normally attains a mature height of a minimum of 15 feet.

3
4 §3-4-3 TREE PROTECTION DURING DEVELOPMENT

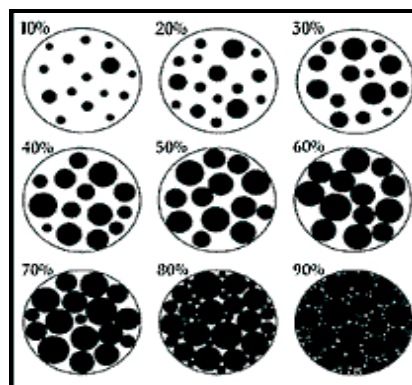
5
6 §3-4-3.1 Applicability. The terms and provisions of this section shall apply to
7 any activity that requires the issuance of a land use permit, with the exception of lots
8 less than one acre in size. No land use permit shall be issued until it is determined that
9 the proposed development is in conformance with the provisions of this Resolution
10 [Ordinance].

11
12 §3-4-3.2 Tree Save Areas. All buffers with existing trees that may be required
13 by this code or provided by a development shall be delineated on plans as tree save
14 areas, unless the applicant clearly demonstrates the need for disturbance.

15
16 §3-4-3.3 Canopy Cover Requirements. Developers shall make all reasonable
17 efforts to minimize cutting or clearing of trees and other woody plants in the development
18 of a subdivision or project plan. Residential and mixed use planned developments are
19 required to retain trees on the site to provide a total of 20 percent canopy cover.
20 Commercial and industrial developments are required to protect a total of 15 percent
21 canopy cover on the site. If the site is not currently forested, or only partially forested,
22 the developer shall be required to plant trees to meet this requirement. (See Figure 3-4-
23 3.3.1).

24
25 Figure 3-4-3.3.1

26 Examples of Canopy Cover (%)



27

1 Adapted from: Birds in Forested Landscapes, Cornell Lab of Ornithology
 2 http://birds.cornell.edu/bfl/study_site/describe_habitat/site_char.html#can_cov

3
 4 *Commentary: Communities without access to aerial photographs or other convenient
 5 methods of determining canopy cover may elect to formulate the protection requirement
 6 as a percentage of the site (e.g., 10 percent of the site must be retained as woodland).
 7 Alternatively, communities with more administrative resources may wish to develop more
 8 detailed standards and require a tree survey and tree protection plan based on tree
 9 densities or other more specific standards (see [http://www.isa-arbor.com/tree-](http://www.isa-arbor.com/tree-ord/ordinintro.htm)
 10 [ord/ordinintro.htm](http://www.isa-arbor.com/tree-ord/ordinintro.htm) for more information).*

11
 12 §3-4-3.4 Replacement Trees. In developing a site, the first priority under this
 13 Resolution [Ordinance] is to protect and preserve trees whenever possible. Where
 14 replacement or new trees are necessary to meet the above requirements, the following
 15 provisions apply. Replacement trees must be compatible with the site ecologically and
 16 in terms of space requirements. The trees must have potential for size and quality
 17 comparable to those removed. Furthermore, no one genus may comprise more than 30
 18 percent of the replacement trees.

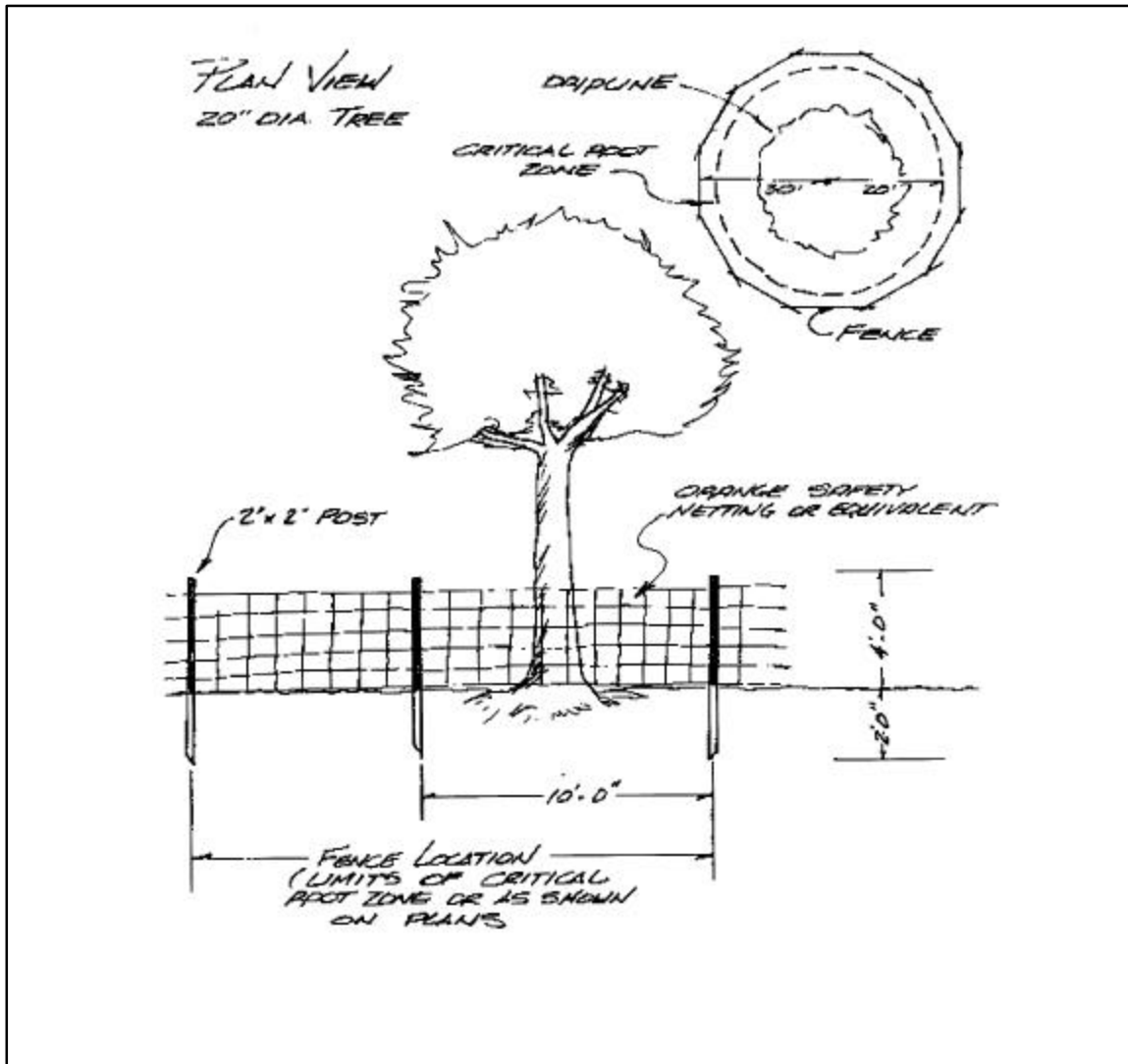
19
 20 §3-4-3.5 Protection of Trees during Construction. Developers shall make all
 21 reasonable efforts to protect retained trees during the construction process, including,
 22 but not limited to, the following measures:

- 23 (a) Placing protective barriers around trees, and marking such areas with
 24 “tree save area” signs;
 25 (b) Not grading, excavating, or locating utilities within the trees’ critical root
 26 zone (CRZ);
 27 (c) Maintaining the CRZ as a pervious surface; and,
 28 (d) Maintaining the topsoil in the CRZ and preventing siltation.

29
 30 Tree protection devices shall be installed prior to the issuance of a land use permit for
 31 any clearing and/or grading. Tree protection shall consist of chain link fencing, orange
 32 laminated plastic fencing supported by posts, rail fencing, or other equivalent restraining
 33 material. Tree protection devices shall remain in functioning condition throughout all

1 phases of development and shall be subject to inspection by the Land Use Officer. (See
2 Figure 3-4-3.5.1).

3
4 Figure 3-4-3.5.1
5 Tree Protection Device Detail.



28
29 Commentary: As an alternative or as a supplement to tree protection measures, a
30 community may choose to adopt specimen or "heritage" tree protections, which protect
31 individual trees considered important because of their size, species, age, historic
32 significance, aesthetics, location, ecological importance, or other unique characteristics.
33 For information on developing specimen tree protection measures, see [http://www.isa-](http://www.isa-arbor.com/tree-ord/ordintro.htm)
34 [arbor.com/tree-ord/ordintro.htm](http://www.isa-arbor.com/tree-ord/ordintro.htm)

1 §3-4-4 STREET TREES REQUIRED

2

3 The requirements for street tree planting specified in this section are in addition to any
 4 requirements for the protection and replacement of trees on private property specified
 5 elsewhere in this Resolution [Ordinance]. Street tree planting is required along all new
 6 local, collector, and arterial streets and private streets within commercial, industrial, or
 7 residential subdivisions. The subdivider, owner of land to be dedicated as a public
 8 street, or the developer of a private street shall at the time of preliminary plat approval
 9 submit a plan for the provision of street trees along all said roads. It is the intent of this
 10 section that the subdivider carefully position street trees on the plan while taking into
 11 account future driveway and sidewalk locations if not constructed simultaneously with
 12 the construction of the public or private street. Suitable arrangements must be made for
 13 either the subdivider/developer or individual builders to install street trees according to a
 14 plan approved as a part of preliminary plat approval, prior to dedication or opening of
 15 said street. It is preferred that the subdivider/developer install said streets prior to the
 16 dedication or opening of the public or private street; however, the Planning Commission
 17 may accept an agreement where the responsibility for street tree planting is shifted to
 18 the owners or individual builders of the lots to be subdivided. Any such responsibility
 19 shall be legally transferred in a form acceptable to the County [City] Attorney. Trees
 20 must be planted within the public right-of-way or, if right-of-way width is insufficient to
 21 accommodate said street trees, then on private property abutting the public right of way
 22 within a street tree easement dedicated to the County [City]. (See Figure 3-4-4.1).

23

24

Table 3-4-1

25

Guidelines to Avoid Conflicts with Infrastructure

MATURE SIZE	LARGE 50-70 FT	MEDIUM 30-40 FT	SMALL 15-20 FT	EVERGREEN 40-50 FT
Minimum Width of Tree Lawn	8 Feet	5 Feet	3 Feet	Yards Only
Spacing Between Trees	60 Feet	40 Feet	20 Feet	30 Feet
Overhead Utilities	Do Not Plant	Okay	Okay	Do Not Plant
Distance from Signs, Utility Poles, Driveways, Fire Hydrants	10 Feet	10 Feet	10 Feet	30 Feet
Distance From Intersection	30 Feet	30 Feet	30 Feet	30 Feet
Distance From Underground Utilities	5 Feet	5 Feet	5 Feet	5 Feet

1

2 §3-4-5 PROTECTION OF PUBLIC TREES

3

4 §3-4-5.1 Right To Plant. The County [City] shall have the right to plant, prune,
5 maintain and remove trees, plants and shrubs within the lines of all streets, alleys,
6 avenues, lanes, squares and public grounds, as may be necessary to insure public
7 safety or to preserve or enhance the symmetry and beauty of such public grounds.

8

9 §3-4-5.2 Permit Required. No person shall plant, spray, fertilize, prune, or
10 remove, or otherwise disturb any tree on any road right-of-way or property owned by the
11 County [City] without first procuring a permit from the County [City].

12

13 §3-4-5.3 Liability. Nothing contained in this section shall be deemed to impose
14 any liability upon the County [City], its officers or employees, nor shall it relieve the
15 owner of any private property from the duty to keep any tree, shrub or plant upon any
16 street tree area on his property or under his control in such condition as to prevent it
17 from constituting a hazard or an impediment to travel or vision upon any street, park,
18 pleasure ground, boulevard, alley or public place within the city.

19

20 §3-4-6 PRUNING

21

22 §3-4-6.1 Pruning Standards. All tree pruning on public property shall conform
23 to the ANSI A300 standards or other best management practices for tree care
24 operations, as determined by the Land Use Officer.

25

26 §3-4-6.2 Tree Topping. It shall be unlawful for any person, or firm to top or
27 severely prune any street tree, park tree, or other tree on public property. Topping is
28 defined as the severe cutting back of limbs to stubs larger than three inches in diameter
29 within the tree's crown to such a degree so as to remove the normal canopy and
30 disfigure the tree. Severe pruning seriously affects a tree's food supply, can scald the
31 newly exposed outer bark, make trees vulnerable to insect invasion, stimulate the
32 regrowth of dense, upright branches below the pruning cut, make the tree more
33 vulnerable to wind damage, disfigure the tree aesthetically, and sometimes result in the
34 death of the tree. Where appropriate, crown reduction by a qualified arborist may be

1 substituted. Trees severely damaged by storms or other causes, or certain trees under
 2 obstructions such as utility wires where other pruning practices are impractical may be
 3 exempted from this Resolution [Ordinance] at the determination of the County [City].

4
 5 *Commentary:* This module is written as a part of an overall land use management system.
 6 However, it can be easily adopted as a stand-alone resolution or ordinance, if the following
 7 other provisions are included in the adopted ordinance:

8
 9 §2-0-1(A), PREAMBLE (although some of it may not be considered necessary)

10 §2-0-2, EFFECTIVE DATE

11 §2-0-3, LEGAL STATUS PROVISIONS

12 §2-0-4, ADMINISTRATION, APPEALS, ENFORCEMENT, AND PENALTIES

13
 14 In addition, many small jurisdictions choose to create a Tree Commission or Tree Board to
 15 help administer the ordinance and provide policy direction for the urban forest; however,
 16 for administrative simplicity, such a provision been excluded. More information about Tree
 17 Commissions may be found at: <http://www.isa-arbor.com/tree-ord/ordintro.htm>

18
 19 References:

20
 21 *Abbey, Buck, ASLA. Guide to Writing A City Tree Ordinance: Model Tree Ordinances*
 22 *for Louisiana Communities. Louisiana State University. Available on-line at:*
 23 <http://www.design.lsu.edu/greenlaws/modeltree.htm>

24
 25 *Bernhardt, E., and T. J. Swiecki. 1991. Guidelines for Developing and Evaluating Tree*
 26 *Ordinances. Sacramento: Urban Forestry Program, California Department of Forestry*
 27 *and Fire Protection. <http://www.isa-arbor.com/tree-ord>*

28
 29 *Bond, Jerry. Sample Brief Tree Ordinance. Adapted from Hoefler, Philip, Himelick Dr.*
 30 *E.B., and David F. Devoto's Municipal Tree Manual, based on a sample ordinance*
 31 *prepared by Jim Nighswonger, 1982.*

32 <http://www.cce.cornell.edu/monroe/cfep/factsheets/sampleordinance.htm>

33

§5-1 DOWNTOWN SPECIFIC PLANS

CONTENTS

1	§5-1	DOWNTOWN SPECIFIC PLANS
2		
3		CONTENTS
4		
5	§5-1-1	PURPOSE AND INTENT
6	§5-1-2	DEFINITIONS
7	§5-1-3	ADOPTION OF DOWNTOWN SPECIFIC PLAN BY REFERENCE
8	§5-1-4	PLAN AS REGULATION
9	§5-1-5	USE LIMITATIONS
10	§5-1-5.1	Permitted Uses
11	§5-1-5.2	Determination of Similar Land Uses
12	§5-1-6	BUILDING SETBACKS
13	§5-1-6.1	Minimum Front Setbacks
14	§5-1-6.2	Maximum Front Setbacks
15	§5-1-6.3	Minimum Rear Yard Setbacks
16	§5-1-6.4	Through Lots
17	§5-1-6.5	Side Yard Setbacks
18	§5-1-6.6	Setback Exceptions
19	§5-1-7	BUILDING HEIGHT
20	§5-1-7.1	Maximum Height
21	§5-1-7.2	Height Increase for Buildings Containing Residences
22	§5-1-7.3	Exceptions to Height Regulations
23	§5-1-7.4	Method of Measurement
24	§5-1-8	DESIGN GUIDELINES AND STANDARDS
25	§5-1-8.1	Building Size, Bulk, Scale and Mass
26	§5-1-8.2	Building Orientation
27	§5-1-8.3	Storefront Design
28	§5-1-8.4	Building Materials
29	§5-1-8.5	Building Color
30	§5-1-8.6	Pedestrian Amenities
31	§5-1-9	SPECIAL STANDARDS FOR RESIDENTIAL USES
32	§5-1-9.1	Residential Uses Generally
33	§5-1-9.2	Mixed-Use Development Required
34	§5-1-9.3	Limitation on Street-Level Housing
35	§5-1-9.4	Allowable Density
36	§5-1-10	SPECIAL STANDARDS FOR PARKING AREAS
37	§5-1-10.1	Parking, Garages and Driveways
38	§5-1-10.2	Relationship of Buildings to Streets and Parking
39	§5-1-11	SPECIAL STANDARDS FOR OTHER USES
40	§5-1-11.1	Light Manufacturing
41	§5-1-11.2	Accessory Uses
42	§5-1-11.3	Trash and Loading Areas
43	§5-1-12	SIGNS
44	§5-1-12.1	Ground Mounted Pole Signs
45	§5-1-12.2	Projecting Signs
46	§5-1-12.3	Historic Wall Signs
47	§5-1-12.4	Pedestrian Orientation
48	§5-1-12.5	Illumination
49	§5-1-12.6	Materials and Color
50	§5-1-12.7	Size Limitations
51		

§5-1 DOWNTOWN SPECIFIC PLANS

Description: Specific plans describe in more detail the type of development planned for a particular area than found in the comprehensive plan, combining the planning objectives for an area and the implementation techniques to achieve them. Specific area plans typically focus on some unique feature of the geographic area that they encompass, and can relate to local conditions that cannot be fully addressed by conventional zoning. Although particularly suited to application for large, undeveloped land areas, the specific plan may be used to guide the buildout of partially developed areas with potential for infill and redevelopment. The latter application is relevant to Georgia's typical small rural downtown, where the focus is to promote and maintain the character of the community's small downtown.

Commentary: Specific plans have been implemented by local governments in the State of California, where they are recognized for their value as an implementation tool. Under California law, a specific plan must contain text and diagrams that specify the land uses within the area covered by the plan, the infrastructure needed to serve the proposed land uses, development standards and criteria, and capital improvements and financing measures necessary to implement the plan. Under California law, a specific plan is adopted either by resolution or Resolution [Ordinance] following a public hearing process by the planning commission and governing body. It then typically serves to supplement, and in some cases, supercede the conventional zoning regulations for the property(ies). In addition to its widespread use in the State of California, the specific plan is being utilized as a growth management tool by local governments in other states, such as Oregon.

The California specific plan model may not be applicable in its entirety to the development conditions in rural Georgia. However, this module presents a variation of the specific plan approach that could be appropriate in small towns in rural Georgia. This module is intended to provide small rural towns in Georgia with an alternative to conventional zoning that would apply to only one part of its jurisdiction—its downtown. Under the assumption that a small city's downtown may be one of the more important areas in which to ensure compatible development, a specific plan for the downtown

1 could be turned into more than a plan itself. It could be a regulatory tool adopted by
2 ordinance that provides detailed guidance on future development in the area.

3
4 *In many of Georgia's small and/or rural communities, the downtown core area*
5 *encompasses as few as four or five blocks, often laid out around a central square, park*
6 *or other focal point such as a county courthouse, a church, or a museum. Linear "main*
7 *street" configurations comprised of up to five blocks in length and one or two blocks in*
8 *width are also prevalent. The downtown specific plan can be used as a regulatory tool*
9 *to protect and enhance such areas, in the absence of (or in addition to) conventional*
10 *zoning.*

11
12 *Caution in Using This Tool:* *This module is written so that it can be applied generally to*
13 *small downtown core areas in Georgia's rural cities. However, the whole idea behind a*
14 *specific plan is that a "plan" is prepared; one that is based on a study of site-specific*
15 *conditions and considers the uniqueness of the special area. While many characteristics*
16 *of small downtowns in Georgia are similar, it is impossible to generalize about them in a*
17 *way that would be meaningful in the context of land use regulation. For these reasons,*
18 *communities desiring to use this tool must investigate unique conditions and prepare a*
19 *specific plan for the area. Such a plan informs the land use regulations needed, but it*
20 *also provides a more solid legal foundation on which to regulate development. After the*
21 *plan itself is adopted, the community can write an ordinance (based on the language in*
22 *this module) that "puts teeth" into the recommendations, policies, and objectives of the*
23 *downtown plan.*

24
25 *Commentary on Partial Zoning Schemes:* *This tool amounts to a less-than-*
26 *comprehensive zoning ordinance to regulate specifically designated areas. The purpose*
27 *of this tool is to establish zoning and various design regulations in a specific geographic*
28 *area of a city because land use controls are needed there but are not necessary or*
29 *politically acceptable in other portions of the jurisdiction. By zoning, it is meant that the*
30 *regulations contain a list of permitted (or prohibited) land uses within only a certain part*
31 *of the local jurisdiction. Hence, a specific plan such as that presented in this module is*
32 *an example of what could be called "partial zoning schemes."*

33

1 Applications of Partial Zoning Schemes. *There are no known examples of partial zoning*
 2 *schemes applied in Georgia. However, there are examples in western states where*
 3 *zoning has been adopted for an urban area or other portion of a jurisdiction that is under*
 4 *significant development pressure, yet the remaining balance of the county is unzoned.*
 5 *For example, Cowlitz County, Washington, has a zoning ordinance that applies to an*
 6 *urbanized area surrounding the cities of Longview and Kelso, but the vast majority of the*
 7 *county (which is mostly private forestland) remains unzoned. Similarly, Gallatin County,*
 8 *Montana, has developed separate zoning ordinances for portions of the county*
 9 *experiencing resort development, while the remainder of the county is unzoned.*

10
 11 Commentary on Legality of Partial Zoning Schemes. *The concept of zoning part of a*
 12 *jurisdiction while leaving the remainder unzoned may violate past precedents and legal*
 13 *principles that “zoning must be done in accordance with a comprehensive plan.”*
 14 *However, the phrase “in accordance with a comprehensive plan,” which has its origins in*
 15 *the Standard State Zoning Enabling Act, has never been precisely defined and has*
 16 *always been subject to debate among planners and lawyers. One might question the*
 17 *imposition of zoning regulations on less than an entire jurisdiction. However, if sufficient*
 18 *justification can be shown for imposing zoning regulations on part of the area of the*
 19 *county or city rather than the whole, jurisdiction would likely be upheld, even with an*
 20 *equal protection challenge. But, there needs to be specific conditions relating to the*
 21 *area zoned, such as excessive growth and development, which would justify having*
 22 *zoning in less than the entire jurisdiction. Local government can adopt a zoning*
 23 *ordinance that establishes districts only in part of its jurisdiction, provided it satisfies*
 24 *equal protection standards. The fact that such an ordinance may impose greater*
 25 *burdens on only some of the population rather than the other is not the critical element.*
 26 *There must be a rational basis between zoning only part of the jurisdiction and not*
 27 *zoning other parts (Jenkins 2001).*

28
 29 §5-1-1 PURPOSE AND INTENT

30
 31 The purpose of this Resolution [Ordinance] is to foster and strengthen economic vitality
 32 in the local jurisdiction’s downtown core area while respecting and enhancing the special
 33 character of the existing development in the downtown core area. The downtown core
 34 area is a compact assembly of storefront buildings, short walkable blocks, mixed uses,

1 pedestrian amenities, and consolidated on- and off-street parking. The community's
2 downtown core character is especially vulnerable to intrusion from incompatible uses
3 and physical development practices. The city's downtown is so important and significant
4 to the city, that it justifies a special set of regulations designed to protect and enhance its
5 character in light of new development. The potential to impact existing development is
6 much less in other areas of the community than in the downtown core area, and hence
7 the regulations outside the downtown core area do not merit the same protection. The
8 purpose of this Resolution [Ordinance] is to establish requirements for building and site
9 design for new developments and for the significant modification of existing
10 developments within the designated downtown core area. This Resolution [Ordinance]
11 is intended to protect the existing character of the downtown and encourage orderly
12 development in accordance with the comprehensive plan for the city and with a study
13 and specific plan for the downtown core area. The following principles serve as the
14 foundation for the Downtown Specific Plan:

- 15 (a) Efficient use of land and services.
- 16 (b) A mix of land uses which strengthen opportunities for economic vitality and
17 support pedestrian activity as well as housing opportunities.
- 18 (c) Provide for community gathering places and pedestrian/visitor amenities.
- 19 (d) Establish a distinct storefront character associated with the downtown core area.
- 20 (e) Provide transitions to adjacent neighborhoods and commercial areas.
- 21 (f) Maintain and enhance the area's character through design guidelines.

22
23 The downtown specific plan, upon its adoption per this Resolution [Ordinance], is
24 enforceable and implemented as a set of land use regulations. Development proposals
25 that are consistent with an adopted specific plan are not subject to further discretionary
26 review by the local government. In this context, all land use applications for property
27 within the downtown specific plan area are required by this Resolution [Ordinance] to
28 comply with the provisions of the downtown specific plan.

29
30 §5-1-2 DEFINITIONS

31
32 For purposes of this Resolution [Ordinance], the following definitions shall apply:
33

1 Alley: A secondary means of access to abutting property located at the rear or side of
2 the property.

3 Bed and breakfast: An establishment primarily engaged in providing temporary lodging
4 for the general public with access provided through a common entrance to guest rooms
5 having no cooking facilities. Meals may or may not be provided.

6 Grade, average: The elevation determined by averaging the highest and lowest
7 elevations of a parcel, building site or other defined area of land.

8 Gross floor area: The total square footage of all floors of a building, including the exterior
9 unfinished wall structure, but excluding courtyards and other outdoor areas.

10 Property line: A lot line or parcel boundary.

11 Setback: The distance that a principal building or other structure or facility must be
12 located from away from a lot line or property line.

13 Use: The purpose for which a building, structure, or land is occupied, arranged,
14 designed or intended, or for which building, structure, or land is or may be occupied or
15 maintained.

16

17 §5-1-3 ADOPTION OF DOWNTOWN SPECIFIC PLAN BY REFERENCE

18

19 The city hereby finds that the Specific Plan for _____, is consistent with
20 the city's Comprehensive Plan and is hereby adopted and made a part of this Resolution
21 [Ordinance] as if fully set forth herein. The city finds that prior to adoption of the Specific
22 Downtown Plan, the following actions have been taken to ensure procedural due
23 process:

24 (a) A detailed map has been prepared showing the boundaries for the Downtown
25 Plan Specific Area in relation to property lines.

26

27 *Commentary: Some specific plans also establish boundaries for a transitional area
28 adjacent to the downtown, which can be important in maintaining the character of the
29 specific area. Communities may consider also establishing a downtown transitional
30 subarea and adopt regulations that apply to that subarea.*

31

32 (b) The city's comprehensive plan was amended to include the idea of establishing a
33 downtown specific plan, and the comprehensive planning process afforded the
34 opportunity for all citizens and business owners of the city to participate in a

1 vision for the city and the downtown core area. Said comprehensive plan
 2 amendment also took into account site-specific conditions and needs in the
 3 subject area.

4 (c) The city prepared a specific plan for the subject area that includes studies and
 5 data on existing conditions and needs with regard to preserving the existing
 6 character of the area.

7

8 *Commentary: As noted above, the specific plan should actually be a “plan” as well as an*
 9 *implementing ordinance. To strengthen the status of the specific plan, it should be*
 10 *explicitly referred to in the Comprehensive Plan, if not adopted as a part of the*
 11 *comprehensive plan. The two paragraphs above are intended to bolster the legal status*
 12 *of this Resolution [Ordinance].*

13

14 (d) At least 15 days prior to public hearing and action, the Mayor and City Council
 15 notified the public of the date, time, place and nature of a public hearing by
 16 publication in a newspaper of general circulation in the territory of the local
 17 government.

18

19 *Commentary: Because the adoption of regulations applicable to a specific area, as*
 20 *defined by boundaries on a map, may be considered a zoning district, it is strongly*
 21 *advised that ordinances implementing specific plans be adopted only after full*
 22 *compliance with the Zoning Procedures Law (O.C.G.A. 36-66).*

23

24 (e) The Land Use Officer notified all owners of parcels of land within the boundary of
 25 the Downtown Specific Plan and all owners of parcels of land within 300 feet of
 26 the project area boundary, of the date, time, place and nature of the public
 27 hearing by mail at least 15 days before the public hearing. Notices shall be sent
 28 to the names of the property owners identified by the tax records of the local
 29 government. Notice shall be by first class mail, and the act of mailing said notice
 30 to property owners listed identified by tax records of the city shall be deemed
 31 sufficient to comply with this requirement.

32

33 *Commentary: This provision is not a requirement of the state zoning procedures law.*
 34 *However, given the site-specific nature of the regulations, it is advisable to follow a*

1 *practice many local governments exercise, that is, notify individual property owners of*
 2 *the proposed regulations. Legal Counsel recommends excluding this provision, because*
 3 *it can easily result in procedural defects if not followed exactly and, therefore, can*
 4 *undermine a land use or zoning decision.*

5
 6 (f) The Mayor and City Council held the public hearing at the date, time, and place
 7 advertised, and afforded all interested individuals the opportunity to be heard
 8 concerning the proposed downtown specific plan and implementing regulations.

9
 10 §5-1-4 PLAN AS REGULATION

11
 12 The downtown specific plan, as adopted by reference, contains recommended policies
 13 and development guidelines that are hereby made mandatory by adopting them in this
 14 Resolution [Ordinance]. The downtown specific plan, unless otherwise specifically
 15 provided for in this Resolution [Ordinance], shall be considered as carrying the weight of
 16 law and shall be enforced and abided by as a municipal land use regulation.

17
 18 §5-1-5 USE LIMITATIONS

19
 20 Within the _____ downtown specific plan boundary, only those uses that help
 21 create a unique, dynamic pedestrian-oriented center are allowed. Such uses generally
 22 include specialty retail, services, civic uses, restaurants and dining establishments,
 23 professional offices, passive open spaces, and residences. (See Figure 5-1-5.0).

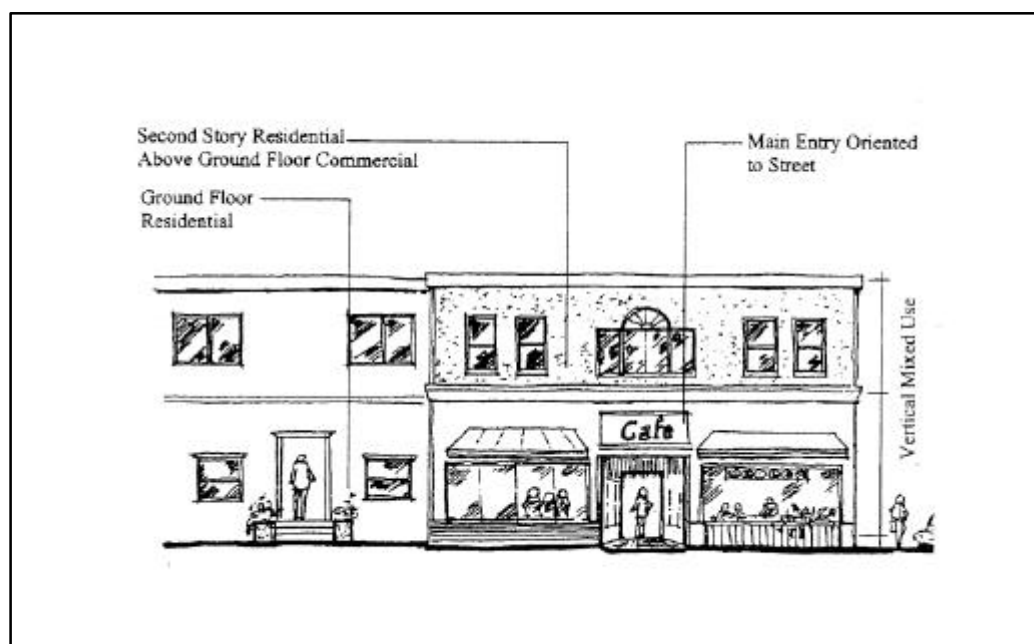
24
 25 §5-1-5.1 Permitted Uses. The land uses listed in Table 5-1-5.1.1 are permitted
 26 in the Specific Downtown Plan area, subject to the provisions of this chapter. Only land
 27 uses which are specifically listed in Table 5-1-5.1.1, and those land uses which are or
 28 may be approved as “similar” to those listed in said table may be permitted. The land
 29 uses identified with a “(3)” are conditional and require conditional use permit approval
 30 prior to development or establishment, in accordance with the provisions of Section 7-1
 31 of this Code.

1 §5-1-5.2. Determination of Similar Land Uses. Uses that are similar in nature to
2 one or more permitted uses, as determined by the Land Use Officer, shall be permitted
3 within the boundary of the downtown specific plan.

4
5 Legal Commentary: The two provisions above may withstand challenge, but the term
6 "similar" is somewhat vague and subject to challenge.

7
8 Figure 5-1-5.0

9 Residential Uses Mixed With Commercial Shops



23
24 Source: Oregon Transportation and Growth Management Program 1999.

1
2
3

Table 5-1-5.1.1
Uses Permitted in the Specific Downtown Plan Area

RESIDENTIAL	PUBLIC/ INSTITUTIONAL	COMMERCIAL
Detached single-family residences which existed on the effective date of this Resolution [Ordinance]	Religious Institutions and Places of Worship	Entertainment facilities (theaters, clubs, movies)
Two-family dwellings (duplexes) which existed on the effective date of this Resolution [Ordinance]	Clubs, fraternities, sororities, lodges and similar uses	Medical and dental offices, clinics and associated laboratories, pharmacies, optometrists, and similar medical uses
Single-family attached (Townhouses)	Government offices and facilities, including courthouses	Offices
Dwellings within a commercial or other non-residential structure (e.g., residence occupying an upper floor of a retail store)	Libraries, museums, concert halls, auditoriums, community center, and similar uses	Personal and professional services (e.g., hair salons, day spas, barber shops, tailors, shoe repair, nail salon, tanning salon, shoe repair, tailor, watch and jewelry repair, package wrapping/ copying/ sending services, and similar uses)
Accessory dwellings which existed on the effective date of this Resolution [Ordinance]	Outdoor bandstand, amphitheater, pavilion	Children's day care
Multi-family residential (1)	Public parking lots and garages (See §5-1-10 Special Standards for Parking Areas)	Laundromats and dry cleaners (no dry cleaning plant on premises permitted)
Residential care homes and facilities	Private utilities	Hotels and lodges, but not motels or motor hotels with parking immediately adjacent to guest rooms
Family day care (Less than 6 children)	Public parks, squares, greens, and recreation facilities	Restaurants, catering, prepared food services for on-site consumption, retail bakeries, candy/ice cream shops (food production allowed in conjunction with retail)
Bed and breakfast inns (3)	Schools, public and private	Banks and financial institutions
	Visitors centers and information services	Retail trade and services(2)
		Art and craft galleries
		Commercial storage (4)
		Wholesale (5)
		Manufacturing ancillary to a storefront retail sales and services outlet (6)
		Vehicle sales fully enclosed in building (3)

4
5

1 Notes to Table 5-1-5.2.2:
2

- 3 (1) Subject to provisions limiting location and design character. Residential uses are
4 permitted on upper stories above ground floor non-residential use, on ground
5 floors behind storefront space, or integrated into a mixed-use structure where
6 design is consistent with the storefront character.
7 (2) Except auto-oriented uses and vehicle sales and service.
8 (3) Subject to use permit provisions as provided in Section 7.1.
9 (4) Enclosed in building and on upper stories only. Must be ancillary to storefront or
10 ground floor use.
11 (5) Restricted to buildings of 20,000 to 60,000 gross floor area.
12 (6) Uses such as candle making, blown glass, small “country” crafts, t-shirt
13 lamination, and monogramming are permitted subject to a use permit and are
14 restricted to spaces of less than 25 percent of gross floor area. May not be
15 located in a storefront location, and must be located a minimum of 50 feet from a
16 residential use.
17

18 *Commentary: Many of the uses listed in the tables above are defined in Section 6.1 of*
19 *this code. If the local government does not adopt Section 6.1, it may wish to import*
20 *definitions from that section into this module.*
21

22 §5-1-6 BUILDING SETBACKS

23
24 *Commentary: In the Downtown Specific Plan area, buildings are placed close to the*
25 *street to create a pedestrian-oriented environment, provide storefront character towards*
26 *the street, limit traffic speeds, and encourage walking. The setback requirements are*
27 *flexible to encourage public spaces between sidewalks and building entrances to allow*
28 *for pedestrian spaces, such as, but not limited to, outdoor dining areas, street furniture,*
29 *extra wide sidewalks, and plazas. Building setbacks are measured from the build-to line*
30 *to the respective property line. Setbacks for porches are measured from the edge of the*
31 *deck or porch to the property line. Setback requirements apply to primary structures as*
32 *well as accessory structures.*
33

34 §5-1-6.1 Minimum Front Setbacks. There shall be no minimum front setback.
35 The front building façade shall correspond to the build-to line of adjacent structures,
36 except to accommodate usable public space with pedestrian amenities.
37

38 §5-1-6.2 Maximum Front Setbacks. The maximum allowable front yard
39 setback shall be 10 feet. Exceptions to this requirement may be approved for structures

1 that provide pedestrian amenities, placed between the building façade and street
2 sidewalk.

3
4 §5-1-6.3 Minimum Rear Yard Setbacks. There shall be no minimum rear yard
5 setback for structures on lots with street access. For structures on lots accessed by an
6 alley, the minimum setback shall be six feet (distance from building to rear property line
7 or alley easement) in order to provide space for parallel parking.

8
9 §5-1-6.4 Through Lots. For buildings on through lots, the front setbacks
10 established in §5-1-6.1 and §5-1-6.2 shall apply to both property frontages.

11
12 §5-1-6.5 Side Yard Setbacks. There shall be no minimum side yard setback
13 required, except that buildings shall meet applicable fire and building codes for attached
14 structures, firewalls and related requirements, and allow for a minimum 15-foot vision
15 clearance area when located on a corner lot.

16
17 *Commentary: For definitions of “through” lot and “corner” lot, see Section 2.2*
18 *(subdivision regulations) of this model land use management code.*

19
20 §5-1-6.6 Setback Exceptions. Eaves, chimneys, bay windows, overhangs,
21 cornices, awnings, canopies, porches, decks, projecting signs, and similar architectural
22 features may encroach into setbacks by no more than six feet, subject to compliance
23 with standards of locally applicable fire codes and building code.

24 25 §5-1-7 BUILDING HEIGHT

26
27 All buildings in the Specific Downtown Plan area shall comply with the following building
28 height requirements, which are intended to allow for development of appropriately scaled
29 buildings with a storefront character.

30
31 §5-1-7.1 Maximum Height. Buildings shall be equivalent to the height of the
32 adjacent building(s). Where the height of two adjacent buildings differ, the subject
33 structure may be equivalent to the greater height. Where applicable, the cornices (e.g.,

1 building tops or first story cornices) shall be aligned to generally match the height(s) of
2 those on adjacent buildings.

3
4 §5-1-7.2 Height Increase for Buildings Containing Residences. The maximum
5 building height may be increased by 15 feet where residential uses are provided above
6 the ground floor. The building height increase applies only to those portions of the
7 building that contain housing.

8
9 §5-1-7.3 Exceptions to Height Regulations. Not included in maximum height:
10 chimneys; bell towers; steeples; roof equipment; flagpoles, and similar features that are
11 not intended or used for human occupancy.

12
13 §5-1-7.4 Method of Measurement. Building height is measured as the vertical
14 distance from the average level of the highest and lowest grade point of the portion of
15 the lot covered by the building, measured to the highest point of the coping of a flat roof
16 or to the deck line of a mansard roof or to the average height of the highest gable of a
17 pitched or hipped roof.

18
19 §5-1-8 BUILDING DESIGN STANDARDS

20
21 The Downtown Specific Plan design guidelines in this section are intended to provide
22 human scale design, while affording flexibility to use a variety of building styles. These
23 guidelines should be followed in order to ensure that the physical and operational
24 characteristics of proposed buildings and uses are compatible within the context of the
25 surrounding area. Infill uses in developed areas shall be compatible with the established
26 architectural character by using a design that is complementary. New construction
27 should reinforce existing patterns. Compatibility shall be achieved through techniques
28 such as repetition of roof lines, the use of similar proportions in building mass, similar
29 relationships to the street, similar door and window patterns, and the use of
30 complementary building materials and colors.

31
32 §5-1-8.1 Building Size, Bulk, Scale, and Mass. In infill development, buildings
33 should “learn” from their neighbors. Buildings shall either be similar in size and height,

1 or if larger, be articulated and subdivided proportionally to the mass and scale of other
2 structures on the same block.

3
4 §5-1-8.2 Building Orientation. If an entry is oriented to a parking lot, it
5 diminishes activity from the street and implies that auto access takes precedence.
6 Building presence should be reinforced through the observation of the following criteria:

- 7 (a) The minimum and maximum setback standards are met.
- 8 (b) Buildings have their primary entrance(s) oriented to the street. Building
9 entrances may include entrances to individual units, lobby entrances,
10 entrances oriented to pedestrian plazas, or breezeway/courtyard
11 entrances to a cluster of spaces.
- 12 (c) Corner building entrances should be designed in cases where the
13 building is located on a corner lot. Alternatively, a building entrance may
14 be located away from the corner when the building corner is beveled or
15 incorporates other detailing to reduce the angular appearance of the
16 building at the street corner.
- 17 (d) A building may have an entrance facing a side yard when a direct
18 pedestrian walkway is provided between the building entrance and the
19 street right-of-way.
- 20 (e) Off street parking, driveways and other vehicular access shall not be
21 placed between a building and the street. On corner lots, buildings and
22 their entrances shall be oriented to the street corner as feasible.
- 23 (f) At least 50 percent of the width of the lot is occupied by a building at the
24 front setback.

25
26 §5-1-8.3 Storefront Design. All buildings shall contribute toward the storefront
27 character and visual relationships of buildings existing in the Downtown Specific Plan
28 area. The following architectural features should be used along the street frontage
29 building elevations, as applicable.

- 30 (a) Buildings should have consistent spacing of similar shaped windows with
31 trim or other decorative molding on all building stories.
- 32 (b) Large display windows should be employed on ground floor storefronts.
33 Display windows should be framed to visually separate the ground floor
34 from the second floor.

- 1 (c) All buildings with a flat roof should have a decorative cornice at the top of
2 the building; or eaves, when the building is designed with a pitched roof.
- 3 (d) Cornices or changes in material can be used to differentiate the ground
4 floor of buildings that have commercial uses from the upper floor(s) that
5 may have offices or residential uses. Ground floor facades should utilize
6 cornices, signs, awnings, exterior lighting, display windows and entry
7 insets.

8

9 §5-1-8.4 Building Materials. Building materials shall be similar to the materials
10 used on the existing buildings in the Downtown Specific Plan area. Brick and stone
11 masonry are considered compatible with wood siding.

- 12 (a) In circumstances where similar materials are not proposed, such as a
13 stucco building in a row of brick structures, other characteristics such as
14 scale and proportion, form, architectural detailing, height, and color and
15 texture shall be utilized to ensure that adequate similarity exists for the
16 building to be considered compatible.
- 17 (b) Building materials shall not create glare. Highly reflective materials such
18 as aluminum, unpainted metal, and reflective glass shall not be permitted.
- 19 (c) Clear glass windows shall be used for commercial storefront display
20 windows and doors.
- 21 (d) Buildings shall be consistently detailed on all sides. Windows and doors
22 shall be defined with detail elements such as frames, sills, and lintels, and
23 placed to visually establish and define the building stories and establish
24 human scale and proportion.
- 25 (e) Exposed rough or re-sawn siding and exposed, untreated concrete shall
26 not be permitted as a finished exterior.

27

28 §5-1-8.5 Building Color. Recommended color shades shall draw from the
29 range of color shades of structures that already exist in the Downtown Specific Plan
30 area. No more than one accent color should be used per building.

31

32 §5-1-8.6 Pedestrian Amenities. Pedestrian amenities serve as informal
33 gathering places for socializing, resting and enjoyment of the downtown area, and
34 contribute to a walkable environment. Pedestrian amenities may be provided within the

1 public right-of-way when approved by the local jurisdiction. The following amenities
2 should be incorporated into the building design whenever feasible:

- 3 (a) A plaza, courtyard, or extra-wide sidewalk next to the building entrance.
- 4 (b) Sitting space (i.e. dining area, benches, or ledges) between the building
5 entrance and the sidewalk. Recommended dimensions are a minimum of
6 16 inches in height and 30 inches in width.
- 7 (c) A building canopy, awning, or similar weather protection, with a minimum
8 four foot projection over the sidewalk or other pedestrian space.
- 9 (d) Public art which incorporates seating (e.g., fountain, raised planter,
10 sculpture).

11

12 §5-1-9 SPECIAL STANDARDS FOR RESIDENTIAL USES

13

14 §5-1-9.1 Residential Uses Generally. Higher density residential uses, such as
15 multi-family buildings and attached single-family units are permitted to encourage
16 housing near employment, shopping and services. All residential uses in the Downtown
17 Specific Plan area are intended to require mixed-use development, conserve the
18 community's supply of commercial land for retail and service use, provide designs which
19 are compatible with a storefront character, avoid or minimize impacts associated with
20 traffic and parking, and ensure proper management and maintenance of common areas.
21 Pre-existing residential uses within the Specific Downtown area boundaries are exempt
22 from these conditions.

23

24 §5-1-9.2 Mixed-Use Development Required. Residential uses shall be
25 permitted only when part of a mixed-use development (residential as a component of a
26 commercial, office or public/institutional use). Both "vertical" mixed-use (housing above
27 the ground floor) and "horizontal" mixed-use (housing on the ground floor) developments
28 are allowed.

29

30 §5-1-9.3 Limitation on Street-Level Housing. No more than 50 percent of a
31 single street frontage at ground level may be occupied by residential uses.

32

33 §5-1-9.4. Allowable Density. There shall be no maximum residential density
34 standard.

1
2 Commentary: *Depending on the height of buildings in the downtown, and the percent of*
3 *the lot that is covered, densities permitted in downtowns according to these regulations*
4 *could differ substantially. A maximum density could be established at the discretion of*
5 *the local government.*

6
7 §5-1-10 SPECIAL STANDARDS FOR PARKING AREAS

8
9 §5-1-10.1 Parking, Garages and Driveways. All off-street vehicle parking,
10 including surface lots and garages, shall be oriented to alleys, placed underground, or
11 located in parking areas behind or to the side of the building.

12
13 §5-1-10.2 Relationship of Buildings to Streets and Parking. Every dwelling unit
14 with a front façade facing the street shall to the maximum extent possible have its
15 primary entrance face the street. Every building containing four or more dwelling units
16 shall have at least one building entry or doorway facing any adjacent street that has on-
17 street parking.

18
19 §5-1-11 SPECIAL STANDARDS FOR OTHER USES

20
21 §5-1-11.1 Light Manufacturing. Light manufacturing uses are limited in the
22 Downtown Specific Plan area. Light manufacturing means production or manufacturing
23 of small-scale goods, such as crafts, electronic equipment, candy products, printing and
24 binderies, custom furniture, and similar goods. All such light manufacturing uses shall
25 comply with the following:

- 26 (a) Light manufacturing is only allowed when done in conjunction with a
27 permitted retail or service use that is in the storefront location.
28 (b) Floor area devoted to light manufacturing is limited to 50 percent of the
29 gross floor area of any individual establishment.
30 (c) The light manufacturing operations shall be fully enclosed within a
31 building.

32
33 §5-1-11.2 Accessory Uses. Outdoor displays, sales, service, and minor
34 entertainment are permitted accessory uses provided that they meet the following:
35

- 1 (a) Merchandise displayed or sold and services rendered are permitted uses.
- 2 (b) Minor entertainment is provided by groups of five or fewer performers
- 3 without electronic amplification; performances have a duration period of
- 4 no more than one hour in any one location within a 50-foot radius, and the
- 5 hours of minor entertainment fall between the hours of 9:00 AM to 9:00
- 6 PM.
- 7 (c) All such outdoor displays, sales, service or minor entertainment takes
- 8 place on private property with the written consent of the owner or agent of
- 9 said property, or on public property with consent from the city.
- 10 (e) No display, sales, service or minor entertainment blocks the required
- 11 pedestrian walkways. A clear area with a minimum width of four feet shall
- 12 be left between the street and the building entry or exit.
- 13 (f) All booths, stalls, carts, or other equipment for outdoor display, sales,
- 14 service or minor entertainment at the close of business each day shall be
- 15 removed or immobilized and secured so as to prevent it from becoming a
- 16 public safety hazard, nuisance or security risk.

17

18 §5-1-11.3 Trash and Loading Areas. In order to preserve the pedestrian

19 orientation of the downtown area, all servicing, loading, and solid waste collection shall

20 take place off-street away from pedestrian walkways, generally in bays provided in the

21 alleys or in screened, internal, rear spaces if alleys are not available.

22

23 §5-1-12 SIGNS

24

25 *Commentary. It is likely that the existing signage in the Downtown Specific Plan area*

26 *may not be consistent with a comprehensive signage plan. However, there may be an*

27 *overall signage theme in the Downtown Specific Plan area. If such a theme exists, the*

28 *signage for each project should be consistent with that theme. Within the Downtown*

29 *Specific Plan area, signs should be small, with distinctive shapes, unique materials,*

30 *symbols and textures, and promote a style of signage that maximizes creativity. Refer to*

31 *the sign code module in this model land use management code for a definition of signs*

32 *and other applicable regulations. The following guidelines apply specifically to the*

33 *Downtown Specific Plan area.*

34

1 §5-1-12.1 Ground-Mounted Pole Signs. Ground mounted pole signs are not
2 permitted in the Downtown Specific Plan area. Monument signs may be permitted as a
3 conditional use, subject to the requirements of Section 7-1 of this code.

4
5 §5-1-12.2 Projecting Signs. No portion of a sign shall project above a parapet or
6 eave. Tower elements that are integral to the building architecture can be considered
7 exceptions (e.g., an existing theater marquis).

8
9 §5-1-12.3 Historic Wall Signs. Existing painted wall signs that are deemed by
10 the city to have historic significance, shall not be removed, defaced, painted over or
11 covered. Building owners are encouraged to restore these signs and maintain their
12 historic character.

13
14 §5-1-12.4 Pedestrian orientation. All signs shall be designed for visual
15 communications to pedestrians and slow-moving vehicular traffic. Signs projecting from
16 the building wall toward the sidewalk are emphasized because they are typical of
17 communities possessing a village scale and pedestrian orientation.

18
19 §5-1-12.5 Illumination. In order to maintain the historic quality of the downtown
20 area, signs shall be externally illuminated from concealed sources or approved
21 ornamental exposed fixtures. No internally illuminated signs shall be permitted or
22 replaced, with the exception of neon lighting on theater marquis.

23
24 §5-1-12.6 Materials and Color. Three dimensional letter forms provide shape
25 and shadow to building and tenant signs and are preferable to flat, painted-on letters.
26 Wood or metal type or logos may be applied directly to the building façade. Colors on
27 signs should be natural metals, or painted black, white, gray, beige and other colors
28 compatible with the existing signs and building materials. Letter style shall be consistent
29 for each tenant in any multi-tenant building.

30
31 §5-1-12.7 Size limitations. Tenant identification signs; including wall, window,
32 awning, and projecting signs, or any combination thereof, shall not exceed one square
33 foot of sign for each linear foot of building frontage, with a maximum of 100 square feet
34 of total signage. Building identification signs, consisting of the name of the building, the

1 address, and the date of construction, shall be limited to 20 square feet maximum.
2 Accessory signage for parking control, pedestrian flow, or other signage not described
3 above shall be limited to four square feet in area maximum.

4

5 *Commentary: If this module is intended to stand alone, rather than be adopted as a part*
6 *of the overall land use management code, then the following additional elements of this*
7 *code should be incorporated into this Resolution [Ordinance]. As noted by Legal*
8 *Counsel, it is especially important to be clear on who will make decisions and approve*
9 *development plans under the provisions of this section; that might be a Design Review*
10 *Board (see 5-2), the Planning Commission (7-3), the Governing Body, or possibly the*
11 *Land Use Officer.*

12

13 §2-0 VARIOUS PORTIONS (as appropriate, especially administration by the Land Use
14 Officer)

15 §7-1 PROCEDURES

16 §7-2 BOARD OF APPEALS (Variances and Appeals)

17

18 Provisions regarding who will approve development plans (see commentary above).

§5-2 DESIGN REVIEW

CONTENTS

§5-2-1	TITLE
§5-2-2	PURPOSE AND INTENT
§5-2-3	APPLICABILITY
§5-2-4	ESTABLISHMENT OF DESIGN REVIEW BOARD
§5-2-5	AUTHORITY OF THE DESIGN REVIEW BOARD
§5-2-6	MEETINGS OF THE BOARD
§5-2-7	DEFINITIONS
§5-2-8	DESIGN REVIEW AND APPROVAL REQUIRED
§5-2-9	EXEMPTION FOR MINOR CHANGES
§5-2-10	PRE-APPLICATION CONFERENCE
§5-2-11	APPLICATION REQUIREMENTS
§5-2-11.1	Elevation Drawings, Color and Material Samples
§5-2-11.2	Photographs
§5-2-11.3	Site Plan and Landscaping Plan
§5-2-11.4	Fee
§5-2-11.5	Additional Information
§5-2-12	CRITERIA FOR ACTING ON DESIGN REVIEW APPLICATIONS
§5-2-13	ACTION BY DESIGN REVIEW BOARD
§5-2-14	CHANGES AFTER BOARD APPROVAL
§5-2-15	APPEALS
§5-2-16	ENFORCEMENT

§5-2 DESIGN REVIEW

Commentary on Historic Preservation Versus Design Review: Local governments that desire to regulate the architectural appearance of historic properties and historic districts must establish a Historic Preservation Commission via ordinance rather than a Design Review Board as proposed here. See Section 5-3 of this model code for a model ordinance to establish a historic preservation ordinance.

Description and Applicability: Design review, which involves some subjective judgments as to the aesthetics of a given development, is not likely to be acceptable in many rural communities, unless the district applies to an area that has extensive community support for protection. Generally, local governments that are unwilling to adopt land use regulations will be even less willing to suggest or dictate architecture and aesthetic aspects of development. However, local governments are becoming increasingly more concerned with the appearance of development. In some instances, communities that cannot muster political support to regulate the location and mixtures of land use might be able to garner community support to ensure through regulation

1 developments that are architecturally appropriate and compatible. Design review is a process
 2 of reviewing the architecture, aesthetics, and site characteristics of new development within a
 3 specifically designated area, or jurisdiction-wide. Its primary purposes are to achieve
 4 architectural harmony and aesthetic compatibility between new and existing development. It is
 5 strongly recommended that any design review ordinance be accompanied by the adoption (by
 6 resolution or ordinance) of design guidelines appropriate to the types and character of buildings
 7 and development being reviewed. Section 5-3 of this model code is considered to be a
 8 companion code section to this Resolution [Ordinance]. Communities should view the
 9 provisions in Section 5-3 of this model code as a menu of possible general guidelines that might
 10 apply, depending on the specific nature of development in the jurisdiction. More specific design
 11 guidelines that match the particular aspects of the community and areas being regulated are
 12 also strongly recommended.

13
 14 Administrative Requirements for Implementation. Design review requires a fairly elaborate
 15 ordinance, and detailed design guidelines are highly recommended. Both of these requirements
 16 necessitate professional expertise not often available locally (and perhaps not regionally in
 17 Georgia’s more rural areas). A building permit system and a site plan review are prerequisites.
 18 In addition, some professional expertise is needed on the design review board and on the part
 19 of the staff administering the Resolution [Ordinance]. Design review requires more extensive
 20 applications for development; for instance, a typical design review application contains
 21 architectural elevations and often color and material samples. It is unlikely that rural local
 22 governments will have the necessary expertise on staff, and they may not have a sufficient pool
 23 of citizens with the requisite professional experience to serve on a review board. The procedure
 24 for processing applications for design review are written in a way that they closely track the
 25 same procedure as for certificates of appropriateness in historic districts (see Section 5.3 of this
 26 model code). However, the design review application procedure does not require public
 27 hearings or notices to adjacent property owners, as is the case with reviews within historic
 28 districts by a historic preservation commission.

29
 30 §5-2-1 TITLE

31
 32 This Resolution [Ordinance] shall be known and may be cited as the “Architectural and Site
 33 Design Review Ordinance of the City of _____.”

34

1 §5-2-2 PURPOSE AND INTENT

2
3 Careful attention to the architectural design of buildings and the layout of development sites is in
4 the best interests of the city, its citizens, and business owners. Attractive and integrated
5 architectural and site design features tend to improve an area’s image, raise overall property
6 values, attract new businesses and residents, and improve the quality of life. Research and
7 experience have shown that there is a positive return on investment for providing attractive
8 design features, for both government and property owners and can provide similar
9 enhancements to public safety, community health, and well being. This Resolution [Ordinance]
10 establishes a design review board and requires review by the design review board of any new
11 construction or material change in appearance to existing structures.

12
13 §5-2-3 APPLICABILITY

14
15 This Resolution [Ordinance] shall apply to all non-residential development within the city limits of
16 the City of _____.

17
18 *Commentary: Applicability refers to the type of development and the jurisdiction or area*
19 *regulated. Rural counties might apply this Resolution [Ordinance], but it is written to apply to cities*
20 *where concentrations of development exist. A community may wish to guide architectural design*
21 *only within a selected district, rather than applying regulations community-wide. If design review*
22 *is intended to apply only to a portion of the city, the Resolution [Ordinance] should make clear that*
23 *there are unique features of the area being regulated, not found in other parts of the community,*
24 *that justify and warrant design review. With regard to types of land uses, it is customary to*
25 *exclude from design review detached single-family residences. Only in unique circumstances*
26 *would it be appropriate to regulate individual detached dwellings. With regard to manufactured*
27 *homes, see the compatibility standards provided in 4-4 of this model code.*

28
29
30 §5-2-4 ESTABLISHMENT OF DESIGN REVIEW BOARD

31
32 A Design Review Board is hereby established. Said board shall consist of five voting members,
33 who are residents and registered voters of the County [City], each of whom shall serve for terms
34 of three years without compensation. The Design Review Board membership shall be composed

1 of individuals with the following qualifications in addition to any other qualifications listed in this
2 section:

- 3 (a) At least one member shall be an architect with a current state registration;
- 4 (b) At least one member shall be a landscape architect with current registration; and,
- 5 (c) At least one member shall be a licensed commercial building contractor.

6

7 None of the members of the Design Review Board shall be a member of the Governing Body,
8 but one member of the Planning Commission may serve on the Design Review Board. The
9 board members shall be appointed by the Chairman of the Board of Commissioners [Mayor]
10 with the approval of the Board of Commissioners [City Council]. In case any vacancy should
11 occur in the membership of the board for any cause, the Chairman of the Board of
12 Commissioners [Mayor] shall fill such vacancy by making an appointment for the unexpired term
13 with the approval of the Board of Commissioners [City Council]. Any members of the board may
14 be removed by the Chairman of the Board of Commissioners [Mayor] for due cause or upon
15 expiration of term, subject to the approval of the Board of Commissioners [City Council].

16

17 *Commentary: It may be difficult for small cities or rural counties to find persons who meet the*
18 *professional qualifications cited above. Another challenge in small cities and rural counties is*
19 *finding a sufficient number of persons to serve on a board of this type without pay. It is not*
20 *recommended that the number of persons serving on the Design Review Board be reduced*
21 *below five members, because the next alternative, (three) might allow too much domination by*
22 *individual members and a vote of only two members to constitute a majority. If the local*
23 *government desiring to establish a Design Review Board does not believe it can find people*
24 *with the professional qualifications established in this section, it could reduce those*
25 *requirements to what may be feasible. For example, altering the minimum membership*
26 *qualification of at least three of the five members having special qualifications or expertise in the*
27 *areas of architecture, landscape architecture, building construction, or land planning. In any*
28 *event, it is advisable that the majority of Design Review Board has relevant professional*
29 *credentials. Local governments might consider appointing the Land Use Officer or designated*
30 *officer as the design review agent in lieu of a board. However, placing discretionary authority*
31 *for architectural design and appearance in a single individual is risky due to possibilities that*
32 *such discretion will be abused. If a local government places discretion for design review*
33 *approval in a single administrative official such as the Land Use Officer or designated officer,*
34 *then the Resolution [Ordinance] should provide substantial, specific design guidelines that move*

1 *the design review process more into the realm of objective standards than discretionary*
 2 *judgment. Also, when a single administrator is responsible for design review, an appeal to*
 3 *higher authority must be provided to guard against abuse of discretion.*

4
 5 §5-2-5 AUTHORITY OF THE DESIGN REVIEW BOARD

6
 7 The Design Review Board is authorized to receive, consider, grant, grant with conditions, or
 8 deny applications for design review as required by this Resolution [Ordinance]. In granting a
 9 design review approval, the Board may impose such requirements and conditions with respect
 10 to the location, construction, maintenance and operation of any use or building, in addition to
 11 those expressly set forth herein, as may be deemed necessary for the protection of adjacent
 12 properties and the public interest. Decisions of the Design Review Board shall be final unless
 13 an appeal to the Mayor and City Council is filed no later than 30 days of the decision of the
 14 Design Review Board.

15
 16 *Commentary: An appellant may file immediately after a decision under this provision and does*
 17 *not have to wait the full 30 days. The appeal would typically be heard at the next regular*
 18 *meeting or after due notice was given.*

19
 20 §5-2-6 MEETINGS OF THE BOARD

21
 22 The Design Review Board shall adopt rules of procedure as are necessary to carry out the
 23 purposes of its authority. The Board shall establish a regular meeting date and time for its
 24 meetings. However, meetings shall be held only on an as-needed basis. All meetings shall be
 25 open to the public. The Board shall appoint a secretary, who shall be the Land Use Officer or
 26 designated officer to record the minutes of its proceedings, showing the action of each board
 27 member upon each question. The Board shall keep records of its examinations and other
 28 official actions, all of which shall be filed with the County [City] Clerk and which shall be public
 29 records. The Land Use Officer or designated officer shall serve as the advisor to the Board,
 30 except in cases of an appeal from a decision of the Land Use Officer or designated officer.

1 §5-2-7 DEFINITIONS

2

3 Commentary: *This section provides a glossary of terms related to architectural design. Except for*
 4 *the term “material change in appearance,” these definitions lack a specific regulatory context*
 5 *unless the local jurisdiction also adopts the companion code provision on design guidelines (see*
 6 *Section 5-3 of this model code). It is recommended that the architectural design-related*
 7 *definitions be adopted within the design review ordinance itself, rather than as a part of the design*
 8 *guidelines module. For additional definitions, especially those related to types of land uses and*
 9 *development features, see §6-1 of this model code. Depending on the complexity of architectural*
 10 *review sought, some of the definitions in this section may not be needed.*

11

12 Amenity: Aesthetic or other characteristics that increase a development’s desirability to a
 13 community or its marketability to the public. Amenities may differ from development to
 14 development but may include such things as recreational facilities, pedestrian plazas, views,
 15 streetscape improvements, special landscaping, or attractive site design.

16 Appearance: The outward aspect that is visible to the public.

17 Appropriate: Fitting to the context of a site, neighborhood or community.

18 Architectural concept: The basic aesthetic idea of a structure, or group of structures, including
 19 the site, signs, buildings and landscape development that produces the architectural character.

20 Architectural features: Functional, ornamental or decorative features integral or attached to the
 21 exterior of a structure, including roof elements, cornices, eaves, gutters, belt courses, sills,
 22 lintels, windows, doors, transoms, fan lights, side lights, chimneys, and elements of exterior
 23 embellishment.

24 Architectural recesses: Portions of a building wall at street level which are set back from the
 25 street line so as to create articulation of the building wall and/or to provide space for windows or
 26 doors.

27 Architecture: The art and science of designing and constructing buildings adapted to their
 28 purposes, one of which is beauty.

29 Attractive: Having qualities that arouse satisfaction and pleasure in numerous, but not
 30 necessarily all, observers.

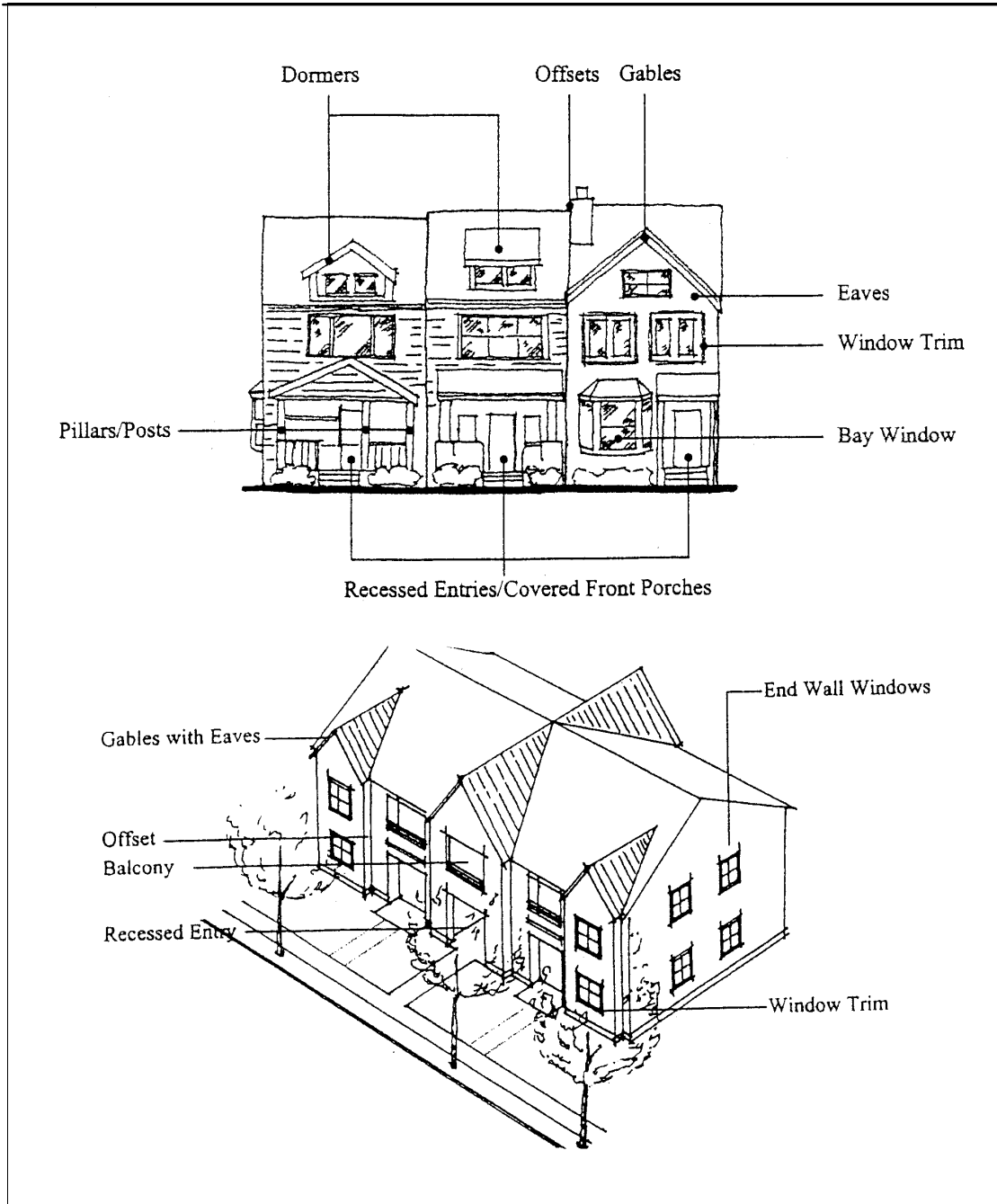
31 Awning: A hood or cover that forms a roof-like structure, often of fabric, metal, or glass,
 32 designed and intended for the protection from the weather or as a decorative embellishment,
 33 and which projects from the wall or roof of a structure over a window, walk, door, or the like.
 34 Awnings may be retractable but are most often fixed with a rigid frame.

- 1 Awning, internally illuminated: A fixed awning covered with a translucent membrane that is, in
2 whole or part, illuminated by light passing through the membrane from within the structure.
- 3 Balustrade: A railing consisting of a handrail or balusters.
- 4 Build-to line: An alignment established a certain distance from the curb or right-of-way line to a
5 line along which a building or buildings shall be built.
- 6 Building bulk. The visual and physical mass of a building.
- 7 Built environment: The elements of the environment that are generally built or made by people
8 as contrasted with natural processes.
- 9 Canopy: A roof-like structure, supported by a building and/or columns, poles, or braces
10 extending from the ground, including an awning, that projects from the wall of a building over a
11 sidewalk, driveway, entry, window, or similar area, or which may be freestanding.
- 12 Character: The nature of a building or site.
- 13 Cohesiveness: Unity of composition among elements of a structure or among structures, and
14 their landscape development.
- 15 Common area: Land within a development, not individually owned or dedicated to the public,
16 and designed for the common usage of the development. These areas include green open
17 spaces and yards and may include pedestrian walkways and complimentary structures and
18 improvements for the enjoyment of residents of the development. Maintenance of such areas is
19 the responsibility of a private association, not the public.
- 20 Compatibility: With regard to development, the characteristics of different land uses or activities
21 that permit them to be located near each other in harmony and without conflict; with regard to
22 buildings, harmony in appearance of architectural features in the same vicinity.
- 23 Continuity: The flow of elements or ideas in a non-interrupted manner.
- 24 Cornice: A horizontal element member, structural or nonstructural (i.e., molding), at the top of
25 the exterior wall or projecting outward from an exterior wall at the roofline, including eaves and
26 other roof overhang.
- 27 Design guideline: A standard of appropriate activity that will establish, preserve, or enhance the
28 architectural character and site design and function of a building, structure, or development.
- 29 Detail: A small feature or element that gives character to a building.
- 30 Dormer: A window projecting from a roof.
- 31 Eave: The projecting lower edges of a roof overhanging the wall of a building.
- 32 Eave line: The extension of a roofline beyond the vertical wall of a building.

- 1 External design feature: The general arrangement of any portion of structures or landscaping,
2 including the type, and texture of the materials, the type of roof, windows, doors, lights, signs,
3 and fixtures of portions which are open to the public view.
- 4 Façade: Typically the front of a building; however, any building square on view is considered a
5 façade (see definitions below).
- 6 Façade, front: Any façade with a main public entrance that faces one of the primary streets.
- 7 Façade, rear: Any façade without a public entry that does not face a public road.
- 8 Façade, side: Any façade without a public entry but facing a public street.
- 9 Fenestration: The organization of windows on a building wall.
- 10 Footprint: The total square footage on the ground of all buildings and structures on a site,
11 measured from the outside of all of the exterior walls and supporting columns. It may include
12 attached or detached garages, covered carports, roofed or unroofed porches and decks, and
13 accessory structures, if such are defined within the design ordinance as contributing to footprint
14 calculations.
- 15 Gable: The triangular upper portion of an end wall, underneath a peaked roof.
- 16 Grade, natural: The existing grade or elevation of the ground surface that exists or existed prior
17 to man-made alterations, such as grading, grubbing, filling, or excavating.
- 18 Habitat: The physical location or type of environment, in which an organism or biological
19 population lives or occurs.
- 20 Harmony: A quality that represents an attractive arrangement and agreement of parts of a
21 composition, as in architectural elements.
- 22 Hedge: A row of closely planted shrubs, bushes, or any kind of plant forming a boundary.
- 23 Landscaping: The area within the boundaries of a given lot that consists of planting materials,
24 including but not limited to, trees, shrubs, ground covers, grass, flowers, decorative rock, bark,
25 mulch, and other similar materials.
- 26 Massing the overall visual impact of a structure's volume; a combination of height and width,
27 and the relationship of the heights and widths of the building's components. (See Figure 5-2-
28 7.1).
- 29

1
2

Figure 5-2-7.1
Selected Architectural Details.



3
4
5
6

Source: Oregon Transportation and Growth management Program 1999.

- 1 Material change in appearance: A change that will affect either the exterior architectural or
2 environmental features of a building, structure, land use activity, or development site. A material
3 change in appearance shall at minimum include the following: the construction of a new building
4 or structure; the reconstruction or alteration of the size, shape, or façade of an existing building
5 or structure, including any of its architectural elements or details; commencement of excavation
6 for construction purposes; and installation of freestanding walls, fences, steps, and pavements,
7 or other appurtenant features.
- 8 Modularity: Design composition comprised of a rhythmic organization of parts.
- 9 Modulation: A measured setback or offset.
- 10 Natural drainage: Channels formed in the existing surface topography of the earth prior to
11 changes made by unnatural causes.
- 12 Natural features: Components and processes present or produced by nature, including soil
13 types, geology, slopes, vegetation, surface water, drainage patterns, aquifers, climate,
14 floodplains, aquatic life, and wildlife.
- 15 Parapet: A low retaining wall at the edge of or along a roof.
- 16 Pedestrian-oriented development: Development designed with an emphasis primarily on the
17 street sidewalk and on pedestrian access to the site and building, rather than auto access and
18 parking areas. The building is generally placed close to the street and the main entrance is
19 oriented to the street sidewalk. There are generally windows or display cases along building
20 facades that face the street.
- 21 Portico: An exterior appendage to a building, normally at the entry, usually roofed.
- 22 Proportion: Balanced relationship of parts of a building, signs and other structures, and
23 landscape to each other and to the whole.
- 24 Ridge: The peak of a roof. Also, the horizontal member at the peak into which the rafters join.
- 25 Roof: The cover of a building, including the eaves and similar projections.
- 26 Roof, flat: A roof having no pitch or a pitch of not more than 2:12.
- 27 Roof, pitched: A shed, gabled, or hipped roof having a slope or pitch of at least two foot rise for
28 each 12 feet of horizontal distance.
- 29 Scale: Proportional relationships of the size of parts to one another and to humans.
- 30 Scenic vista: A visual panorama with particular scenic value.
- 31 Street furniture: Those features associated with a street that are intended to enhance the
32 street's physical character and use by pedestrians, such as benches, trash receptacles, planting
33 containers, pedestrian lighting, kiosks, etc.

1 Street hardware: Objects other than buildings or street furniture that are part of the streetscape.
 2 Examples are: non-pedestrian street light fixtures, utility poles, traffic lights and their fixtures, fire
 3 hydrants, etc.

4 Streetscape: The appearance and organization along a street of buildings, paving, plantings,
 5 street hardware, street furniture, and miscellaneous structures.

6 View corridor: The line of sight identified as to height, width, and distance of an observer
 7 looking toward an object.

8 Viewshed: The area within view from a defined observation point.

9

10 §5-2-8 DESIGN REVIEW AND APPROVAL REQUIRED

11

12 No building or structure shall be erected (nor shall any material change in the exterior
 13 appearance of any existing building, structure, or activity be allowed), until and unless a design
 14 review application has been made to the Land Use Officer or designated officer and approved
 15 by the design review board in accordance with the provisions of this Resolution [Ordinance].
 16 Prior to any material change in appearance, the Land Use Officer or designated officer must
 17 issue a certificate of design review approval, after approval by the design review board. No
 18 building permit or land use permit requiring review and approval by the design review board
 19 shall be issued by the Land Use Officer or designated officer, unless the permit has received
 20 design review approval from the design review board and a certificate of design review approval
 21 has been issued by the Land Use Officer or designated officer or designated officer.

22

23 §5-2-9 EXEMPTION FOR MINOR CHANGES

24

25 Where the requested change, a minor alteration, the Land Use Officer or designated officer may
 26 waive any of the information requirements of this Resolution [Ordinance] for design review
 27 application. The Land Use Officer or designated officer may consult with the chairman of the
 28 design review board in making exemptions pursuant to this section.

29

30 §5-2-10 PRE-APPLICATION CONFERENCE

31

32 All applicants for design review and approval are strongly encouraged but not required to
 33 schedule a pre-application conference with the Land Use Officer or his or her designee. A pre-
 34 application conference is a time where applicants can familiarize themselves with the

1 application requirements and processes and gain preliminary input from staff as to the suitability
2 of the proposed material change in appearance. Typically, the board is not represented at pre-
3 application conference, although this does not preclude one or more members of the board from
4 attending and participating in a pre-application conference.

5
6 §5-2-11 APPLICATION REQUIREMENTS

7
8 All applications for design review approval shall be made as required by the Land Use Officer or
9 designated officer and shall at minimum contain the following information:

10
11 §5-2-11.1 Elevation Drawings, Color and Material Samples. Every application or review
12 involving the construction of a new building or structure, alterations, and/or additions to existing
13 structures shall be accompanied by exterior elevation drawings, drawn to scale and signed by
14 an architect, engineer or other appropriate professional. These shall be submitted in sufficient
15 number of copies as required by the Land Use Officer or designated officer. Said exterior
16 elevation drawings shall clearly show in sufficient detail the exterior appearance and
17 architectural design of proposed change(s) to buildings or structures and new construction, as
18 applicable. Each application shall also indicate proposed materials, textures and colors, and
19 provide samples of materials and colors.

20
21 §5-2-11.2 Photographs. All applications shall be accompanied by photographs of all
22 sides of the existing building(s) or structure(s) affected, and of adjoining properties.
23 Photographs shall be submitted in printed copy and in digital form unless otherwise specified by
24 the Land Use Officer or designated officer.

25
26 §5-2-11.3 Site Plan and Landscaping Plan. For every application, a plot plan or site
27 plan, drawn to scale, shall be submitted which shows all improvements affecting appearances,
28 such as walls, walks, terraces, plantings, tree protection areas, accessory buildings, signs,
29 lights, and other elements.

30
31 §5-2-11.4 Fee. A fee, as may be established by the Board of Commissioners [Mayor
32 and City Council], shall be submitted for said application.

33

1 §5-2-11.5 Additional Information. The Land Use Officer may reasonably require any
2 additional information as or designated officer shall be submitted with the application.

3
4 §5-2-12 CRITERIA FOR ACTING ON DESIGN REVIEW APPLICATIONS

5
6 In passing on applications for design review and approval, the design review board shall
7 consider the appropriateness of any proposed material change in appearance in the context of
8 the following criteria:

- 9 (a) Consistency with any adopted design guidelines for the type of development, and/or the
10 proposed use.
- 11 (b) The nature and character of the surrounding areas, and the consistency and
12 compatibility of the proposed application with such nature and character.
- 13 (c) The general design, character and appropriateness of design, scale of buildings,
14 arrangement, texture, materials, and colors of the structure in question and the relation
15 of such elements to similar features of structures in the immediate surrounding area,
16 site, and landscaping.
- 17 (d) The board shall not consider interior arrangement or use as having any effect on exterior
18 architectural features.
- 19 (e) The following are other grounds for considering a design inappropriate.
- 20 (1) Character foreign to the area.
- 21 (2) Arresting and spectacular effects.
- 22 (3) Violent contrasts of material or color, or intense or lurid colors.
- 23 (4) A multiplicity or incongruity of details resulting in a restless and disturbing
24 appearance.
- 25 (5) The absence of unity and coherence in composition not in consonance with the
26 density and character of the present structure or surrounding area.

27
28 §5-2-13 ACTION BY DESIGN REVIEW BOARD

29
30 A decision by the board on a design review application shall be made within 45 days from the
31 date a complete application is received. The design review board shall approve the application
32 and direct the Land Use Officer or designated officer to issue a certificate of design approval if it
33 finds that the proposed material change in appearance would not have a substantial adverse
34 effect on the aesthetic or architectural significance and value of adjacent and nearby properties,

1 and if the board finds the application is consistent with the criteria for judging applications for
2 design review and approval as established in this Resolution [Ordinance]. The board may deny
3 an application for a design review and approval when in the opinion of the board such proposed
4 change would be detrimental to the character of the area. In the event the board rejects an
5 application, it shall state its reason(s) for doing so and shall transmit a record of such action and
6 the reason(s) for rejection, in writing, to the applicant. The board may suggest alternative
7 courses of action it thinks proper and conditionally approve the application if the applicant
8 agrees to the conditions, or the Board may not approve the application as submitted. The
9 applicant, if he or she so desires, may make modifications to the plan(s) and may resubmit the
10 application. The denial of an application for a design review and approval shall be binding on
11 the Land Use Officer or designated officer and, in such a case of denial, no building permit shall
12 be issued.

13

14 §5-2-14 CHANGES AFTER BOARD APPROVAL

15

16 After the issuance of a certificate of design review and approval, no material change in the
17 appearance shall be made or permitted to be made by the owner or occupant thereof, unless
18 and until all requirements of this Resolution [Ordinance] are met.

19

20 §5-3-15 APPEALS

21

22 Any person adversely affected by any determination made by the design review board relative
23 to the issuance or denial of a certificate of design review and approval may appeal such
24 determination to the Mayor and City Council. For purposes of this section, an adversely
25 affected person is one who demonstrates that his or her property will suffer special damage as a
26 result of the decision complained of, rather than merely some damage that is common to all
27 property owners and citizens similarly situated. The appeal must be filed within 30 days of the
28 decision of the board and must be made by petition delivered to the Land Use Officer or
29 designated officer. The appeal shall be on the application exactly as presented to the board.
30 The Mayor and City Council may approve, modify and approve, or reject the determination
31 made by the board if it finds that the board abused its discretion in reaching its decision.
32 Appeals from decisions of the Mayor and City Council made pursuant to this section may be
33 taken to superior court of _____ County in the manner provided by law.

34

1 §5-2-16 ENFORCEMENT

2
3 After a certificate of design review and approval has been issued, the Land Use Officer or
4 designated officer shall from time to time inspect the construction approved by such
5 authorization. The city, through the Land Use Officer, designated officer, or City Attorney, shall
6 be authorized to institute any appropriate action or proceeding in a court of competent
7 jurisdiction to prevent any material change in the appearance, except those changes made in
8 compliance with the provisions of this Resolution [Ordinance], or to prevent any illegal act or
9 conduct with respect to this Resolution [Ordinance].

10

11 References:

12

13 *Jerry Weitz & Associates, Inc. 2001. Development and Design Guidelines for the Georgia 400*
14 *Corridor, Dawson County, Georgia. Dawsonville: Dawson County Department of Planning.*

15

16 *OTAK, Inc. 1999. Model Development Code and User's Guide for Small Cities. Salem:*
17 *Oregon Transportation and Growth Management Program.*

18

1
2
3 **§5-3 DESIGN GUIDELINES**

4
5 CONTENTS

6
7 §5-3-1 PURPOSE AND INTENT
8 §5-3-2 SITE PLANNING
9 §5-3-3 PROTECTING THE NATURAL ENVIRONMENT
10 §5-3-4 SITE GRADING
11 §5-3-5 DRAINAGE
12 §5-3-6 RETAINING RURAL RESIDENTIAL CHARACTER
13 §5-3-7 ARCHITECTURAL DESIGN
14 §5-3-8 BUILDING MATERIALS, FINISHES, AND COLORS
15 §5-3-9 AUTOMOBILE-RELATED ESTABLISHMENTS
16 §5-3-10 INDUSTRIAL DISTRICTS
17 §5-3-11 ACCESS
18 §5-3-12 EXTERIOR LIGHTING
19 §5-3-13 PARKING LOT LANDSCAPING
20

21 **§5-3 DESIGN GUIDELINES**

22
23 *Comment on Applicability: If a local government establishes a design review board, design*
24 *guidelines, specific to the local jurisdiction, should be prepared, adopted, and applied by the*
25 *board. In the absence of guidelines specific to a particular jurisdiction, the following design*
26 *guidelines might be appropriate for use by local governments. Note that the guidelines pertain*
27 *to a variety of topics, including lighting, industrial districts, drainage, and architectural design.*
28 *Local governments should determine which types of guidelines are applicable in their*
29 *jurisdiction and choose only those that apply in the community.*

30
31 *Comment on Regulations Versus Guidelines. This module is intended to provide guidelines*
32 *rather than regulations. As such, compliance is voluntary rather than mandatory. They should*
33 *be applied in individual instances but should be considered variable in the judgment of the*
34 *board or officer making the decision on the design application.*

35
36 §5-3-1 PURPOSE AND INTENT
37

38 Left to its own workings, the real estate development industry is unlikely to produce
39 development that is coordinated with adjacent buildings and uses. These design guidelines
40 provide a set of criteria to evaluate the appropriateness of proposed changes to individual
41 buildings, properties, and land use activities in a designated area or community. The ultimate

1 goal of design guidelines is to direct physical and visual changes to create an architecturally and
 2 physically cohesive area of specified character. Design guidelines are meant to create a strong
 3 identity for the area as a distinctive place to shop, visit, work, and live. Design guidelines are a
 4 means of bringing together the interests of individual property owners and the general public to
 5 achieve mutual benefits.

6
 7 Without guidance, future developments will likely be self-contained, compartmentalized, and
 8 without coherence and relationship with other developments. Without guidance, developers
 9 are unlikely to interrelate streets, buildings, human uses, and natural systems in a manner that
 10 results in a coordinated, pleasing, and sustainable-built environment across property lines.

11
 12 These guidelines are intended to help site planners and urban designers look beyond their
 13 individual buildings and single parcels of land, to shape the physical features of their
 14 development in a manner consistent with preferred principles of community design. The
 15 guidelines seek to help unify what would otherwise become a disparate and irreconcilable
 16 collection of land uses and architectural traditions.

17

18 §5-3-2 SITE PLANNING

19

20 The site plan, building design, and landscaping of new development should achieve high quality
 21 and appearance that will enhance and be compatible with the character of the surrounding area.

22

23 Site planning and design of projects proposed (adjacent to dissimilar land uses) should carefully
 24 address the potential undesirable impacts on existing uses. These impacts may include traffic,
 25 parking, circulation and safety issues, light and glare, noise, odors, dust control and security
 26 concerns.

27

28 *Commentary: This model code provides regulations that address some of these off-site*
 29 *impacts. For more specific and stronger provisions regarding off-site impacts, see Section 3.1*
 30 *of this model code.*

31

32

1 §5-3-3 PROTECTING THE NATURAL ENVIRONMENT

2

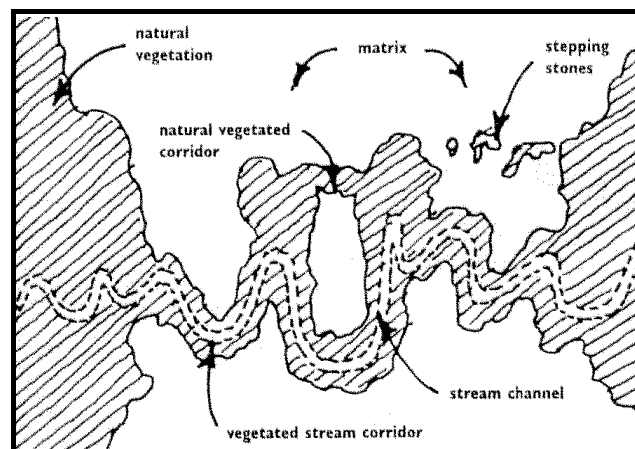
- 3 (a) Evaluate the proposed development's compatibility with the existing environment to
 4 determine the limitations and capabilities of the site for development.
- 5 (b) Conserve and protect natural resources, including air quality, trees, natural vegetation,
 6 existing topography, streams, creeks, wetlands, watersheds, water quality, and wildlife
 7 habitat. Development should be limited to a level that does not exceed the capabilities
 8 and requirements of a healthy environment.
- 9 (c) Significant site features such as habitats, natural ground forms, existing site vegetation,
 10 large rock outcroppings, water, and significant view corridors should be identified and
 11 incorporated into development plans. Where possible, a diversity of habitats is
 12 preferred.
- 13 (d) Riparian zones, stream corridors, and wetlands should be protected for their wildlife
 14 habitat and other values. Development plans for these areas should treat these
 15 components as assets. A continuous, connected, natural vegetative corridor should be
 16 preserved along all creek and stream corridors to provide stream quality protection and
 17 for the efficient movement of wildlife throughout the area. No fill, removal, or
 18 modification of a riparian area should take place, unless there is no reasonable and
 19 feasible alternative. The alteration or improvement of significant natural resource areas
 20 where permitted, should ensure that potential losses are mitigated and best
 21 management practices are employed to minimize permanent damage. (See Figure 5-3-
 22 3.1).

23

Figure 5-3-3.1

24

Retention of Vegetated Stream Corridor



25

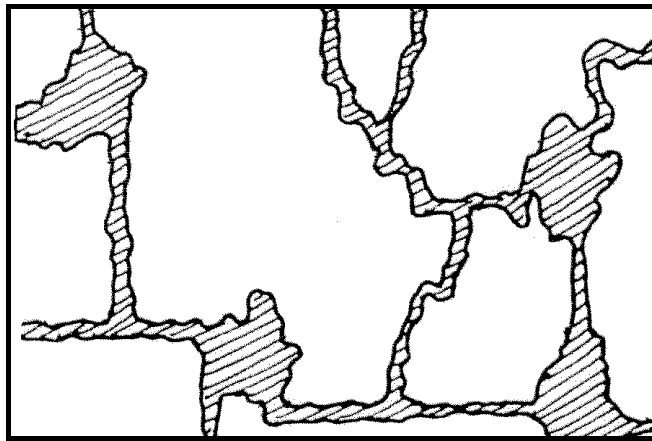
26

Source: Dramstad, Olson and Forman 1996.

- 1 (e) Existing vegetation should be retained to the maximum extent possible. Clearing of
- 2 native vegetation should be limited to that required for the provision of essential
- 3 purposes (i.e., access, building, sewage disposal, etc.). Where appropriate, existing
- 4 native vegetation should be enhanced with plantings of the same variety.
- 5 (f) Preserve patches of high-quality habitat, as large and circular as possible, feathered at
- 6 the edges, and connected by wildlife corridors. (See Figure 5-3-3.2).

Figure 5-3-3.2

Habitat Patch Preservation and Connection



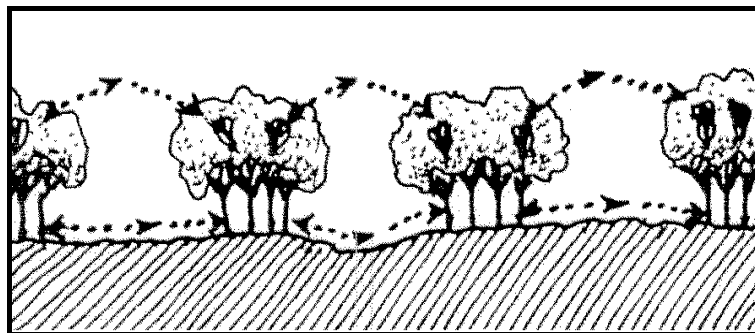
Source: Dramstad, Olson and Forman 1996.

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 20

When continuous greenspace corridors cannot be provided or must be broken up for road access or other valid reasons, patches should be retained as “stepping stones” for wildlife corridors. (See Figure 5-3-3.3).

Figure 5-3-3.3

Stepping Stones



Source: Dramstad, Olson and Forman 1996.

1 §5-3-4 SITE GRADING

2

- 3 (a) Developments should be designed to fit the existing contours and landform of the site
 4 and to minimize the amount of earthwork. Excavation and earthwork should be kept to a
 5 minimum to reduce visual impacts and erosion. Where cut and fill is required, balancing
 6 the cut and fill is highly encouraged.
- 7 (b) Abrupt or unnatural-appearing grading is strongly discouraged. Avoid the creation of
 8 harsh, easily eroded banks and cuts.
- 9 (c) The height and length of retaining walls should be minimized and screened with
 10 appropriate landscaping. Tall, smooth-faced concrete retaining walls should be avoided
 11 in highly visible areas. Terracing should be considered as an alternative to the use of tall
 12 or prominent retaining walls, particularly in highly visible areas on hillsides.
- 13 (d) Disturbed areas that are not used for roads, buildings, or other auxiliary uses should be
 14 replanted.

15

16 §5-3-5 DRAINAGE

17

- 18 (a) Natural on-site drainage patterns should be used where practicable. Detain runoff with
 19 open, natural drainage systems where possible.
- 20 (b) Design man-made lakes and stormwater ponds for maximum habitat value and/or to
 21 serve as amenity features. (See Figure 5-3-5.1).

22

23

Figure 5-3-5.1

24

Drainage Feature as an Amenity

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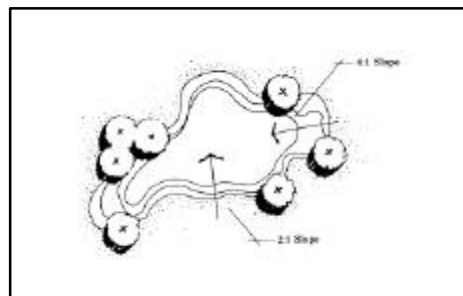
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1 §5-3-6 RETAINING RURAL RESIDENTIAL CHARACTER

2

- 3 (a) Where possible, barns and other agricultural outbuildings in reasonably good condition
4 and which contribute to the rural character of the area should be retained on the site
5 (see Figure 5-3-6.1).

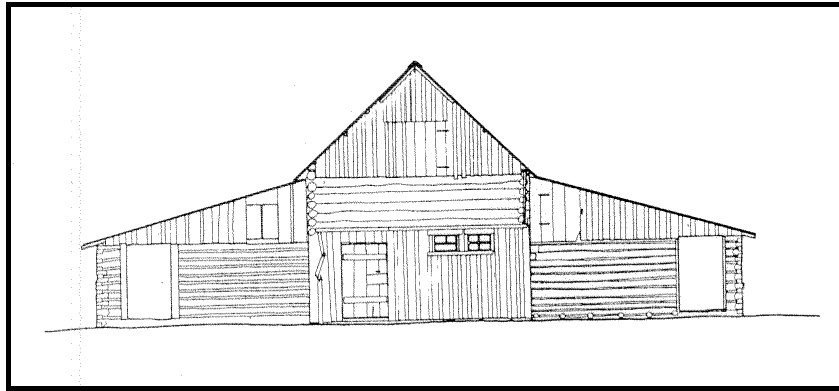
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Figure 5-3-6.1

Retention of Agricultural Structures



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Source: Stokes et al. 1989.

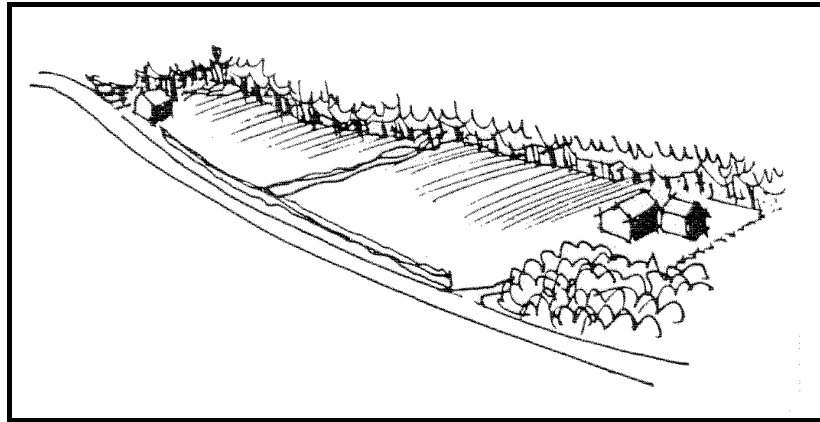
- 12 (b) Dwellings and driveways should not be prominent visual features within the landscape
13 along any existing rural road. Dwellings and associated outbuildings along existing rural
14 roads should have a low visual impact. When a rural residential dwelling is proposed in
15 an area with an open field or area with agricultural character, it should be sited at the
16 edge of the field if possible to preserve the view of the open field, pasture, or agricultural
17 scene (see Figure 5-3-6.2).

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Figure 5-3-6.2
Site Dwellings at Edges of Fields



Source: Craighead 1991.

(c) In siting rural residential dwellings, gouging out (i.e., clearcutting) building sites along the road (Figure 5-3-6.3) is strongly discouraged. Instead, rural dwelling sites should leave a natural buffer along the road and houses should be sited at the edge of clearings rather than in the center (Figure 5-3-6.4).

Figure 5-3-6.3
Clearcutting Discouraged

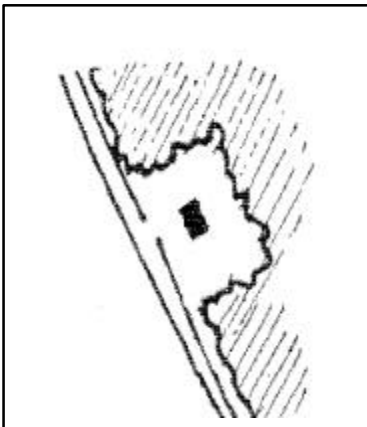
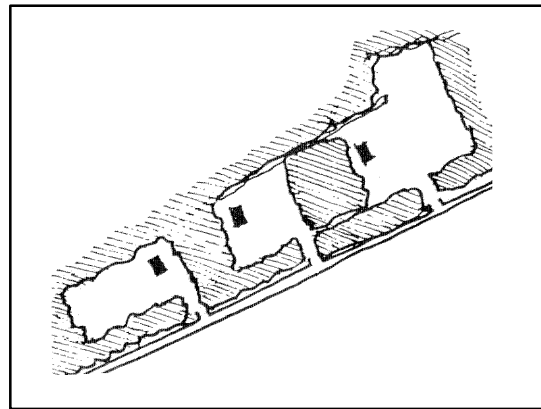


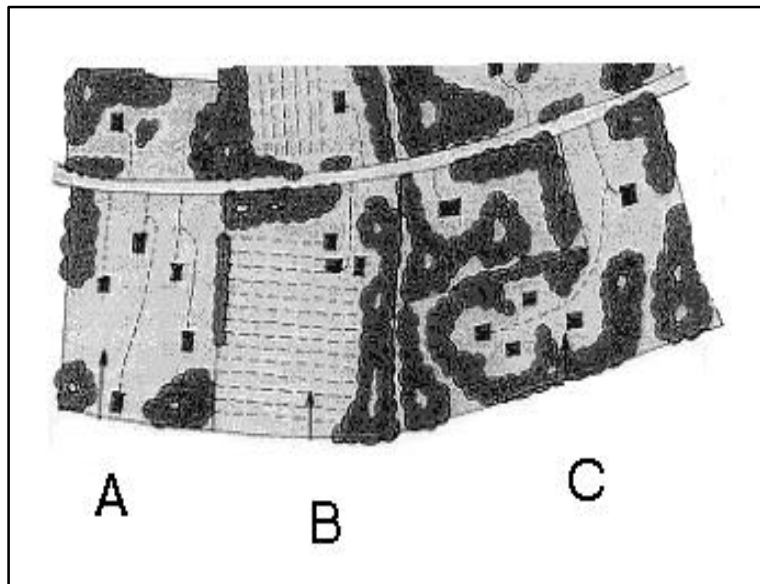
Figure 5-3-6.4
Dwellings Buffered



Source: Craighead 1991.

- 1 d) Dwellings sited within an open field are discouraged (see area A in Figure 5-3-6.5). The
 2 location of dwellings in Area B of the illustration improves on the locations shown in area
 3 A, but the residences are still visible from the road. In the bottom part of area C (Figure
 4 5-3-6.5), dwellings are clustered and screened from view. In the top part of area C, the
 5 road should be located at the edge of the clearing rather than in the middle of the field,
 6 and the dwellings should be located closer to the tree line.
 7

8 Figure 5-3-6.5
 9 Siting Dwellings in Rural Areas



22 Source: Arendt 1994.

23
24 §5-3-7 ARCHITECTURAL DESIGN

- 25
26 (a) Architectural design should be compatible with the developing character of the
 27 neighboring area. Design compatibility includes complementary building style, form,
 28 size, color, materials, and detailing.
 29 (b) The designer should consider each of the following contexts as part of the design
 30 process:
 31 (1) Size (the relationship of the project to its site);
 32 (2) Scale (the relationship of the building to those around it);
 33 (3) Massing (the relationship of the building's various parts to each other);
 34 (4) Fenestration (the placement of windows and doors);
 35

- 1 (5) Rhythm (the relationship of fenestration, recesses and projections);
 2 (6) Setback (in relation to setback of immediate surroundings);
 3 (7) Materials (their compatibility with the historic district); and,
 4 (8) Context (the overall relationship of the project to its surroundings).

5

6 Commentary: For definitions, see Section 5-2 of this model code.

7

- 8 (c) Efforts to coordinate the height of buildings and adjacent structures are encouraged; this
 9 is especially applicable where buildings are located very close to each other. It is often
 10 possible to adjust the height of a wall, cornice, or parapet line to match that of an
 11 adjacent building. Similar design linkages, such as window lines, should be placed in a
 12 pattern that reflects the same elements on neighboring buildings.
- 13 (d) Diversity of architectural design should be encouraged. "Theme" or stylized architecture
 14 which is characteristic of a particular historic period or trend is discouraged, unless the
 15 existing building or site is historically important to the district or necessary for
 16 architectural harmony.
- 17 (e) Multiple buildings on the same site should be designed to create a cohesive visual
 18 relationship between the buildings.
- 19 (f) Long or continuous wall planes shall be avoided, particularly in pedestrian activity areas,
 20 where buildings should exhibit more detail and elements appropriate for close range
 21 pedestrian view. Outside of pedestrian retail districts, building surfaces over two stories
 22 high or 50 feet in length should be relieved with changes of wall plane (i.e., recesses and
 23 projections, see Figure 5-3-7.1) that provide strong shadow or visual interest.

24

25

Figure 5-3-7.1

26

Recesses and Projections

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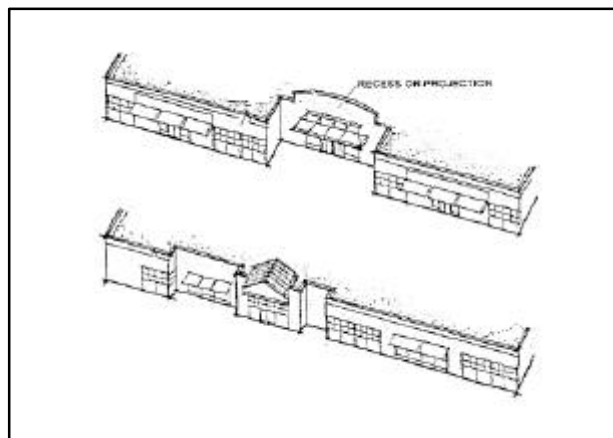
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1

2 §5-3-8 BUILDING MATERIALS, FINISHES, AND COLORS

3

- 4 (a) All sides of a building may have an impact on its surroundings and should be considered
5 for treatment with an architectural finish of primary materials (i.e., brick, wood and
6 stone), unless other materials demonstrating equal or greater quality are used. As a
7 general rule, front facades should be at least 80 percent brick and stone. Side facades
8 should be at least 50 percent brick and stone. Rear facades do not have a minimum
9 requirement for primary materials and can consist entirely of secondary materials (e.g.,
10 stucco). Tertiary materials (i.e., wood and metal) should be used for decorative
11 elements and trim only.
- 12 (b) Exterior building materials on the primary structure should not include smooth-faced
13 concrete block, tilt-up concrete panels, or prefabricated steel panels.
- 14 (c) The following types of building materials should not be used: highly reflective, shiny, or
15 mirror-like materials; mill-finish (non-colored) aluminum metal windows or door frames;
16 exposed, unfinished foundation walls; exposed plywood or particle board; and
17 unplastered, exposed concrete masonry blocks.
- 18 (d) Material or color changes generally should occur at a change of plane. Piecemeal
19 embellishment and frequent changes in material should be avoided.
- 20 (e) A horizontal accent stripe (e.g., a foot wide stripe of different color, see Figure 5-3-8.1)
21 should be used to help reduce the monotonous color and break up the appearance of
22 large building walls.

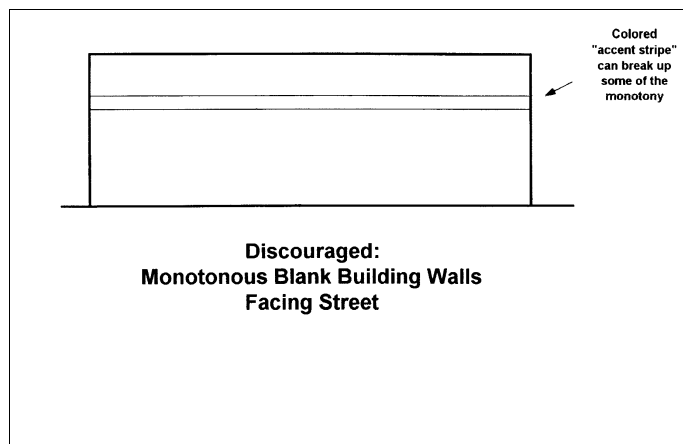
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Figure 5-3-8.1
Monotonous Blank Building Walls

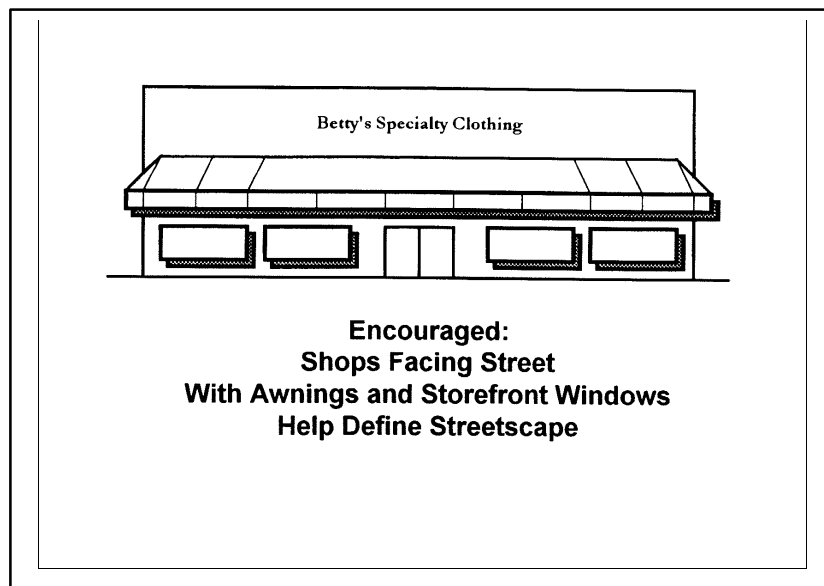


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- 1
- 2 (f) Facade colors should be low reflectance, and subtle, neutral, or earth-tone colors. High-
- 3 intensity colors, metallic colors, black, or fluorescent colors should not be used. Building
- 4 trim and accent areas may feature brighter colors, including primary colors, provided that
- 5 the width of the trim shall not exceed four feet.
- 6 (g) Building colors should be carefully chosen so that each building color complements that
- 7 of its neighbors. Colors can be classified as the “base” color (used on the majority of the
- 8 building surface), “trim” color (used on the window trim, fascia, balustrades, and posts),
- 9 and “accent” color (used on signs, awnings, and doors). The base color should consist
- 10 of more subdued earth tones or brick shades. Trim colors should have contrasting
- 11 lighter or darker shade than the base color. If natural brick is used, it should not be
- 12 painted.
- 13 (h) The use of awnings on buildings is recommended to provide much needed protection
- 14 from sun, wind, and rain, and to improve aesthetics of the building exterior. (See Figure
- 15 5-3-8.2).

17 Figure 5-3-8.2

18 Awnings and Storefront Windows



- 32 (i) It is recommended that awnings be constructed with a durable frame, covered by a
- 33 canvas material. Awnings that are backlit through translucent materials may be
- 34 acceptable but are not particularly encouraged. Aluminum and other metal canopies are

- 1 acceptable in most instances, particularly when integrated into shopping center designs.
 2 Flameproof vinyl, canvas or metal awnings and canopies may be used.
- 3 (j) Solid colors are preferred over striped awnings, but striping is permitted if colors
 4 complement the character of the structure or group of buildings.
- 5 (k) Awnings are encouraged for first floor retail uses to provide architectural interest and to
 6 encourage pedestrian activity. Where awnings are used, they should be designed to
 7 coordinate with the design of the building and any other awnings along the same block
 8 face.
- 9 (l) The design of fences and walls shall be compatible with the architecture of the main
 10 building(s) and should use similar materials. All walls or fences 50 feet in length or
 11 longer, and four feet in height or taller, should be designed to minimize visual monotony
 12 by changing plane, height, material or material texture, or significant landscape massing.
 13 Chain link fencing is discouraged. Use of special fencing design or materials should be
 14 discussed in cases where site security is paramount. If used, chain link fences should
 15 be vinyl coated (black or green colored vinyl encouraged).
- 16 (m) All garbage dumpsters and other similar areas devoted to the storage of waste materials
 17 should be screened on three sides of said dumpster or area, with a minimum six-foot
 18 high solid wooden fence or a wall constructed of materials substantially similar in
 19 appearance to the building on site. In addition, said dumpster areas should be gated on
 20 the fourth side with a material that provides opaque screening.

21

22 §5-3-9 AUTOMOBILE-RELATED ESTABLISHMENTS

23

- 24 (a) Auto service facilities should not have their service bays facing the street, and parking
 25 for all uses should be located to the side or rear of the building rather than in the front
 26 yard. Service areas and/or service bays should be screened or sited so they are not
 27 visible from the street.
- 28 (b) Vehicles under repair should be kept either inside a structure or in an area that is
 29 screened from view from the street.
- 30 (c) Service areas shall provide adequate queuing space that does not impede vehicle
 31 circulation through the site or result in vehicles stacking into the street.
- 32 (d) Perimeter and security fencing, when needed, should be constructed of attractive
 33 materials that are compatible with the design and materials used throughout the project.

1 Razor wire or electric fencing should not be used, and chain link fencing is discouraged,
2 but if used, should be vinyl coated.

3 (e) Separate structures on the site (i.e., canopy, car wash, cashier's booth, etc.) should
4 have consistent architectural detail and design elements to provide a cohesive project
5 site. If a car wash is incorporated into the project, it should be well integrated into the
6 design. The car wash opening should be sited so that it is not directly visible as the
7 primary view from the street into the project site.

8 (f) Where permitted, the outside storage or display of vehicles, equipment, and
9 merchandise to be rented, leased, or sold, including manufactured home sales, should
10 be visible along no more than 30 percent of the frontage of the property abutting a
11 highway or street, excluding approved driveway entrances and exits. Screening may be
12 accomplished by using a natural vegetative buffer; a building; an earthen berm; a 100
13 percent opaque, solid wooden fence or wall; or a combination of these screening
14 methods. The use of low-lying landscaping that does not screen the display areas from
15 the public view right-of-way would not comply with this guideline.

16
17 §5-3-10 INDUSTRIAL DISTRICTS

18
19 (a) Industrial districts are typically laid out in a gridiron of large blocks, 1,000 to 2,000 feet
20 long and 400 to 1,000 feet deep. Road right-of-ways should be 80 to 100 feet for major
21 roads and 60 feet for secondary roads. Curves and radii shall be large enough to
22 accommodate large trailer trucks.

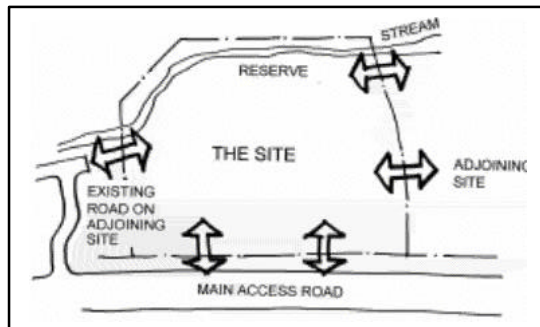
23 (b) All areas devoted to the outside storage of vehicles, merchandise, and/or equipment that
24 are not intended for display, or for public rent, lease, or sale, shall be screened from
25 view from the right-of-way of the highway or public road along the entire property
26 frontage, except in areas where access crossings have been approved. A view from the
27 public right-of-way shall not be deemed to comply with this requirement.

28
29 §5-3-11 ACCESS

30
31 (a) The entire parcel, rather than simply a particular project, shall be considered in
32 formulating and approving access plans. (See Figure 5-3-11.1).
33

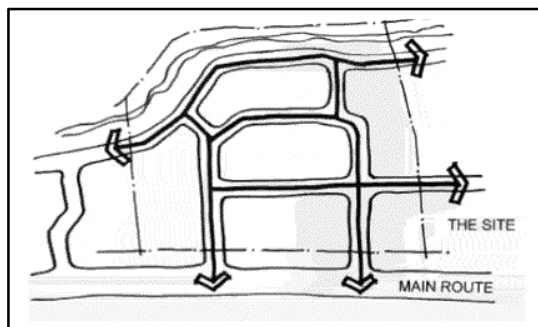
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Figure 5-3-11.1
Access Considerations



(b) The street layout within planned communities should provide as many direct links to adjacent sites and surrounding roads as practical. (See Figure 5-3-11.2).

Figure 5-3-11.2
Connectivity

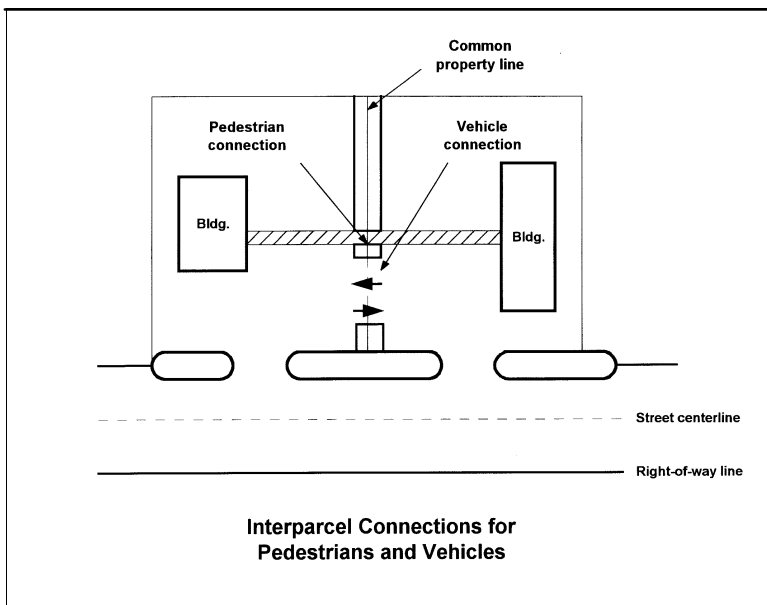


(c) The street pattern should be designed to allow easy direct access to and from various origins and destinations.

- 1 (d) Interparcel site access, for pedestrians as well as vehicles, should be provided to
 2 adjacent properties, when land uses are compatible. (See Figure 5-3-11.3).

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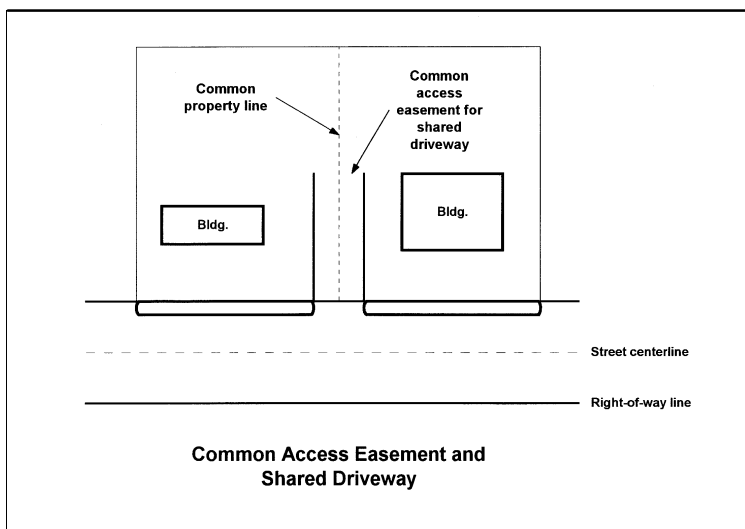
Figure 5-3-11.3
 Interparcel Connections



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 11

- (e) Common access easements for shared driveways along state highways and busy
 streets are strongly encouraged. (See Figure 5-3-11.4).

Figure 5-3-11.4



12
 13

- 1 (f) If at all feasible with the development plan, service functions (e.g., deliveries,
2 maintenance activities) shall be integrated into the circulation pattern in a manner that
3 minimizes conflicts with vehicles and pedestrians. Commercial and industrial
4 developments should have service and loading areas separate from main circulation and
5 parking areas.

6

7 §5-3-12 EXTERIOR LIGHTING

8

9 *Commentary: Local governments should consider requiring, rather than simply encouraging,*
10 *cutoff luminaires. For lighting regulations, see Section 3.1 of this model code.*

11

12 The following are exterior lighting recommendations consistent with the requirements as
13 specified in this code and illustrated in Figure 5-3-12.1.

14 (a) Exterior lighting should be architecturally compatible with the building style, material, and
15 colors. Galleria style and shoebox styles (cutoff fixtures) are preferred over cobra type
16 light fixtures and directional floodlights.

17 (b) Exterior lighting of the building and site should be designed so that light is not directed
18 off the site, and the light source is shielded from direct offsite viewing. All outdoor light
19 fixtures should be fully shielded or be designed or provided with light angle cut-offs, so
20 as to eliminate uplighting, spill light, and glare.

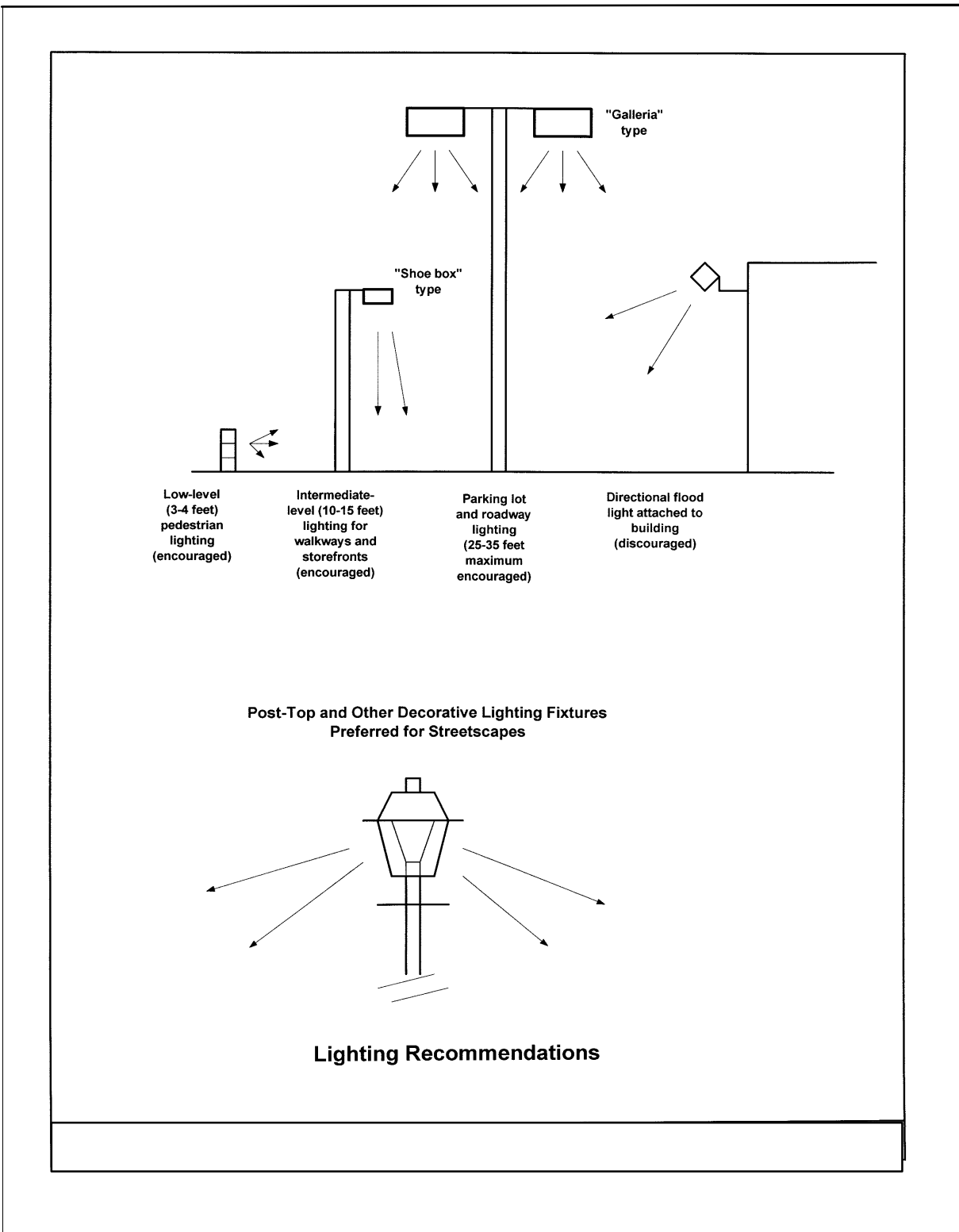
21 (c) Excessive illumination of signage, building, or site should be avoided. Roof lighting,
22 down-lighting washing the building walls, and illuminated awnings are all strongly
23 discouraged.

24 (d) Fixture mounting height should be appropriate for the project and the setting. The
25 mounting height of fixtures in smaller parking lots or service areas should not exceed 20
26 feet, with lower mounting heights encouraged, particularly where adjacent to residential
27 areas or other sensitive land uses. Use of low, bollard-type fixtures that are three to four
28 feet in height, are encouraged as pedestrian area lighting.

29

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Figure 5-3-12.1



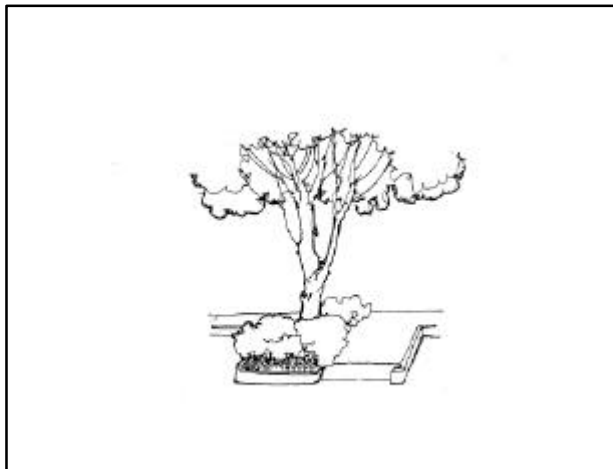
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1 §5-3-13 PARKING LOT LANDSCAPING

- 2
- 3 (a) Parking lots that face a street should be partially screened from the street by a low
 4 fence, wall, hedge, berm, or vegetated buffer. If a parking lot fronts an arterial or major
 5 collector street, and is of such a size that it dominates views from the fronting
 6 arterial/collector street and detracts from the overall streetscape and community
 7 appearance, then the parking lot should be screened or buffered with vegetation in its
 8 entirety from view along the fronting roadway(s) within the required right-of-way frontage
 9 planting strip.
- 10 (b) Landscape islands containing at least one overstory tree, or two understory trees
 11 planted in each landscape island, should be provided within parking areas with 10 or
 12 more spaces and located in such a manner so as to divide and break up the expanse of
 13 parking areas (see Figure 5-3-13.1). One landscape island should be located at the end
 14 of each row of parking spaces in the interior of the parking lot. In addition, one parking
 15 lot landscape island should also be provided for every 150 linear feet of parking spaces,
 16 whether at the periphery or in the interior of the parking lot. Each landscape island
 17 should be of sufficient shape and size so that one overstory tree or two understory trees
 18 will fit within the island. No portion of an island should be less than three feet in width.

19
 20 Figure 5-3-13.1
 21 Parking Lot Landscaped Island
 22



33 Source: DeChiara and Koppelman 1984.

34
 35
 36

1 Commentary on additional references: In addition to the references cited below, a number of
2 local governments in Georgia have adopted design guidelines for various parts of their
3 jurisdictions. Many local design guidelines are available via the World Wide Web. Other
4 references with regard to urban design are listed in the master bibliography of this model code,
5 including, but not limited to, Olshansky 1996 (hillside development), Porter 1998 (urban design),
6 Sanders 1993 (manufactured housing), and Waters 1983 (historic preservation). For a list of
7 planting materials appropriate to the region, there are many sources including DeChiara and
8 Koppelman (1984). For other design-related regulations, one can also consult other modules of
9 this model code, including Code Sections 4-4 (manufactured homes), 5-1 (small towns), and 6-2
10 (new commercial development).

11

12 References:

13

14 Arendt, Randall, et al. 1994. Rural by Design. Chicago: Planners Press.

15

16 Craighead, Paula M. (ed.). 1991. The Hidden Design in Land Use Ordinances: Assessing the
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30 Baltimore: Johns Hopkins University Press.

31

1
2 **§6-2 INTERCHANGE AREA DEVELOPMENT**

3
4 CONTENTS

5
6 §6-2-1 TITLE
7 §6-2-2 FINDINGS
8 §6-2-3 PURPOSE AND INTENT
9 §6-2-4 DEFINITIONS
10 §6-2-5 APPLICABILITY
11 §6-2-6 SITE PLAN APPROVAL REQUIRED
12 §6-2-7 HIGHWAY ACCESS AND SAFETY
13 §6-2-7.1 Purpose
14 §6-2-7.2 Access from Highways
15 §6-2-8 BUFFER AND SETBACKS
16 §6-2-8.1 Buffer Along Interstate Highway
17 §6-2-8.2 Setback Along Interchange Access Road
18 §6-2-9 LANDSCAPING AND TREE REQUIREMENTS
19 §6-2-9.1 Landscape Plan
20 §6-2-9.2 Tree Requirement
21 §6-2-9.3 Parking Lot Landscaping
22 §6-2-9.4 Screening
23 §6-2-10 ARCHITECTURE AND UTILITIES
24 §6-2-10.1 Purpose
25 §6-2-10.2 Building Materials
26 §6-2-10.3 Accessory Uses
27 §6-2-10.4 Utilities
28 §6-2-11 SIGNS
29 §6-2-11.1 Purpose
30 §6-2-11.2 Regulations
31 §6-2-12 EXTERIOR LIGHTING
32 §6-2-12.1 Purpose
33 §6-2-12.2 Cut-Off Fixtures
34 §6-2-12.3 Height
35 §6-2-13 STREAM AND WETLAND BUFFERS
36 §6-2-14 ADMINISTRATION AND VARIANCES

37
38 **§6-2 INTERCHANGE AREA DEVELOPMENT**

39
40 *Applicability: There are several instances in Georgia where portions of counties are ripe for*
41 *land use regulations, but the remainder of the county is too slow-growing to justify being*
42 *subjected to a comprehensive, conventional zoning ordinance. Therefore, partial zoning*
43 *schemes have great potential for applications in rural Georgia counties (see also commentary*
44 *under Section 5-1 of this model code). This module presents a set of development regulations*
45 *for a highway interchange area that can be adopted as a stand-alone ordinance with the*
46 *addition of just a few other provisions from the model code. It is based on an interchange*
47 *overlay zone model ordinance prepared by the Clearwater Conservancy for municipalities in*

1 Centre County, Pennsylvania. However, the interchange area development ordinance
 2 presented in this module is not a partial zoning scheme per se, because it does not regulate the
 3 uses of land within the jurisdiction. Rather, this ordinance is best considered a set of
 4 development regulations that apply to a limited area within a local jurisdiction.

5
 6 Commentary on adapting this module to corridors. Local governments that have development
 7 issues within highway “corridors” rather than at interchanges can easily adapt this ordinance to
 8 fit their needs. To apply this module to corridors instead of interchange areas, the definitions
 9 provided and the illustration of interchange area boundary would no longer be needed. A
 10 simple definition of corridor could be added, such as “any parcel of land located wholly or
 11 partially within 500 feet of either side of the right-of-way of U.S. Highway ____ [State Route ____].”
 12 The applicability section (6-2-5) would also need to be amended to refer to the definition of
 13 corridor rather than interchange area.

14
 15 Legal Commentary: Legal Counsel recommends that, although this is not a zoning ordinance,
 16 for safety, it should be adopted in accordance with the Zoning Procedures Act.

17
 18 §6-2-1 TITLE

19
 20 This Resolution [Ordinance] shall be known and may be cited as the “Interchange Area
 21 Development Resolution [Ordinance] of _____ County [City of _____].”

22
 23 §6-2-2 FINDINGS

24
 25 Interstate highway interchanges and the areas that surround them are magnets for
 26 development. Traditionally, lands near interchanges on limited access highways generate
 27 stronger development interest and command high prices. These lands tend to be developed
 28 quickly for high revenue producing activities. In some cases, developers attempt to maximize
 29 return on investment with little consideration to the long-term impact of their development on the
 30 surrounding community.

31
 32 The Board of Commissioners [Mayor and City Council] finds that the interchange area(s) subject
 33 to regulation by this Resolution [Ordinance] has specific development pressures and unique
 34 conditions that are not found elsewhere in the County [City]. These unique conditions of greater

1 traffic counts and more intensive development pressures justify regulation in a specific area of
2 the County [City] that would not be justifiable in other areas of the County [City], due to the
3 absence of such conditions.

4

5 §6-2-3 PURPOSE AND INTENT

6

7 The purpose of this Resolution [Ordinance] is to encourage managed, sensible interchange
8 development by providing protective measures that promote safety, minimize the impact to the
9 natural environment, and promote highway beautification. This Resolution [Ordinance] is
10 intended to ensure that new development will be compatible with respect to signage, lighting,
11 screening, and access points. It is not meant to recommend or dictate specific land uses within
12 the area regulated. Rather, it is intended to ensure that, if development does occur within the
13 area, it will meet a minimum set of standards. This Resolution [Ordinance] is also intended to
14 help developments within the interchange area maintain their initial appeal by protecting them
15 from potential adjacent substandard development.

16

17 §6-2-4 DEFINITIONS

18

19 Interchange access road: The highest order road serving an interchange and providing access
20 to the Interstate Highway.

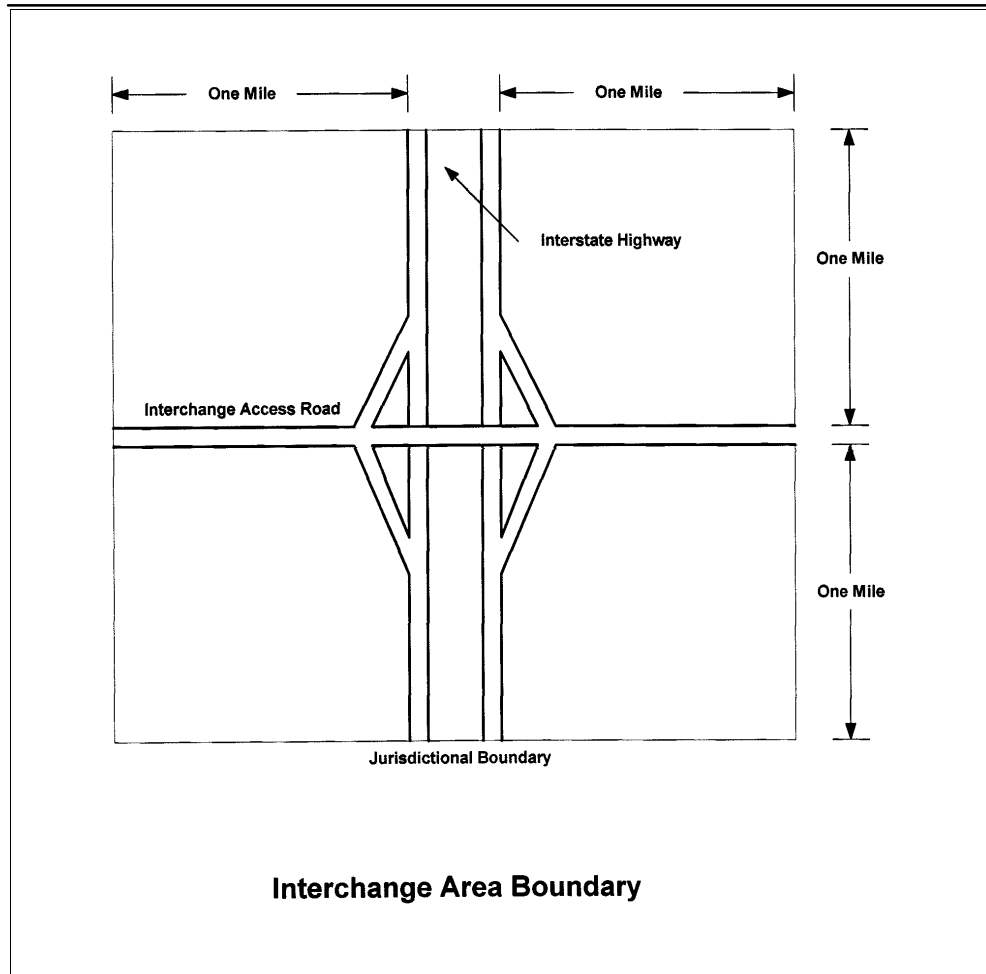
21 Interchange area: An area, consisting of slightly more than four square miles, generally forming
22 a two-mile by two-mile square around the center of an interstate highway interchange.

23 Specifically, the interchange area extends one mile from the outer right-of-way boundary of the
24 interstate highway and the interchange access road, as defined (see Figure 6-2-4.1).

25

1

Figure 6-2-4.1



2

3

4 **Setback:** The minimum distance by which any building or improvement must be separated from
 5 a right-of-way boundary.

6 **Sign:** A presentation of letters, numbers, figures, pictures, emblems, insignia, lines or colors, or
 7 any combination thereof displayed for the purpose of information, direction or identification or to
 8 advertise or promote a business service, activity, interest or product or any otherwise lawful
 9 non-commercial use.

10

11 §6-2-5 APPLICABILITY

12

13 This Resolution [Ordinance] shall apply within the interchange area boundary, as defined by this
 14 Resolution [Ordinance], surrounding the intersection of Interstate Highway ___ and Georgia State
 15 Route ___ [or county or city road name].

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§6-2-6 SITE PLAN APPROVAL REQUIRED

No land use permit or building permit shall be issued by the Land Use Officer for a building, structure, or manufactured home within the interchange area boundary defined by this Resolution [Ordinance], unless the land use or building conforms to the requirements of this Resolution [Ordinance]. Prior to a land use permit or building permit being issued, the Land Use Officer shall require a site plan in sufficient detail to review the proposed development for compliance with the provisions of this Resolution [Ordinance].

§6-2-7 HIGHWAY ACCESS AND SAFETY

§6-2-7.1 Purpose. Over time, if not carefully thought through, numerous entryways can contribute to difficult turning situations and often times lead to unsafe conditions. It is therefore the intent of this section to limit the number of access points that are permitted onto the Interchange Access Road. These controlled access points will enable more careful design of turning movements, resulting in safer conditions.

§6-2-7.2 Access From Highways. Prior to submission to the County [City] for review, all plans for vehicular access to new development from the Interchange Access Road shall be submitted to and approved by Georgia DOT if a state route, or the County [City] engineer if a County [City] road. Any new right-of-way providing vehicular access from the Interchange Access Road shall be located a minimum distance of 250 feet from the point at which the exit/entrance ramp intersects the Interchange Access Road, and shall be no closer to any other such right-of-way than 800 feet, measured from centerline to centerline.

§6-2-8 BUFFER AND SETBACKS

§6-2-8.1 Buffer Along Interstate Highway. All developments shall maintain a 100-foot natural, undisturbed buffer, replanted where sparsely vegetated, between the interstate highway right-of-way and any land development.

§6-2-8.2 Setback Along Interchange Access Road. All developments shall maintain a 75-foot building and building and development improvement setback, including parking areas,

1 from the right-of-way of the Interchange Access Road. The intent of this setback is to maintain
2 an adequate area if the road is widened, and to maintain a landscaped frontage until such time
3 as road widening is needed.

4

5 §6-2-9 LANDSCAPING AND TREE REQUIREMENTS

6

7 §6-2-9.1 Landscaping Plan. A landscape plan showing all landscaping required under
8 this section for any development within the interstate area boundary shall be required to be
9 approved by the Land Use Officer. No occupancy of any development shall take place until the
10 landscaping has been installed in accordance with the approved landscaping plan. Landscaping
11 shall be maintained permanently by the lot owner, and any plant material that does not live shall
12 be replaced within one year.

13

14 §6-2-9.2 Tree Requirement. All lots abutting the Interchange Access Road shall
15 provide a minimum of one tree for each 40 linear feet of road frontage. All trees required shall
16 be located within the last 30 feet of the setback, to avoid their destruction if the interchange
17 access road is widened in the future. All required trees planted within the setback shall be of a
18 shade-type variety with a minimum caliper of two and one-half inches at planting and an
19 expected height at maturity of at least 30 feet.

20

21 §6-2-9.3 Parking Lot Landscaping. Interiors of parking lots shall contain at a minimum
22 the equivalent of one tree for every 10 parking spaces. Planting islands within parking areas
23 shall be no less than 160 square feet per tree at a minimum width of five feet (excluding curb),
24 and shall be underlain by a minimum of two feet of suitable planting soil free of construction
25 debris. All required trees planted within a parking lot shall be of a shade-type variety with a
26 minimum caliper of two and one-half inches at planting and an expected height at maturity of at
27 least 30 feet. Trees may be clustered or grouped with the approval of the Land Use Officer.
28 Parking lots shall be landscaped such that at least 15 percent of the total parking area is
29 covered by tree canopy within 10 years after construction of the parking lot.

30

31 §6-2-9.4 Screening. Parking lots and service and loading zones shall be screened
32 from the view as seen from the interstate highway or interchange access road with landscaping,
33 walls, fences, hedges, shrubbery and/or earthen berms that are a minimum of four feet in height
34 measured from finished grade.

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§6-2-10 ARCHITECTURE AND UTILITIES

§6-2-10.1 Purpose. The standards provided here will provide a consistency to the development character thereby enabling the long-term preservation of property values and the promotion of economic development. All proposed development to be located within the interchange area boundary shall meet the requirements of this subsection.

§6-2-10.2 Building Materials. To the maximum extent possible, proposed buildings shall utilize natural building materials, such as wood, stone, and brick on building exteriors, except that roofing materials may be man-made. Steel or other metals shall not be used on building exteriors, except as may be necessary for roofing, window trim, gutters, and downspouts. Unpainted concrete block, except when textured or tinted, shall not be used on building exteriors.

§6-2-10.3 Accessory Uses. Trash receptacles, mechanical equipment, outdoor storage, loading docks, and other accessory uses should be located or screened in such a manner as to be hidden from view of the interstate highway and interchange access road.

§6-2-10.4 Utilities. All utility lines serving uses proposed or developed within the interchange area boundary, including electric, telephone, data, and CATV, shall be installed underground, except for single-family dwellings constructed on lots subdivided prior to the effective date of this Resolution [Ordinance], and agricultural uses. Junction boxes, transformers, and other structures essential to utility service which, due to their function, are required to be located above-ground, shall be screened from view of public rights-of-way.

§6-2-11 SIGNS

§6-2-11.1 Purpose. The intention of this subsection is to enable the County [City] to avoid the distracting clutter that too often come with new development.

§6-2-11.2 Regulations. All signs proposed, installed, or replaced within the interchange area boundary after the effective date of this Resolution [Ordinance] shall conform to the standards set forth herein.

- 1 (a) The total sign area of all signage on any one lot shall not exceed 200 square
 2 feet. A double-faced sign shall be considered a single sign. However, signage
 3 designed for pedestrian viewing only, such as under canopy signage or small
 4 directional signs, shall not be included in calculating the maximum allowable sign
 5 area per lot.
- 6 (b) No more than one ground pole sign shall be permitted on any lot. Such signs
 7 shall not exceed 20 feet in height and shall not have a maximum sign area
 8 greater than 32 square feet.
- 9 (c) Roof signs shall not be permitted.
- 10 (d) The main supporting structure of all signs shall be set back at least 15 feet from
 11 the edge of the right-of-way of the interchange access road. The main
 12 supporting structure of sign along the interstate highway shall be set back at
 13 least 25 feet from the edge of the interstate right-of-way.
- 14 (e) No flashing, blinking, fluctuating, or otherwise changing light source may be
 15 permitted, with the exception of signs providing time and temperature.

16

17 §6-2-12 EXTERIOR LIGHTING

18

19 §6-2-12.1 Purpose. The intention of this subsection is to enable the County [City] to
 20 avoid the distracting glare that too often comes with new development.

21

22 §6-2-12.2 Cut-Off Fixtures. All outdoor lighting fixtures, including without limitation,
 23 ground, pole, and building-mounted fixtures and canopy lighting shall be of a design and type
 24 containing shields, reflectors, fracture panels or recessed light sources such that the cutoff
 25 angle is 90 degrees or less. For purposes herein, the cutoff angle is that angle formed by a line
 26 drawn from the direction of light rays at the light source and a line perpendicular to the ground
 27 from the light source above which no light is permitted.

28

29 §6-2-12.3 Height. Lighting fixtures shall have a maximum height of 25 feet, except that
 30 lighting used for outdoor recreational use shall not exceed 80 feet in height.

31

32

1 §6-2-13 STREAM AND WETLAND BUFFERS

2

3 All improvements or land disturbances within the interchange area boundary shall be set back at
4 least 100 feet from the top of any stream bank or edge of any wetland. All existing vegetation
5 within the setback required by this subsection shall be preserved.

6

7 §6-2-14 ADMINISTRATION AND VARIANCES

8

9 This Resolution [Ordinance] shall be administered and enforced by the Land Use Officer. The
10 Board of Appeals, as established in Section 7-2 of this code, may upon application by the
11 property owner consider and grant variances to the strict requirements set forth in this
12 Resolution [Ordinance] to alleviate undue hardship that may be created by unusual physical or
13 topographic conditions of a site, thus providing reasonable relief.

14

1
2 **§6-3 DEVELOPMENT AGREEMENT**

3
4 CONTENTS

5
6 §6-3-1 TITLE
7 §6-3-2 FINDINGS
8 §6-3-3 PURPOSE
9 §6-3-4 AUTHORITY TO ENTER INTO DEVELOPMENT AGREEMENTS
10 §6-3-5 APPLICATION
11 §6-3-6 REQUIRED CONTENTS OF A DEVELOPMENT AGREEMENT
12 §6-3-6.1 Definitions
13 §6-3-6.2 Parties
14 §6-3-6.3 Relationship of the Parties
15 §6-3-6.4 Property
16 §6-3-6.5 Intent of the Parties
17 §6-3-6.6 Recitation of Benefits and Burdens
18 §6-3-6.7 Notice and Hearings
19 §6-3-6.8 Applicable Land Use Regulations
20 §6-3-6.9 Approval and Permit Requirements
21 §6-3-6.10 Uses Permitted Under the Agreement
22 §6-3-6.11 Uses Prohibited by the Agreement
23 §6-3-6.12 Dedications and Reservations
24 §6-3-6.13 Utility Connections
25 §6-3-6.14 Duration of the Agreement
26 §6-3-6.15 Amendments and Termination
27 §6-3-6.16 Periodic Review
28 §6-3-6.17 Remedies and Enforcement
29 §6-3-6.18 Approval and Signature Block
30 §6-3-7 ADOPTION BY ORDINANCE AFTER PUBLIC HEARING
31 §6-3-8 ADMINISTRATION

32
33 **§6-3 DEVELOPMENT AGREEMENT**

34
35 *Description and purpose. This tool is a negotiated agreement between a local government and*
36 *a developer. It usually involves large-scale development that will be phased and constructed*
37 *over a long period of time. A development agreement is sought by a developer to bring*
38 *certainty to the local regulations that will govern the development over time. In exchange for*
39 *agreeing to “lock in” the development regulations for a given development over time, the local*
40 *government may receive agreement from the developer to install infrastructure or take other*
41 *actions that further the public interest (Schiffman 1999).*

42
43 *This module provides a local Resolution [Ordinance] authorizing development agreements. It*
44 *contains substantial detail for what constitutes a development agreement, and the content of*
45 *this model Resolution [Ordinance] can be used to draft development agreements applicable to*

1 *specific property. The local government can then adopt (after a public hearing) the*
2 *development agreement with a simple Resolution [Ordinance]. Since there is no State-enabling*
3 *legislation in Georgia authorizing local governments to enter into development agreements,*
4 *local governments that wish to implement this tool should use a three-step sequence: (1) adopt*
5 *a general Resolution [Ordinance] governing development agreements (i.e., this model code*
6 *section); (2) negotiate a development agreement for a specific property upon application by the*
7 *property owner; and (3) adopt the negotiated agreement by Resolution [Ordinance].*

8
9 *Example application.* *The State of California’s laws specifically authorize local governments to*
10 *enter into development agreements, as a legislative act approved by Resolution [Ordinance]. In*
11 *Hawaii, development agreements are considered administrative acts (Schiffman 1999).*
12 *Development agreements indicate the uses that will be permitted, the bulk, intensity and*
13 *dimensional requirements (height, setbacks, etc.), the time period of the agreement, and*
14 *provisions for review and termination of the agreement (Schiffman 1999). At least nine (9)*
15 *states have enacted legislation that enables development agreements between developers and*
16 *local governments: Arizona, California, Florida, Hawaii, Louisiana, Nevada, New Jersey, and (to*
17 *a limited extent) Colorado and Minnesota (Taub 1990).*

18
19 *Legal Commentary:* *One school of thought would contend that local governments may not*
20 *“contract away the police power,” particularly in the context of zoning decisions. Stated another*
21 *way, government cannot bind itself to not exercise its police powers. It can thus be considered*
22 *to be against public policy to permit the bargaining of zoning and subdivision regulations for*
23 *agreements and stipulations on the part of developers to do or refrain from doing certain things.*
24 *Arguably, a development agreement in concept violates the “reserved powers doctrine” (Callies*
25 *and Tappendorf 2001).*

26
27 *However, the dominant legal view is that development agreements, drafted to reserve some*
28 *governmental control over the agreements, do not contract away the police power; but, rather,*
29 *constitute a valid present exercise of that power. The Nebraska Supreme Court has preferred*
30 *to characterize development agreements as a form of conditional zoning that actually increases*
31 *the city’s police power, rather than lessening it, by permitting more restrictive land use*
32 *regulations (attaching conditions through agreement) than a simple rezoning to a district in*
33 *which a variety of uses would be permitted of right. Also, a recent California appeals court*

1 *squarely upheld a development agreement that was challenged directly on “surrender of police*
2 *power” grounds (Callies and Tappendorf 2001).*

3
4 *Commentary by Legal Counsel: Legal Counsel questions whether this module would be legal in*
5 *Georgia and casts doubt on its constitutionality. However, no case has dealt with this type of*
6 *regulation in Georgia.*

7
8 §6-3-1 TITLE

9
10 This Resolution [Ordinance] shall be known and may be cited as the “Development Agreement
11 Resolution [Ordinance] of _____ County [City of _____].

12
13 §6-3-2 FINDINGS

14
15 The need for a development agreement arises in instances where a landowner generally wishes
16 to guarantee that a local government’s land use regulations will remain fixed during the life of a
17 prospective land development on a subject parcel. The local government, on the other hand,
18 seeks as many concessions and land development conditions as possible beyond what it could
19 reasonably require through subdivision regulations under the normal exercise of its authority or
20 police power.

21
22 Developers have an incentive to voluntarily enter into a development agreement with the County
23 [City] that will limit the property use(s), even though the County [City] does not have regulations
24 governing land uses by district at the effective date of this Resolution [Ordinance], because the
25 prospects exist that the local government will adopt and apply land use restrictions to said
26 property in the future. Hence, a development agreement would benefit a developer by locking
27 in the development regulations that apply to a particular development, even if the local
28 government subsequently adopts land use regulations.

29
30 Developers also have an incentive to voluntarily enter into a development agreement with the
31 County [City] for two other important reasons, even if no land use regulations currently apply to
32 a proposed development. First, the developer may need the cooperation of the County [City] in
33 extending infrastructure (e.g., water and sewer lines, drainage facilities, roads, utilities, etc.),
34 and such cooperation may not be forthcoming in the absence of concessions voluntarily

1 submitted to by the developer in the form of a development agreement. Second, knowledge of
 2 a pending development may stir citizen controversy, and even if the County [City] has no land
 3 use regulations, the development agreement becomes a flexible negotiating instrument whereby
 4 the developer can submit to certain concessions (i.e., limits on land uses) that will satisfy
 5 neighborhood concerns.

6

7 The County [City] similarly has interests in voluntarily entering into a development agreement in
 8 certain instances. As just noted, the County [City] may have an interest in limiting land uses in a
 9 given area because of citizen opposition. Without the mechanism of a voluntary development
 10 agreement and in the absence of land use regulations, the County [City] has virtually no control
 11 over the quality, extent, and location of a proposed development. The County [City] will also
 12 support entering into development agreements in cases where infrastructure is needed to serve
 13 the development but no existing regulation exists to require such improvements.

14

15 The Board of Commissioners of _____ County [Mayor and City Council of the City of
 16 _____], Georgia, therefore finds that a negotiated development agreement, voluntarily
 17 submitted by a development applicant and involving infrastructure improvements and limits on
 18 land use regulations, can be in the best interests of the County [City] and the development
 19 community and within the proper scope of the county's [city's] police powers.

20

21 §6-3-3 PURPOSE

22

23 The purpose of a development agreement is to vest certain development rights in the
 24 landowner/developer in exchange for construction and dedication of public improvements,
 25 certain restrictions on land uses, and other concessions on the part of developer. A
 26 development agreement allows a developer who needs additional discretionary approval now or
 27 in the future to acquire long-term project approval, regardless of any local regulations that may
 28 be subsequently adopted. Development agreements will provide assurances to the applicant
 29 for a particular development project, that upon approval of the project, the applicant may
 30 proceed with the project in accordance with all applicable local statues, ordinances, resolutions,
 31 rules, and policies in existence at the time the development agreement is executed and that the
 32 project will not be restricted or prohibited by the county's [city's] subsequent enactment or
 33 adoption of laws, ordinances, resolutions, rules, or policies. Public benefits derived from
 34 development agreements may include, but are not limited to, restrictions on land uses, limits on

1 development intensity and location, affordable housing, design standards, and on- and off-site
 2 infrastructure and other improvements. The local government needs a mechanism for
 3 negotiating such benefits in return for the vesting of development rights for a specific period. It
 4 is therefore the specific purpose of this Resolution [Ordinance] to authorize the local governing
 5 body to exercise its police powers to enter into individual development agreements and to
 6 specify the content and procedures for such development agreements.

7

8 §6-3-4 AUTHORITY TO ENTER INTO DEVELOPMENT AGREEMENTS

9

10 The Board of Commissioners of _____ County [Mayor and City Council of the City of
 11 _____], Georgia, hereby exercises its police powers to negotiate and enter into a
 12 voluntary development agreement upon application of a developer. The procedure for entering
 13 into a development agreement, and the contents of any development agreement, shall be
 14 consistent with the requirements of this Resolution [Ordinance].

15

16 §6-3-5 APPLICATION

17

18 Any person having a legal or equitable interest in real property may make application to enter
 19 into a development agreement with the County [City]. Applications shall be made to the Land
 20 Use Officer on forms furnished by said Land Use Officer and according to specifications of the
 21 Land Use Officer. The County [City] may establish an application fee to recover from applicants
 22 the direct costs associated with holding a public hearing on the application and providing notice
 23 thereof. Such application fee, if adopted by the County [City], shall be submitted along with said
 24 application.

25

26 §6-3-6 REQUIRED CONTENTS OF A DEVELOPMENT AGREEMENT

27

28 Any application for a development agreement, and any development agreement itself, shall at
 29 minimum contain the following provisions:

30

31 §6-3-6.1 Definitions. All technical terms to be used in the development agreement
 32 shall be precisely defined. Terms that have been defined in any applicable statute or ordinance
 33 should be defined the same way in the agreement.

34

1 §6-3-6.2 Parties. All parties to the agreement shall be named and their capacities to
2 enter into the agreement clearly stated. In the case of developer/owners, their equitable or legal
3 interests in the property must be stated.

4
5 §6-3-6.3 Relationship of the Parties. The relationship between the parties to the
6 agreement shall be stated clearly. Typically, the statement will specify that the relationship is
7 contractual and that the owner/developer is an independent contractor, and not an agent of the
8 local government.

9
10 §6-3-6.4 Property. The property to be subject to the agreement shall be clearly and
11 thoroughly identified. An attachment, preferably with a map, specifically describing the property
12 shall be provided and incorporated into the agreement by reference. Specifically, the
13 agreement shall provide that the property is located in the City [County] of
14 _____, more particularly described in Exhibit "A" (attached hereto and
15 incorporated herein), which real property is the subject matter of this Agreement, and that said
16 property consists of ____ acres of property.

17
18 §6-3-6.5 Intent of the Parties. The intent of the parties to be bound by the terms of the
19 agreement should be clearly stated. The agreement shall specifically include a statement that
20 the property owner represents that it has an equitable or a legal interest in the real property and
21 that all other persons holding legal or equitable interests in the real property are to be bound by
22 the agreement. The development agreement may provide for the rights and obligations of the
23 property owner under the agreement to be transferred or assigned.

24
25 §6-3-6.6 Recitation of Benefits and Burdens. The agreement shall recite the benefits
26 each party expects to gain from entering into the agreement, as well as the burdens each party
27 agrees to bear. Because the agreement will be treated as a contract, the consideration each
28 party is to receive from the other should be stated clearly in order to ensure enforceability. The
29 benefits to the local government and community must be expressed in terms that exhibit the
30 agreement as consistent with (or as an exercise of) the police power.

31
32 Commentary: *Stressing such benefits may help protect the agreement against a "bargaining-*
33 *away-the-police-power" challenge (Callies and Tappendorf 2001).*

1 §6-3-6.7 Notice and Hearings. The date upon which the public hearing was held shall
2 be noted, as well as all relevant findings resulting from such hearing. All other pertinent notice
3 and hearing requirements should be recited.

4
5 §6-3-6.8 Applicable Land Use Regulations. The agreement shall contain a precise
6 statement of all land use regulations to which the development project will be subject. The
7 agreement should specify precisely which regulations will apply to the project regardless of
8 future changes, or otherwise be affected by the agreement. The statement shall clearly state
9 that regulations not specifically so identified will not be affected by the terms of the agreement,
10 and will be subject to enforcement and change under the same criteria that would apply if no
11 agreement were in effect. The development agreement shall specify that, unless otherwise
12 provided by the development agreement rules, regulations, official policies governing permitted
13 uses of the land, governing density, governing design, improvement and construction standards
14 and specifications applicable to the development of the property subject to a development
15 agreement, shall be those rules, regulations, and official policies in force at the time of execution
16 of the agreement. The agreement should also specify that the County [City] hereby agrees that
17 it will accept from the property owner for processing and review all development applications for
18 development permits or other entitlements for the use of the real property in accordance with
19 this agreement, provided that said applications are submitted in accordance with County [City]
20 rules and regulations and fees, if any, have been paid.

21
22 *Commentary: The local government may have few land use regulations that apply. Indeed, this*
23 *module has as a basic premise that the local government does not have any significant land use*
24 *regulations in place.*

25
26 §6-3-6.9 Approval and Permit Requirements. The agreement shall specify all
27 discretionary approvals and permits that will have to be obtained before the development can
28 proceed beyond its various stages. All conditions precedent to the obtaining of the permits and
29 approvals should be listed.

30 §6-3-6.10 Uses Permitted Under the Agreement. The agreement must specify: (1) the
31 permitted uses of the property; (2) the density or intensity of use; and, (3) the maximum height
32 and size of proposed buildings.

33

1 §6-3-6.11 Uses Prohibited by the Agreement. The development agreement may
2 establish limits to permissible uses or prohibit certain uses on the subject property.

3
4 §6-3-6.12 Dedications and Reservations. The agreement should provide, where
5 appropriate, a statement of any land or improvements to be dedicated to the County [City] or
6 land reservations made by the developer for public purposes, and the specific time period for
7 such dedications and reservations as they relate to the date of entering into the agreement.

8
9 §6-3-6.13 Utility Connections. All water and sewer service, either to be provided by the
10 developer or by the local government, shall be described in detail, together with schedules of
11 construction completion, cost allocation (between or among developers and government and
12 later developers), hookup or connection schedules, and parameters for permitting, including
13 fees for utility provision and service.

14
15 §6-3-6.14 Duration of the Agreement. The agreement shall state a termination date. It
16 should also specify project commencement and completion dates, either for the project on the
17 whole, or for its various phases. The agreement should specify that the termination date can be
18 extended by mutual agreement, and that commencement and completion dates may also be
19 extended.

20
21 §6-3-6.15 Amendments and Termination. The development agreement shall provide
22 that it may be amended, or canceled in whole or in part, by mutual consent of the parties to the
23 agreement or their successor in interest. The agreement shall include the conditions under
24 which the agreement can be amended, canceled, or otherwise terminated. The agreement shall
25 specifically include that in the event that State or Federal laws or regulations, enacted after a
26 development agreement has been entered into, prevent or preclude compliance with one or
27 more provisions of the development agreement, such provisions of the agreement shall be
28 modified or suspended as may be necessary to comply with such State or Federal laws or
29 regulations. The development agreement shall also specifically state that if the local government
30 finds and determines, on the basis of substantial evidence, that the applicant or successor in
31 interest thereto has not complied in good faith with the terms or conditions of the agreement, the
32 local government may terminate or modify the agreement.

33

1 §6-3-6.16 Periodic Review. The agreement should provide for periodic reviews of the
2 project in order to determine compliance with the terms of the agreement. Unless otherwise
3 negotiated, the Land Use Officer of the County [City] shall be responsible for performing such
4 reviews.

5
6 §6-3-6.17 Remedies and Enforcement. Remedies for breach on the part of either party
7 shall be provided, and the agreement shall provide for enforcement of its provisions.

8
9 §6-3-6.18 Approval and Signature Block. The agreement shall specifically provide
10 signature blocks for execution upon approval by ordinance, preceded by the following statement:

11
12 AGREEMENT

13
14 THIS DEVELOPMENT AGREEMENT (hereinafter referred to as "Agreement") is made and
15 entered into this _____ day of _____, _____ by and between _____
16 THE COUNTY [CITY] OF _____, and _____, a
17 _____ corporation [partnership, etc.] (hereinafter referred to as
18 "Property Owner"). On _____, _____, the Board of County Commissioners [Mayor
19 and City Council] adopted Resolution [Ordinance] No. _____ approving the
20 development agreement with the Property Owner. The Resolution [Ordinance] thereafter took
21 effect on _____, _____.

22
23 §6-3-7 ADOPTION BY ORDINANCE AFTER PUBLIC HEARING

24
25 The Board of Commissioners of _____ County [Mayor and City Council of the City of
26 _____] shall only enter into a development agreement pursuant to the Resolution
27 [Ordinance] if a developer has made application for a development agreement, the Board
28 [Mayor and City Council] has held a public hearing after which adequate notice was given in
29 compliance with the Zoning Procedures Law (O.C.G.A. 36-66), and if a particular development
30 agreement is adopted by Resolution [Ordinance] of said Board [Mayor and City Council].
31 Furthermore, a development agreement shall not be approved unless the legislative body finds
32 that the provisions of the agreement are consistent with the comprehensive plan of the County
33 [City].

1 Commentary: Local governments wishing to adopt this Resolution [Ordinance] but which have
2 not adopted zoning procedures should incorporate applicable provisions of Section 7-1 of this
3 model code, which has been written to comply with the Zoning Procedures Law.

4

5 §6-3-8 ADMINISTRATION

6

7 The Land Use Officer shall administer the provisions of this Resolution [Ordinance].

8

9 References:

10

11 *Callies, David L., and Julie A. Tappendorf. 2001. Annexation Agreements and Development*
12 *Agreements. In Patricia E. Salkin, ed., Trends in Land Use Law from A to Z: Adult Uses to*
13 *Zoning. Chicago: American Bar Association.*

14

15 *Schiffman, Irving. 1999. Alternative Techniques for Managing Growth. Berkeley: University of*
16 *California, Berkeley, Institute of Governmental Studies Press.*

17

18 *Taub, Ted. 1990. Development Agreements. Land Use Law & Zoning Digest 42, 10: 3-9.*

§6-4 MAJOR PERMIT REQUIREMENT

CONTENTS

5	§6-4-1	TITLE
6	§6-4-2	PURPOSE AND INTENT
7	§6-4-3	TYPES OF USES SUBJECT TO MAJOR PERMIT
8	§6-4-4	APPLICATION REQUIREMENTS
9	§6-4-4.1	Site Plan
10	§6-4-4.2	Fee
11	§6-4-5	APPLICATION PROCESS
12	§6-4-6	CRITERIA FOR MAKING DECISIONS ON MAJOR PERMITS
13	§6-4-7	APPEALS

§6-4 MAJOR PERMIT REQUIREMENT

Description and purpose. This alternative is a modification of Vermont's Act 250 (adopted in 1970) permitting requirements. It establishes a local permit requirement for certain types of development. Rather than have such permits considered and acted upon by a regional commission, as is the case in Vermont, this alternative suggests that cities and counties could be the permit authority. This module is similar in many respects to Section 6-5, environmental impact review.

Example applications. Vermont's Act 250 establishes a permit requirement for virtually any development involving a "greater than local" impact. All housing projects with 10 or more units, all subdivision proposals with 10 or more lots, and commercial or industrial projects involving more than one acre in towns without zoning regulations, are among the types of development covered by Act 250 permit requirements. Permit requirements do not extend to farming and forestry activities.

Administrative requirements for implementation. While the locality could implement the permit process, there is likely going to be a need for an appeal procedure. Vermont administers the Act 250 permit requirements on a regional basis. Particularly complex permit applications require more expertise to administer. Adequate staffing has been an issue with Act 250 permit requirements (DeGrove 1984). The administrative requirements of a major permit ordinance would be similar to the "development standards and site plan review ordinance" alternative described above.

1 §6-4-1 TITLE

2
3 This Resolution [Ordinance] shall be known and may be cited as the “Major Permit Resolution
4 [Ordinance] of _____ County [City of _____].”
5

6 §6-4-2 PURPOSE AND INTENT

7
8 The purpose and intent of this Resolution [Ordinance] is to establish a requirement that
9 developers proposing land developments that meet or exceed a given threshold must have
10 projects reviewed according to specific criteria.
11

12 §6-4-3 TYPES OF USES SUBJECT TO MAJOR PERMIT

13
14 The following uses shall require a major permit to be approved by the local governing body after
15 application by the property owner and review by the planning commission:

- 16 (a) Any housing or manufactured home park development of 10 or more units.
- 17 (b) Any commercial or industrial project on more than 10 acres.
- 18 (c) Any subdivision of land involving the sale of subdivided land where 10 or more lots are
19 involved, and each lot is less than 10 acres.

20
21 No land use permit or building permit shall be issued for a development requiring a major permit
22 until a major permit application has been submitted, reviewed by the planning commission, and
23 approved by the local governing body in accordance with the provisions of this Resolution
24 [Ordinance]. No person shall sell or offer for sale any interest in any subdivision located in the
25 County [City] or commence construction on a subdivision or development, or commence
26 development without a permit if required by this Resolution [Ordinance].
27

28 The permit required under this Resolution [Ordinance] shall not supersede or replace the
29 requirements for a permit required by any state agency or any other permits which may be
30 required by the local government.
31

32 §6-4-4 APPLICATION REQUIREMENTS

33
34 All applications shall consist of the following.

1 §6-4-4.1 Site Plan. In conjunction with the application for a major permit, the applicant
 2 shall submit a site plan with sufficient detail to determine the nature of the proposed
 3 development in relation to the review criteria established for major permits by this Resolution
 4 [Ordinance].

5
 6 §6-4-4.2 Fee. A fee shall be submitted as established from time to time by the local
 7 governing body.

8
 9 §6-4-5 APPLICATION PROCESS

10
 11 Upon receipt of a completed application for a major permit as required by this Resolution
 12 [Ordinance], the Land Use Officer shall conduct a review of said application. The Land Use
 13 Officer may seek the opinions and/or recommendations of any other local, regional, state, or
 14 federal agency with expertise in the particular impacts of a proposed development. The Land
 15 Use Officer and Planning Commission may conduct such investigations, examinations, tests
 16 and site evaluations as they deem necessary to verify information contained in the application.
 17 An applicant shall grant the Land Use Officer and members of the Planning Commission
 18 permission to enter upon land under review for a major permit for these purposes. The Land
 19 Use Officer shall forward recommendations to the Planning Commission on the application
 20 within 30 days the application was determined to be complete. All other procedures for review
 21 and public hearing by the planning commission and review and public hearing by the local
 22 governing body shall be followed as described in Section 7.1 of this code for conditional uses.

23
 24 §6-4-6 CRITERIA FOR MAKING DECISIONS ON MAJOR PERMITS

25
 26 The Land Use Officer and Planning Commission shall provide written findings and
 27 recommendations to the local governing body as to whether the proposed development meets,
 28 or does not meet, the following criteria for approval. The proposed development:

- 29 (1) Will not result in undue water or air pollution. In making this determination it shall at
 30 least consider the following: the elevation of the land above sea level; and in relation to
 31 the flood plains, the nature of soils and subsoils and their ability to adequately support
 32 waste disposal; the slope of the land and its effect on effluents; the availability of
 33 streams for disposal of effluents; and the applicable health and water resources
 34 regulations.

- 1 (2) Has sufficient water available for the reasonable foreseeable needs of the subdivision or
2 development.
- 3 (3) Will not cause unreasonable burden on existing water supply if one is to be utilized.
- 4 (4) Will not cause unreasonable soil erosion or reduction in the capacity of the land to hold
5 water so that a dangerous or unhealthy condition may result.
- 6 (5) Will not cause unreasonable highway congestion, or unsafe conditions.
- 7 (6) Will not cause an unreasonable burden on the ability of a school district to provide
8 educational services.
- 9 (7) Will not place an unreasonable burden on the ability of a local government to provide
10 municipal or governmental services.
- 11 (8) Will not have an undue adverse effect on the scenic or natural beauty of the area,
12 aesthetics, historic sites, or rare and irreplaceable natural areas.
- 13 (9) Conforms to a duly adopted comprehensive plan prepared by the local government with
14 jurisdiction.
- 15 (10) Conforms to a duly adopted regional plan.

16

17 In considering the preceding 10 criteria, the Land Use Officer, Planning Commission, and Local
18 Governing Body shall be guided and restricted by the following.

- 19 (a) No application shall be denied unless it is found that the proposed subdivision or
20 development will be detrimental to public health, safety, or general welfare.
- 21 (b) For criteria 1 through 4, 9, and 10, the burden of proof is on the applicant to prove the
22 case.
- 23 (c) For criteria 5 through 8, the burden of proof falls on those who object to the major
24 development application. Adverse information brought up under criteria 5 through 7
25 cannot be used as the sole reason for denial.
- 26 (d) In considering criteria 9 and 10, the Land Use Officer, Planning Commission, and Local
27 Governing Body shall take into consideration the growth in population experienced by
28 the County [City] and region in question and whether or not the proposed development
29 would significantly affect their existing and potential financial capacity to reasonably
30 accommodate both the total growth and the rate of growth otherwise expected for the
31 County [City] and region, as well as the total growth and rate of growth which would
32 result from the development if approved.
- 33 (e) The local governing body will not grant a permit for a development or subdivision which
34 is not physically contiguous to an existing urban or suburban area unless it is

1 demonstrated that, in addition to all other applicable criteria, the additional costs of
 2 public services and facilities caused directly or indirectly by the proposed development
 3 or subdivision do not outweigh the tax revenue and other public benefits of the
 4 development or subdivision, such as increased employment opportunities or the
 5 provision of needed and balanced housing accessible to existing or planned employment
 6 centers.

- 7 (f) The Land Use Officer and Planning Commission may recommend, and the local
 8 Governing Body may impose, such requirements and conditions on the major permit as
 9 are allowable and proper exercise of the police power, and which are appropriate with
 10 respect to the previously outlined criteria for review of permits.

11
 12 §6-4-7 APPEALS

13
 14 Any person aggrieved by a decision of the Local Governing Body pursuant to this Resolution
 15 [Ordinance] may appeal said decision within 30 days to a court of competent jurisdiction. Any
 16 person aggrieved by a decision of the Land Use Officer in the administration, interpretation, or
 17 enforcement of this Resolution [Ordinance] may appeal said decision to the Board of Appeals in
 18 accordance with procedures established in Section 7.2 of this code.

19
 20 References:

21 *DeGrove, John M. 1984. Land Growth and Politics. Chicago: Planners Press.*

22
 23 *Myers, Phyllis. 1974. So Goes Vermont: An Account of the Development, Passage, and
 24 Implementation of State Land-use Legislation in Vermont. Washington, DC: Conservation
 25 Foundation.*

26
 27 *Vermont Statutes: TITLE 10 Conservation And Development: PART 5 Land Use And
 28 Development: CHAPTER 151. STATE LAND USE AND DEVELOPMENT PLANS*

1 **§6-7 CORRIDOR MAP**

2
3 CONTENTS

4

5	§6-7-1	TITLE
6	§6-7-2	PURPOSE AND INTENT
7	§6-7-3	DEFINITIONS
8	§6-7-4	FINDINGS AND CORRIDOR MAP ADOPTION
9	§6-7-5	GENERAL PROVISIONS
10	§6-7-6	LAND USE PERMIT REQUIRED TO DEVELOP RESERVED LAND
11	§6-7-7	PUBLIC HEARING AND NOTICE ON LAND USE PERMIT
12	§6-7-8	ACTION
13	§6-7-9	AUTHORITY TO ACQUIRE FOR RESERVED LAND FOR PUBLIC USE
14	§6-7-10	FINAL ACTION ON THE LAND USE PERMIT

15

16 **§6-7 CORRIDOR MAP**

17

18 *Description: This tool is much like an official map, but only for streets and other linear*
 19 *transportation facilities. It is also similar to what Fred Bair (1979) describes as a “major streets*
 20 *map.” An official map is a map specifying the location and extent of future lands that the local*
 21 *government needs for public purposes. It provides more or less exact boundaries where the*
 22 *community intends to purchase land for streets and other facilities. An official map allows local*
 23 *governments to reserve designated land areas for future public improvements. It is intended to*
 24 *minimize indiscriminate construction of buildings and utilities that may be incompatible with*
 25 *plans for future public improvement activities (Ndubisi 1992). The need for designating on an*
 26 *official map other public land reservations, such as parks and school sites, is much less clear*
 27 *since alternative sites for these facilities should be available. Therefore, the model code*
 28 *provides for a corridor map that applies only to streets and transportation facilities. The corridor*
 29 *map includes land designated by the state transportation department for the construction or*
 30 *improvement of transportation facilities. This tool holds some promise in rural Georgia, where*
 31 *local governments see the need to protect future road corridors from encroachment by*
 32 *buildings.*

33

34 *Commentary on Legality: In Georgia, official maps were authorized by the General Planning and*
 35 *Zoning Enabling Act of 1957. The enabling legislation provided that an official map could be*
 36 *adopted which shows the location of streets, public building sites, and public open spaces. The*
 37 *law also indicates that an official map could also show public sites approved on plats of*
 38 *subdivisions which have been approved by the local planning commission. If a master plan or*
 39 *at least a street plan was developed, a local planning commission could adopt an official map*

1 showing future streets. The enabling legislation provided for a showing of parks, playgrounds,
2 and other public open spaces on the official map, and it enabled local governments to adopt
3 ordinances that prohibit or restrict building construction within future streets and future public
4 use properties. It also provided for an appeal to the Board of Zoning Appeals or if none existed,
5 a Board of Appeals created for that purpose. The 1957 enabling legislation was invalidated as
6 of 1976 when changes were made to the State constitution and thus that statute no longer
7 appears in the Georgia Code. Therefore, there is no enabling legislation for adopting official
8 maps in Georgia.

9
10 The corridor map is reportedly more legally defensible than an official map (American Planning
11 Association 1998). Since an official map was once specifically enabled in Georgia, the corridor
12 map (a derivative) should also be considered legal. See the section above on “administrative
13 requirements for implementation” for additional recommendations. The corridor map ordinance
14 must be carefully written so that it does not restrict all reasonable uses of a given parcel.

15
16 Additional Legal Commentary: From a legal standpoint, a local government would be authorized
17 to adopt official maps showing future public improvements. If the local government prohibited
18 development within the areas of those future public improvements, the map would likely be
19 considered a zoning map and thus required to comply with the Zoning Procedures Law.

20
21 The bigger problem arises, as discussed in the task report, with “takings” claims. If a local
22 government were to designate a future right-of-way, for example, and thus prohibit a property
23 owner upon request to develop on that future right-of-way, a strong case for inverse
24 condemnation could be made against the local government. That is to say, the local
25 government could not prohibit indefinitely development of property in the hope that it would
26 purchase that property in the future for a public use. But, still, the local governments should be
27 encouraged to plan ahead and develop plans for future public uses.

28
29 For the same reasons applied in Section 19 on the “official map”, the corridor map would also
30 be legal in Georgia. This device was used extensively by DeKalb County in years past to
31 designate future thoroughfares and corridors expected to be developed in the county. Its
32 limitations, of course, are the same as the official map. Restrictions of development by property
33 owners within the corridors would likely be deemed a taking.

34

1 §6-7-1 TITLE

2

3 This Resolution [Ordinance] shall be known and may be cited as the “Corridor Map Resolution
4 [Ordinance] of the County [City] of _____.”

5

6 §6-7-2 PURPOSE AND INTENT

7

8 The purposes of this Resolution [Ordinance] are to implement the local comprehensive plan,
9 especially the thoroughfare plan, by reserving land needed for future transportation facilities
10 designated by the plan; provide a basis for coordinating the provision of transportation facilities
11 with new development by designating corridors where the construction and improvement of
12 transportation facilities is expected; restrict the construction or expansion of permanent
13 structures in the intended right-of-way of planned transportation facilities as indicated on a
14 corridor map; and, protect the rights of landowners whose land is reserved on a corridor map.

15

16 §6-7-3 DEFINITIONS

17

18 Corridor Map: A map adopted by the County [City] that designates land to be reserved for the
19 construction of future or improvement of existing transportation facilities. The corridor map
20 establishes the width and termini of corridors as necessary to allow flexibility in planning the
21 design of a transportation facility.

22 Reserved Land: Land shown on the corridor map as “reserved.”

23 Transportation Facilities: Streets, highways, bikeways, sidewalks, and trails.

24

25 §6-7-4 FINDINGS AND CORRIDOR MAP ADOPTION

26

27 The County [City] hereby finds that the corridor map, which is hereby attached to and made a
28 part of this Resolution [Ordinance], is consistent in all respects with the thoroughfare plan of the
29 county’s [city’s] comprehensive plan. The County [City] hereby adopts the corridor map. The
30 County [City] finds that prior to adoption of the corridor map, the following actions have been
31 taken to ensure procedural due process:

32

33 §6-7-4.1 Prior to public hearing, if the proposed corridor map includes land intended
34 for transportation facilities to be constructed or improved by governmental units other than the

1 County [City], the County [City] submitted a copy of the proposed corridor map to the chief
 2 executive officer of each such governmental unit and allowed 30 days for said governmental
 3 units to indicate in writing any reserved land for transportation facilities for which they are
 4 responsible that they want removed from the corridor map, in which case such reserved land
 5 has been removed from the corridor map.

6
 7 §6-7-4.2 At least 15 days before the public hearing, the County Board of
 8 Commissioners [Mayor and City Council] notified the public of the date, time, place, and nature
 9 of a public hearing by publication in a newspaper of general circulation in the territory of the
 10 local government.

11
 12 §6-7-4.3 The Land Use Officer notified all owners of parcels of land that include
 13 proposed reserved land of the date, time, place, and nature of the public hearing by mail at least
 14 15 days before the public hearing.

15
 16 §6-7-4.4 The County Board of Commissioners [Mayor and City Council] held the public
 17 hearing at the date, time, and place advertised, and afforded all interested individuals with the
 18 opportunity to be heard concerning the proposed corridor map.

19
 20 §6-7-5 GENERAL PROVISIONS

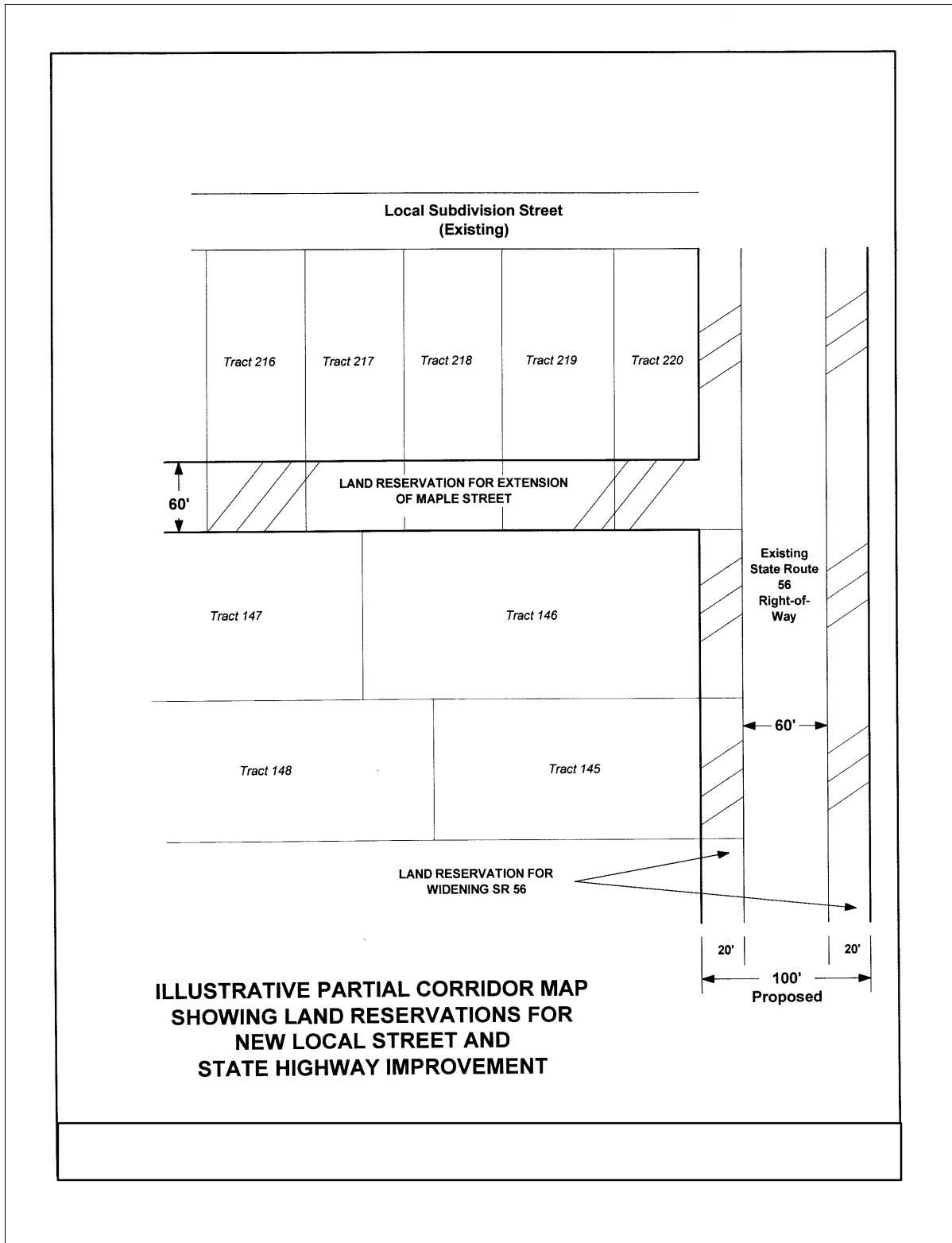
21
 22 The County [City] shall not issue a Land Use Permit or any other permit for development except
 23 pursuant to the procedure and in compliance with this Section. This section does not forbid or
 24 restrict the use of any reserved land that does not constitute the development of that land, nor
 25 does this Section forbid or restrict development on the unreserved portion of any reserved land.

26
 27 §6-7-6 LAND USE PERMIT REQUIRED TO DEVELOP RESERVED LAND

28
 29 An owner of reserved land who proposes to develop reserved land shall apply to the Land Use
 30 Officer for a Land Use Permit. It shall be unlawful to carry out development upon land shown as
 31 reserved on the corridor map, without first securing a Land Use Permit as required by this
 32 Resolution [Ordinance]. (See Figure 6-7-6.1).

1

Figure 6-7-6.1



2

1 §6-7-7 PUBLIC HEARING AND NOTICE ON LAND USE PERMIT

2

3 Upon receiving an application for a Land Use Permit involving reserved land, the Land Use
 4 Officer shall arrange for the application to be scheduled for public hearing before the County
 5 Board of Commissioners [Mayor and City Council]. The applicant, and if land is reserved for a
 6 public use by a governmental unit other than the local government, that governmental unit, shall
 7 be notified in writing of the date, time, and place of the hearing within five business days of
 8 receipt of the application, by written mail, personal service, or facsimile, at least 15 days prior to
 9 the public hearing. The public shall be given notice by publication in a newspaper of general
 10 circulation in the territory of the local government at least 15 days prior to the public hearing of
 11 the date, time, place, and nature of the hearing. The applicant shall, at the hearing, have an
 12 opportunity, personally or through counsel, to present evidence and argument in support of his
 13 or her application, as shall any governmental unit or interested individual that has an interest in
 14 the application.

15

16 §6-7-8 ACTION

17

18 Following the public hearing, the County Board of Commissioners [Mayor and City Council] may
 19 take one of the following actions:

20

21 §6-7-8.1 Approve the Land Use Permit as proposed, with or without conditions.

22

23 §6-7-8.2 Modify the mapped corridor to remove all or part of the reserved land from
 24 the mapped corridor, and issue with or without conditions the Land Use Permit authorizing
 25 development on the land removed from the mapped corridor.

26

27 §6-7-8.3 Modify the proposed Land Use Permit application and issue it for
 28 development as modified, with or without conditions, if the development can reasonably be
 29 accomplished on the subject parcel without encroaching on the reserved land.

30

31 §6-7-8.4 Delay action on the Land Use Permit for a defined period of time not to
 32 exceed six months for the purpose of any of the following:

- 1 (a) Negotiating with the property owner for the purchase of all or a part of the
 2 reserved land by the governmental agency responsible for the transportation
 3 facilities;
- 4 (b) Acquiring the reserved land voluntarily;
- 5 (c) Acquiring a negative easement over the reserved land that prevents the property
 6 owner from building on the reserved land; or,
- 7 (d) Taking the reserved land through eminent domain.

8

9 §6-7-9 AUTHORITY TO ACQUIRE FOR RESERVED LAND FOR PUBLIC USE

10

11 After delaying action on the Land Use Permit by the County [City], the local government or other
 12 governmental unit responsible for the transportation facilities may, but shall not be obligated to,
 13 negotiate for the voluntary dedication of the land, enter into option, or it may initiate
 14 condemnation proceedings subject to applicable state law and use its powers of eminent
 15 domain.

16

17 §6-7-10 FINAL ACTION ON THE LAND USE PERMIT

18

19 If the County [City] delays action on the Land Use Permit as provided by §6-7-8.4 and the
 20 governmental agency responsible for transportation facilities on the reserved land fails to
 21 arrange for the legal acquisition of all or a part of the reserved land within the specified time
 22 period which shall not exceed six months, then the County [City] shall approve the Land Use
 23 Permit, with or without conditions, or in the absence of such approval the Land Use Permit shall
 24 be deemed approved as submitted.

25

26 *Commentary on Administrative Requirements for Implementation: A corridor map requires a
 27 comprehensive plan that designates future streets and linear transportation facilities. Therefore,
 28 a comprehensive plan with specific recommendations on future streets and linear transportation
 29 facilities should be considered a prerequisite. It requires coordination with the state
 30 transportation department if it is to include state highways and other linear transportation
 31 facilities. Procedures for adoption should generally follow minimum standards specified in the
 32 Zoning Procedures Act, including general notice in a newspaper of general circulation and
 33 holding a public hearing. Written notice to all owners of parcels of land involved in a future
 34 transportation corridor is also advisable.*

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References:

American Planning Association. 1998. Growing Smart Legislative Guidebook: Model Statutes for Planning and the Management of Change. Phases I and II Interim Edition. Chicago: American Planning Association.

Bair, Frederick H. 1979. Planning Cities. Chicago: Planners Press.

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Ndubisi, Forster O. 1992. Planning Implementation Tools and Techniques: A Resource Book for Local Governments. Athens, GA: Institute of Community and Area Development.