

Chapter 14 - LAND DEVELOPMENT^[1]

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ARTICLE I. - IN GENERAL

Sec. 14-1. - Definitions.

For the purposes of this chapter, certain terms and words are hereby defined. Where words are not herein defined, but are defined in section 1-2, those words shall have the meaning as defined therein. The following words, terms and phrases, when used in this chapter, shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning:

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected to a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by independent perimeter load-bearing walls is new construction.

Aggrieved person(s) means a person(s) whose property is the subject of the action appealed from or a person's who has a substantial interest in the action appealed from that is in danger of suffering special damage or injury not common to all property owners similarly situated.

Agricultural operations means those practices involving the establishment, cultivation, or harvesting of products of the field or orchard, the preparation and planting of pasture land, farm ponds, dairy operations, livestock and poultry management practices and the construction of farm buildings.

Alley means a minor way, which is used primarily for vehicular service access to the back or side of properties otherwise fronting on a street.

Appeal means a review authorized by this chapter of any final order, requirement, or decision of the community development director or the mayor based on or made in the enforcement of this chapter, excluding section 14-39.

Applicant means any person who acts in the person's own behalf or as the agent of an owner of property and engages in alteration of land or vegetation in preparation for construction activity.

As-built drawings means amended site plans specifying the location, dimensions, elevations, capacities and operational capabilities of public improvements, including water, sewer, road and drainage structures and stormwater management facilities as they have been constructed.

Bank (stream bank) means the sloping land that contains the stream channel and the normal flows of the stream.

Basement means a space having one-half ($\frac{1}{2}$) or more of its floor-to-ceiling height below the average level of adjoining ground and with a floor-to-ceiling height of not less than six and one-half ($6\frac{1}{2}$) feet.

Best management practices (BMP's) means a collection of structural practices and vegetative measures which, when properly designed, installed and maintained, will provide effective erosion and sedimentation control. The term "properly designed" means designed in accordance with the hydraulic design specifications contained in the Manual for Erosion and Sediment Control in Georgia specified in O.C.G.A. § 12-7-6(b).

Bicycle lane means that part of a street or highway adjacent to the roadway, designated by official signs or markings for use by persons riding bicycles.

Block means a piece or parcel of land entirely surrounded by public highways or streets, other than alleys. In cases where the platting is incomplete or disconnected, the community development director may delineate the outline of the block.

BNR means the board of natural resources.

Board means the mayor and city council of the City of Tucker, Georgia.

Breakaway wall means a wall that is not part of the structural support of the building and is intended through its design and construction to collapse under specific lateral loading forces without causing damage to the elevated portion of the building or the supporting system.

Buffer area means that portion of a lot set aside for open space and/or visual screening purposes, pursuant to the applicable provisions of the City of Tucker Code and all conditions of zoning, to separate different use districts, or to separate uses on one (1) property from uses on another property of the same use district or a different use district.

Buffer, city means an area of land fifty (50) feet in width immediately adjacent to the state buffer. The first twenty-five (25) feet adjacent to the state buffer shall be undisturbed. The outer twenty-five (25) feet may be disturbed, but shall contain no impervious surfaces.

Buffer, stream means the state buffer and the city buffer as measured horizontally from the top of the stream bank.

Buffer, state means an area of land twenty-five (25) feet in width immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Buildable area means the area of a lot remaining after all setback requirements, including buffer areas, have been met.

Builder as used in sections 14-135 and 14-136 means a person who constructs a structure or dwelling for residential occupancy by humans.

Building means any structure having a roof supported by columns or walls and intended for the shelter, housing, or enclosure of any individual, animal, process, equipment, goods, or materials of any kind.

Building permit means required written permission issued by the development director for the construction, repair, alteration, or addition to a structure.

Building setback line. Building setback line means the minimum horizontal distance required between the public right-of-way or the utility easement abutting a private street and the principal building or structure on a lot or any projection thereof except projections that are authorized exceptions to building set back line requirements in chapter 27 of the Code of the City of Tucker and any zoning conditions approved by the mayor and city council pursuant thereto. The size of the utility easement(s) for a private street shall be equal to the required size of the public right of way and shall not be any smaller in width or length than what would be required for a public right of way.

CPESC means a certified professional in erosion and sediment control with current certification by Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

Caliper means the diameter of a tree trunk, applied only to new or replacement plantings, that is taken six (6) inches above the ground for up to and including four-inch caliper size, and twelve (12) inches above the ground for larger sizes.

Certified personnel means a person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Channel means a natural or artificial watercourse with a definite bed and banks that conduct continuously or periodically flowing water.

Channel protection means the protection of stream channels, in accord with the Georgia Stormwater Management Manual, from bank and bed erosion and degradation by preserving or restoring the applicable stream buffer, by providing extended detention, and by integrating erosion prevention measures such as energy dissipation and velocity control.

Collector street means a street or road designated as a collector street in the Thoroughfare Plan.

Commission means the state soil and water conservation commission.

Comprehensive plan means the City of Tucker Comprehensive Plan adopted by the mayor and city council, as it may be amended from time to time, which divides the city into land use categories and which constitutes the official policy of the city regarding long term planning and use of land.

Conservation easement means a restriction or limitation on the use of real property which is expressly recited in any deed or other instrument of grant or conveyance executed by or on behalf of the owner of the land described therein and whose purpose is to preserve land or water areas predominantly in their natural scenic landscape or open condition or in an agricultural farming, forest or open space use and includes conservation easements authorized by state law.

Construction means any alteration of land for the purpose of achieving its development or changed use, including particularly any preparation for, building of or erection of a structure.

Construction waste means waste building materials and rubble resulting from construction, remodeling, repair and demolition operations on pavements, houses, commercial buildings and other structures. Such waste includes, but is not limited to: asbestos-containing waste, wood, tree stumps, tree tops, bricks, metal, concrete, wall board, paper, cardboard, glass, wire, plastics, and other typical construction waste products and refuse.

City means the City of Tucker, Georgia, a political subdivision of the State of Georgia. When appropriate to the context, the term "city" also includes authorized officers, employees and agents thereof.

City arborist means the city official having the primary responsibilities of administration and enforcement of the tree protection ordinance.

City zoning ordinance or *zoning ordinance* means the zoning ordinance of the City of Tucker, Georgia.

Critical root zone means an area of root space that is within a circle circumscribed around the trunk of a healthy tree using a radius of one (1) foot per inch DBH.

Crosswalk means a right-of-way within a block dedicated to public use, ten (10) feet or more in width, intended primarily for pedestrians and from which motor-propelled vehicles are excluded, and which is designed to improve or provide access to adjacent roads or lots.

Cut means a portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below original ground surface to excavated surface. Also known as "excavation."

DBH (Diameter at breast height) means the diameter of a tree trunk measured in inches at a height of four and one-half (4½) feet above the ground. If a tree splits into multiple trunks below four and one-half (4½) feet, then the trunk is measured at its most narrow point beneath the split.

DNR means the Department of Natural Resources of the State of Georgia.

The City of Tucker Municipal Separate Storm Sewer System means a stormwater conveyance or system of stormwater conveyances that are all of the following: owned or maintained by the County; designed or used for collecting or conveying stormwater; is not a combined sewer; not part of a publicly owned treatment works (POTW); and not located within the boundaries of a city located within the county or owned or operated by any other government entity.

The City of Tucker Stormwater Management Manual means the Georgia Stormwater Management Manual.

Deck, elevated means an open, unenclosed structure elevated above pervious natural grade that is attached to the primary structure.

Density factor means a unit of measurement used to prescribe the calculated required tree coverage on a site.

Department means the community development department.

Design professional means a professional licensed by the State in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control, Inc.

Detention means the temporary storage of stormwater runoff in a stormwater management facility for the purpose of controlling the peak discharge of the stormwater, as that term is defined by state law, the City of Tucker Stormwater Management Manual or this Code.

Detention facility means a facility that provides for storage of stormwater runoff and controlled release of this runoff during and after a flood or storm.

Developer means any person who acts in the person's own behalf or as the agent of an owner of property and engages in alteration of land or vegetation in preparation for construction activity.

Development means all activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy, or habitation, other than for agricultural purposes devoted strictly to the cultivation of land, dairying or animal husbandry. Such activities include, but are not limited to, land disturbance (clearing and grubbing the land of vegetation and stumps, and grading) and the construction of improvements such as, but not limited to, streets, driveways or parking area, water sewer mains, storm water drainage facilities, sidewalks or other structures permanently placed in or on the property. Where appropriate to the context, development also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as an interrelated whole, whether simultaneously or in phases.

Development permit means any permit that authorizes land disturbance for the use, construction thereon or alteration of any real property within the limits of the city.

Director means the director of the community development department, or his/her designee.

Director, EPD means the director of the environmental protection division of the department of natural resources.

District means the DeKalb County Soil and Water Conservation District.

Division means the environmental protection division of the department of natural resources.

Drainage means the removal of surface or subsurface water from a given area, either by gravity or by pumping, commonly applied herein to surface water.

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

Drainage plan means a plan prepared using appropriate and commonly accepted engineering standards, which specifies the means for alteration or development of a drainage system.

Drainage structure means a device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one (1) place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

Drainage system means the surface and subsurface system for the removal of water from the land, including, but not limited to, both the natural elements of streams, marshes, swales and ponds, whether of an intermittent or continuous nature, and the manmade element which includes culverts, ditches, channels, detention facilities that comprise the storm drainage system.

EPD means the environmental protection division of the department of natural resources.

Elevated building means a nonbasement building built to have the lowest floor elevated above ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), and/or shear walls.

Erosion means the process by which land surface is worn away by the action of wind, water, ice or gravity.

Erosion and sedimentation control plan means a plan for the control of soil erosion and sedimentation resulting from a land disturbing activity and that conforms to the requirements of the Manual for Soil Erosion and Sedimentation Control in Georgia.

Exceptional and historical trees means those trees or stands of trees which are exceptional representatives of their species in terms of size, age or unusual botanical quality, or are associated with historically notable events.

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) was completed before June 6, 1974.

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

Extended detention means the detention of stormwater runoff for an extended period, typically twenty-four (24) hours or greater.

Extreme flood protection means measures taken to prevent adverse impacts from large low-frequency storm events with a return frequency of one hundred (100) years.

Fill means a portion of land surface to which properly compacted soils have been added: the depth above the original ground.

Final stabilization means that all soil-disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, one hundred (100) percent of the soil surface is uniformly covered in permanent vegetation with a density of seventy (70) percent or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

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

Flood or flooding means a general and temporary condition of partial or complete inundation of normally dry land areas from the usual and rapid accumulation or runoff of surface waters from any source.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Emergency Management Agency, where the boundaries of the areas of special flood hazard have been defined as zone A.

Flood hazard map means the official city map designating the elevation and boundaries of flooding and associated floodways under base flood conditions maintained by the city, based upon the flood insurance study for the city, the United States Corps of Engineers or other reputable reports accepted by the roads and drainage director, and based upon competent engineering studies prepared by a currently state-registered professional engineer, or the city.

Flood insurance rate map (FIRM) means an official map of a community, on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

Flood insurance study is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodplain in section 14-44.1 et seq. means any land area susceptible to flooding, which would have at least a one (1) percent probability of a flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

Floodway means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

Floor means the top surface of an enclosed area in a building (including basement), i.e., the top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

Footpath in section 14-44.1 et seq. means any unpaved, narrow and pervious trail in a stream buffer allowing for pedestrian travel.

Frontage, lot means the distance for which the front boundary line of the lot and the street line are coincident.

Functionally dependent facility means a facility which cannot be used for its intended purpose unless it is located or carried out in close proximity to water, such as a docking or port facility necessary for the loading and unloading of cargo or passengers, shipbuilding, ship repair, or seafood processing facilities. The term does not include long-term storage, manufacture, sales, or service facilities.

Georgia Stormwater Management Manual is the manual adopted by the mayor and city council that provides the criteria, technical design specifications and standards for the proper implementation of the requirements of this chapter.

Governing authority of City of Tucker means the mayor and city council.

Grading means altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

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

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, next to the proposed walls of a building.

Historic structure. See Chapter 13.5.

Impervious surface means any surface that is highly resistant to infiltration by water, including but not limited to surfaces such as concrete or asphalt as well as most conventionally surfaced streets, roofs, sidewalks, driveways, parking lots, and other similar structures.

Infiltration means the process of percolating stormwater runoff into the soil.

Inspection and maintenance agreement means a written agreement executed by an owner in a form approved by the director that will provide the long-term inspection and maintenance of stormwater management facilities and practices on a site or with respect to a land development project, which when properly recorded in the deed records constitutes a restriction on the title to a site or other land involved in a land development project.

Intermediate regional flood (IRF) means a one-hundred-year frequency flood as defined on the flood hazard map which has a probability of occurring once every one hundred (100) years or having a one (1) percent chance of being equaled or exceeded in any given year. Also known as the base flood, or one hundred-year flood.

Intermediate regional floodplain means the land area within the floodplain within a community subject to a one (1) percent or greater chance of flooding in any given year as defined on the flood hazard map. Also known as area of special flood hazard, or one hundred-year floodplain.

Land-disturbing activity means any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land, but not including agricultural practices as described in section 14-38(b)(3)e.

Larger common plan of development or sale means a contiguous area where multiple separate and distinct construction activities are occurring under one (1) plan of development or sale. For the purposes of this paragraph, "plan" means an announcement, piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design, or physical demarcation such as boundary signs, lot stakes, or surveyor markings indicating that construction activities may occur on a specific plot.

Live detention means that quantity of water capable of being effectively contained by a designated facility for stormwater storage for a specified period of time.

Local issuing authority means the governing authority of the City of Tucker.

Local street means a street used primarily for access to abutting properties in residential, industrial or other developments.

Lot means a designated parcel, tract, or area of land legally established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

Lot, corner means a lot abutting upon two (2) or more streets at their intersection or upon two (2) parts of the same street forming an interior angle of less than one hundred thirty-five (135) degrees.

Lot, double-frontage means a lot that abuts two (2) parallel streets or that abuts two (2) streets that do not intersect at the boundaries of the lot. A double-frontage lot may also be referred to as a through lot.

Lowest floor means the lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided, that such enclosure is not built so as to render the structure in violation of the applicable nonelevation design requirements of 44 CFR 60.3.

Maintenance of detention facility means preserving the enclosed walls or impounding embankments of the detention facility in good condition; ensuring structural soundness, functional adequacy and freedom from excessive sediment; removing obstructions affecting operation of outlet device(s) and rectifying any unforeseen erosion problems.

Major thoroughfare/major arterial means a street, road or highway shown as a major thoroughfare in the City of Tucker Transportation and Thoroughfare Plan.

Manufactured home means a new or used structure, transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. section 5401 et seq.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this chapter, the term is synonymous with national geodetic vertical datum (NGVD).

Metropolitan River Protection Act (MRPA) means a state law found at O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

Minor Subdivision Plat means the combination of two lots or the subdivision of one (1) lot into two (2) lots, any subdivision of three or more lots is a major subdivision, see Subdivision.

Minor thoroughfare/minor arterial means a street, road or highway shown as a minor thoroughfare in the Transportation and Thoroughfare Plan.

Multi-phase residential development means any development undertaken by a single developer or a group of developers acting in concert, to develop lots for sale in a residential subdivision where such land is developed pursuant to multiple preliminary or final plats and such land is contiguous or is known, designated, or advertised as a common unit or by a common name.

Multiuse trail means a recreation corridor intended for the use of non-motorized forms of transportation such as, but not limited to, walking, running, bicycles, in-line skates, as identified in a master plan for multi-use trails in City of Tucker approved by the mayor and city council.

NOI means a notice of intent form provided by EPD for coverage under the State General Permit.

NOT means a notice of termination form provided by EPD to terminate coverage under the State General Permit.

National geodetic vertical datum (NGVD), as corrected in 1929, is a vertical control used as a reference for establishing varying elevations within the floodplain.

Natural ground surface means the ground surface in its original state before any grading excavation or filling.

Nephelometric turbidity units (NTU's) means numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed chapters are present.

New construction means any structure for which the permitted date of construction commenced after adoption of this chapter.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after June 6, 1974.

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

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

Off-site facility means a stormwater management facility located outside the boundaries of the site.

One hundred-year floodplain means land in the floodplain subject to a one (1) percent or greater statistical occurrence probability of flooding in any given year.

On-site facility means a stormwater management facility located within the boundaries of the site.

Open space means that portion of a lot, including yards, established pursuant to the requirements of this chapter as open space, which is open and unobstructed from ground level to the sky, with the exception of natural foliage or accessory recreational facilities or walkways, which is accessible to all persons occupying a building on the lot and is not a part of the roof of any portion of any building.

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

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

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

Owner means the person in whom is vested the fee ownership, dominion or title of property, the proprietor; this term may also include a tenant, if chargeable under the lease for maintenance of the property, and any agent of the owner or tenant including a developer.

Parcel in section 14-44.1 et seq. means any plot, lot or acreage shown as a unit on the latest county tax assessment records.

Permit means the authorization necessary to conduct a land-disturbing activity under the provisions of this ordinance.

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

Phase or *phased* means subparts or segments of construction projects where the subpart or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

Planning commission means the planning commission of the City of Tucker.

Planning director means the director of the community development department of the City of Tucker or designee.

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

Potential purchaser as used in sections 14-135 and 14-136 means a person purchasing property in a residential subdivision or a multi-phase residential development from a developer and/or builder for occupancy as a residence or as a residence to be rented or leased to others.

Predevelopment refers to the wooded conditions of a site.

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

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

Protected zone means all areas of a parcel required to remain in open space, including all areas required as yard areas, buffer areas, stream buffers, state buffer zones or landscaped areas according to provisions of the City of Tucker Zoning Ordinance or by conditions of zoning or variance approval.

Public facilities shall mean the roads, water, sewer, schools, traffic control devices, and electrical service.

Public works director means the director of the public works department or designee.

Qualified personnel means any person who meets or exceeds the education and training requirements of O.C.G.A. § 12-7-19.

Reach means a longitudinal segment of a stream or river measured along specified points on the stream or river.

Reasonable access means a fifteen-foot access easement from the public right-of-way to the stormwater management facility and a ten-foot drainage and maintenance easement on all four (4) sides of the stormwater management facility.

Recreation areas means those portions of open space designed and intended for active recreational use, such as sports fields and other play areas.

Recreational vehicle means a vehicle that is:

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

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

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

Residential shall have the same meaning as given in Chapter 27 except that it shall not include apartments.

Riparian means belonging or related to the bank of a river, stream, lake, pond or impoundment.

Roadway drainage structure means a device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water under a roadway by intercepting the flow on one (1) side of a traveled way consisting of one (1) or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

Rock outcropping means a single, contiguous piece of exposed rock that has a horizontal surface area equal to or greater than two hundred (200) square feet.

Runoff means the portion of precipitation on the land that reaches the drainage system.

Runoff coefficient means the ratio of runoff to rainfall.

Sediment means solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice or gravity as a product of erosion.

Sedimentation means the process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

Sedimentation facility means a detention facility specifically developed for the purpose of allowing the deposit of sediment resulting from the land development process which may be constructed as part of or separately from a detention facility.

Sediment basin means a detention facility specifically developed for the purpose of allowing the deposit of sediment resulting from the land development process that may be constructed as part of or separately from a detention facility.

Seller as used in sections 14-135 and 14-136 means a builder or developer.

Significant tree means any existing, healthy, living tree eight (8) inches DBH or greater in size.

Site plan means that plan required to acquire a development, construction or building permit which shows the means by which the applicant will conform with applicable provisions of this chapter and other applicable ordinances.

Soil and water conservation district approved plan means an erosion and sedimentation control plan approved in writing by the DeKalb County Soil and Water Conservation District.

Specimen tree means any tree that has been determined to meet the criteria within section 14-39 for the determination of specimen trees.

SS&WCC means the state soil and water conservation commission.

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

Start of construction (for other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348)), includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within one hundred eighty (180) days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure.

State means the State of Georgia.

State general permit means the national pollution discharge elimination system general permit or permits for storm-water runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. § 1251 et seq. and O.C.G.A. § 12-5-30(f).

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

Stormwater better site design means nonstructural site design approach and technique that can reduce a site's impact on the watershed and can provide for nonstructural stormwater management. Stormwater better site design includes conserving and protecting natural areas and greenspace, reducing impervious cover and using natural features for stormwater management.

Stormwater hotspot means an area where the use of the land has the potential to generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater. Examples of stormwater hotspots include, but are not limited to the following: gas/fueling stations, vehicle maintenance areas, vehicle washing/steam cleaning facilities, auto recycling facilities, outdoor material storage areas, loading and transfer areas, landfills, construction sites, industrial sites, and industrial rooftops.

Stormwater management facility means those structures and facilities that are designed for the collection, conveyance, storage, treatment and disposal of stormwater runoff into and through the drainage system.

Stormwater management manual means the Georgia Stormwater Management Manual.

Stormwater management measure means any stormwater management facility or nonstructural stormwater practice.

Stormwater quality site development review tool is an Excel spreadsheet tool available from the City of Tucker Community Development Department or website for use by both local government review staff and the development community to quickly evaluate the water quality performance of stormwater management plans for development sites. All new development and redevelopments in the City of Tucker use the stormwater quality site development review tool to facilitate the evaluation of the project in accordance with recommendations of this chapter and the Georgia Stormwater Management Manual.

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

Stream in section 14-44.1 et seq. means state waters, and natural, running water flowing continuously or intermittently in a channel on or below the surface of the ground, and includes, but is not limited to, all natural or manmade streams depicted on the City of Tucker Geographic Information System (GIS) map maintained by the City of Tucker GIS director. Stream starts at the location of a spring, seep or groundwater outflow that sustains stream flow. No stream shall be excluded from this definition due to its failure to be identified on the GIS map. Field verification shall be performed to make a final determination as to the existence of a stream where a dispute exists. Such field verification may be performed by the director.

Stream channel in section 14-44.1 et seq. means the portion of a watercourse that contains the base flow of the stream.

Streambank means as measured horizontally from that point where vegetation has been wrested by normal stream flow or wave action.

Street, private means an access way similar to and having the same function as a public street, providing access to more than one (1) property but held in private ownership. Private streets, when authorized, shall be developed in accordance with the specifications for public streets established in Division 3, Part B of this chapter.

Street, public means any right-of-way set aside for public travel deeded to the city and any right-of-way that has been accepted for maintenance as a street by the city.

Street right-of-way line means the dividing line between a lot, tract or parcel of land and a street right-of-way.

Structure means anything constructed or erected with a fixed location on the ground, or attached to something having a fixed location on or in the ground. This does not include telephone poles and utility boxes.

Structural erosion, sedimentation and pollution control practices means practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are rip rap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures and sediment traps, etc. Such practices can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

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

Subdivision means any division or redivision of a lot, tract or parcel, regardless of its existing and future use, into three (3) or more lots, tracts or parcels. Where appropriate to context, subdivision may also be used to reference the aggregate of all lots held in common ownership at the time of division.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, alteration or improvements to a structure taking place during the life of a structure, the cumulative cost of which equals or exceeds fifty (50) percent of the market value of the structure. The market value of the structure should be the appraised value of the structure prior to the start of the initial repair or improvement or, in the case of damage, the value of the structure prior to the damage occurring. This term includes structures that have incurred substantial damage regardless of the actual repair work performed. For the purposes of this definition, substantial improvement is considered to occur when the first alteration of any wall, ceiling, floor or other structural part of the structure commences, whether or not that alteration affects the external dimensions of the structure. The term does not, however, include any project for improvement of a building required to comply with existing state or local health, sanitary, or safety code specifications which have

been identified by a code enforcement official and which are solely necessary to assure safe living conditions, or any alteration to a structure listed on the National Register of Historic Places or a state inventory of historic places.

Substantially improved existing manufactured home parks or subdivision is where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds fifty (50) percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

SWCD means the DeKalb County Soil and Water Conservation District.

Thoroughfare plan means a comprehensive street plan of the city indicating proposed location and right-of-way widths for major thoroughfares, minor thoroughfares, collector streets and other streets.

Tree means any living, self-supporting, woody perennial plant which has a trunk caliper of two (2) inches or more measured at a point six (6) inches above the ground and which normally attains a height of at least ten (10) feet at maturity usually with one (1) main stem or trunk and many branches.

Tree harvesting means the felling, loading, and transporting of timber products done pursuant to a special exception issued by the zoning board of appeals.

Tree save area means the boundaries of the area or areas surrounding trees wherein it is essential that they remain undisturbed in order to prevent damage and loss of trees that are to be retained on site during the development and building process.

Tree replacement means the replacement of trees and landscape plant materials into the minimum required landscape areas, as determined by the zoning regulations or the tree protection ordinance.

Trout streams means all streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq.

Trout waters, first order means streams into which no other streams flow except springs.

Trout waters, primary means streams or waters supporting a self-sustaining population of rainbow, brown or brook trout.

Trout waters, secondary means streams or waters in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year.

Used for includes the phrases "arranged for," "designed for," "intended for," "maintained for" and "occupied for."

Vegetation means all plant growth, especially trees, shrubs, vines, ferns, mosses and grasses.

Vegetative erosion and sedimentation control measures means measures for the stabilization of erodible or sediment-producing areas by: covering the soil with permanent seeding, sprigging or planting, producing long-term vegetative cover; temporary seeding, producing short-term vegetative cover; or sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication "Manual for Erosion and Sediment Control in Georgia."

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

Water quality protection means the requirement that all developments must improve the quality of storm runoff from the development site.

Watershed means the land area that drains into a particular stream.

Wetlands means those areas that are inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support a prevalence of

vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas.

Cross reference— Definitions and rules of construction generally, § 1-2.

Sec. 14-2. - Motor vehicles in parks.

Any bike path or park trail designated as an alternative transportation road is subject to the requirements of sections 19-28 and 19-32(d).

Secs. 14-3—14-26. - Reserved.

ARTICLE II. - ENVIRONMENTAL CONTROL^[2]

State Law reference— Erosion and Sedimentation Act of 1975, O.C.G.A. § 12-7-1 et seq.

Sec. 14-27. - Preamble.

- (a) This article establishes public policies for the protection of the natural environment and specifies standards for land development to ensure achievement of these public policies.
- (b) By declaration of public policies for environmental protection, the mayor and city council expresses its intent to protect the public interest by seeking to assure, where appropriate, maintenance of the natural environment, prevention of its degradation and assuring high quality land development. The board further declares its intent that these policies shall constitute the public policy framework within which a comprehensive program for protection of the natural environment and implementation of a comprehensive drainage improvement program shall be accomplished.
- (c) The development process, as established by this Chapter 14, is guided by the policies and provisions contained in the comprehensive plan of the City of Tucker.

Sec. 14-28. - Purposes.

- (a) It is the purpose of this article to establish public policies for the protection of the natural environment and to establish requirements, standards and procedures for land development. The public policy objective of protecting the natural environment is to be achieved by:
 - (1) Regulating the alteration of land and topography.
 - (2) Regulating the removal and requiring the replacement of certain vegetation.
 - (3) Requiring erosion control and sedimentation control.
 - (4) Protecting city streams and floodplains from substantial alteration of their natural functions and from sediment and debris accumulation.
 - (5) Specifying standards for drainage system design.
 - (6) Assuring the continuous and efficient operation of the drainage system.
 - (7) Protecting the water quality within intermittent and perennial streams throughout the City of Tucker.
- (b) It is the mayor and city council' intent that land development be accomplished in conformity with the public policy statements. To that end, the plans required under applicable provisions of this article shall be reviewed by the city to enable a full exchange of information between the city and the applicant as to the city's public policies for land development. However, these policies shall not be used as a control or regulatory mechanism nor be construed as land development standards enforceable under applicable provisions of this article.

- (c) The mayor and city council further declares its intent that these public policies be evaluated periodically so as to reflect the community's interests in protection of the natural environment and to give direction to city actions in matters affecting the natural environment and land development.

Sec. 14-29. - Scope and applicability.

- (a) The provisions of this article shall apply to all development activity within the city.
- (b) Sections 14-31, 14-32, 14-33, 14-34, 14-35, 14-36, 14-37, 14-38, 14-40, 14-41, 14-42, and 14-43, shall not apply to any portion of a property included within the limits of a valid and complete application for a land disturbance permit or for preliminary plat approval which are received by the director prior to the effective date of this Article II of Chapter 14. Such applications will be subject to the provisions of Chapter 14 in effect prior to the effective date of this Article II.
- (c) Before filing a land development application on a project for review and approval, the applicant shall meet with the department to discuss the procedure for approval of a land development permit and the requirements as to the general layout of streets, parking, open space/lot coverage, street improvements, drainage, sewage, fire protection and similar matters, as well as the availability of existing services, including schools. The department and the applicant shall review the applicant's stormwater management plans, inspection and maintenance requirements and water quality control requirements. The department may advise the applicant, when appropriate, to discuss the proposed project with those officials who must eventually approve those aspects of the project coming within their jurisdiction. This meeting will also allow city officials to discuss with the applicant the necessary regulations that will properly accomplish the project.
- (d) For purposes of this section, a valid and complete application for a land disturbance permit shall consist of the following:
 - (1) Six (6) copies of complete civil plans, that include a site plan, a grading and drainage plan, a utility plan, a soil erosion and sedimentation control plan, a landscape plan, and a tree survey;
 - (2) One (1) hydrology report and completed stormwater quality site development review tool documentation;
 - (3) An application signed by the owner of the property, or a completed indemnification agreement signed by the owner of the property; and
 - (4) Payment of the appropriate development review application fee.
- (e) For purposes of this section, a valid and complete application for a preliminary plat approval shall consist of the following:
 - (1) Four (4) copies of the preliminary plat site plan that is in conformance with the zoning of the property in effect at the time of the application, and, a tree survey;
 - (2) An application signed by the owner of the property, or if the application is not signed by the owner, a completed indemnification agreement signed by the owner of the property; and
 - (3) Payment of the appropriate development review application fee.
- (f) In no event shall any project excepted from the provisions of this article pursuant to section 14-29(b) above, be extended for a greater time period than eighteen (18) months from the effective date of this Article II of Chapter 14.

Sec. 14-30. - Amendment procedure.

This article may be amended by the mayor and city council after giving public notice and holding a public hearing thereon in accordance with all applicable procedural requirements.

Sec. 14-31. - Administration and enforcement generally.

The city shall administer and enforce the provisions of this article as follows:

- (a) The director is designated to administer and enforce the grading, vegetation, erosion control, sedimentation control, drainage and water quality provisions of this article for all development and construction projects with the following duties and responsibilities:
 - (1) Review all development permits to assure that the permit requirements of this article have been satisfied;
 - (2) Advise permittee when additional federal or state permits may be required, and if specific federal or state permits are known to be required, that copies of such permits be provided and maintained on file with the development permit; and
 - (3) Notify adjacent communities and the state department of natural resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency.
- (b) The director shall administer and enforce those provisions of this article that apply to developed and occupied areas and to property in an undeveloped state affecting city responsibility for maintenance of the storm drainage system. The director shall assure that maintenance is provided within any altered or relocated portion of any watercourse so that the flood-carrying capacity is not diminished.

Sec. 14-32. - Inspection; right of entry.

- (a) Upon presentation of city identification to the applicant, contractor, owner, owner's agent, operator or occupants, city employees may enter during all reasonable hours any property under proposed or existing development or construction. These employees may make inspections of the facilities for the purpose of determining plan requirements or compliance with all ordinance provisions.
- (b) All new developments and redevelopments shall execute an inspection and maintenance agreement unless an on-site stormwater management facility or practice is dedicated to and accepted by the city. The applicant shall execute an easement and an inspection and maintenance agreement that will bind all subsequent owners of land served by an on-site stormwater management facility or practice.
- (c) City employees may inspect any drainage system within or outside of an existing drainage easement. All stormwater management facilities located on private property, whether dedicated to the city or not, shall be accessible at all times for city inspection. Where stormwater management facilities are accepted by the city for maintenance, public access easements shall be provided. Reasonable access shall be provided to all drainage easements for inspection and maintenance functions.
- (d) The department, in addition to other procedures provided, may obtain an inspection warrant under the conditions specified in this section. The warrant shall authorize the director to conduct a search or inspection of property without the consent of the person whose property is to be searched or inspected, under the conditions set out in this section.
 - (1) Inspection warrants may be issued by the municipal court when all of the following conditions are met:
 - (A) The person seeking the warrant must establish under oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection which includes that property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of that property; and
 - (B) The issuing judge determines that the issuance of the warrant is authorized by law.
 - (2) The inspection warrant shall be validly issued only if it meets all of the following requirements:
 - (A) The warrant is attached to the affidavit required to be made in order to obtain the warrant;
 - (B) The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or possessor of the property can reasonably determine from it the property for which the warrant authorizes an inspection;

- (C) The warrant indicates the conditions, objects, activities, or circumstances which the inspection is intended to check or reveal; and
- (D) The warrant refers, in general terms, to the ordinance provisions sought to be enforced.

Sec. 14-33. - Emergency maintenance operations.

- (a) The director may conduct emergency maintenance operations on private land and on drainage systems where emergency conditions exist. Emergency maintenance shall constitute the removal of trees and other debris, which in the judgment of the roads and drainage director create a condition potentially injurious to life, property and the public road system.
- (b) The provisions of section 14-39 of this chapter shall not apply in the case of tree trimming, removal or cutting necessitated by emergencies such as floods, windstorms, ice storms or other disasters.
- (c) Emergency maintenance conducted on any drainage system shall not be construed as constituting a continuing maintenance obligation on the part of the city.

Sec. 14-34. - Issuance of notice of violation; variances; specification of time period for correction; appeals.

- (a) *Notice of violation.* Whenever the director determines that development activity or inactivity on a property does not comply with the approved development and construction plans, that approved and required erosion and sedimentation control facilities or devices have been altered, damaged or destroyed, or that any other activities violate the provisions of this article, the director shall issue a notice of violation. Whenever the director determines that the drainage system has been unlawfully altered, causing inadequate drainage, the director shall issue a notice of violation. The provisions of this section 14-34(a) shall be in addition to any other penalty provisions applicable to this article. The notice of violation of the provisions of this article or of any rule or regulation adopted pursuant hereto shall be addressed to the owner of the property or the owner's agent and to the person, tenant, firm, corporation, property owner or property owner's agent found to be violating the provisions of this article and shall:
 - (1) Be in writing;
 - (2) Include a description of the property sufficient for identification of where the violation has occurred;
 - (3) List the specific provisions of this article which have been violated;
 - (4) State that, if these repairs, construction or alterations are not completed within a reasonable time period specified by the inspector, summons shall be issued for the person, firm, corporation, owner, or owner's agent to appear in recorder's court. However, in the judgment of the director, where the violation is willful, in wanton disregard of the provisions of this article or constitutes a public health and safety hazard or endangers the ecosystem, the director may issue a court summons in lieu of a notice of violation.
- (b) *Penalty.* It shall be unlawful for any person, firm or corporation to do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended. Any person, firm or corporation that shall do anything prohibited or fail to do anything required by the provisions of this article, as they now exist or as they may hereafter be amended, upon conviction of a violation in municipal court shall be subject to a fine and/or imprisonment in accordance with Chapter One (1) of the Code of the City of Tucker. Where any offense or violation continues from day-to-day, each day's continuance thereof shall be deemed a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this article exists, and any architect, builder, engineer, contractor, or any other agent of the owner, or any tenant, who commits, or assists in the commission of any violation, shall be guilty of a separate offense.
- (c) *Variances.*

- (1) Except as further limited herein, an applicant may request a variance from the terms of the requirements of sections 14-37, 14-38, 14-40, and 14-42. The director shall have no power to consider or to grant variances which are the responsibility of the director of the EPD pursuant to O.C.G.A. § 12-2-8 and other relevant state statutes and regulations. Where variances involving the same project are requested from both the director of the EPD and the community development director, the community development director shall take no action on any such request for variance until the director of the EPD grants the variance or otherwise approves the request pending before the EPD. Receiving a variance from the director of the EPD does not obligate the director to permit the project to proceed if the project does not also meet all the other requirements of this article. No variance from the provisions of Chapter 14 shall be authorized except as specifically authorized in this section or specifically authorized in another section of Chapter 14.
 - (2) Applications for variances authorized in subsection (1) above shall be made in writing to the director and shall contain all of those materials and documents required by the director that are necessary to demonstrate that said request meets the criteria for granting variances.
 - (3) In considering a request for a variance to the terms of this article authorized in subsection (1) above, the director shall use all of the following criteria:
 - (A) The request, while not strictly meeting the requirements of Chapter 14, will in the judgment of the director be at least as protective of natural resources and the environment as would a plan which met the strict application of these requirements. In making such a judgment, the director shall examine whether the request will be at least as protective of the natural resources and the environment with regard to the following factors:
 - (i) Stream bank or soil stabilization;
 - (ii) Trapping of sediment in surface runoff;
 - (iii) Removal of nutrients, heavy metals, pesticides and other pollutants from surface runoff;
 - (iv) Terrestrial habitat, food chain, and migration corridor;
 - (v) Buffering of flood flows;
 - (vi) Infiltration of surface runoff;
 - (vii) Noise and visual buffers;
 - (viii) Downstream water quality; and
 - (ix) Impact on threatened and endangered species, as those species are designated by law or federal or state regulation.
 - (B) By reason of exceptional topographic or other relevant physical conditions of the subject property that were not created by the owner or applicant, there is no opportunity for any development under any design configuration unless a variance is granted.
 - (C) The request does not go beyond the minimum necessary to afford relief and does not constitute a grant of special privileges inconsistent with the limitations upon other properties that are similarly situated.
 - (D) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area in which the property is located.
 - (E) The literal interpretation and strict application of the applicable provisions or requirements of Chapter 14 would cause an extreme hardship, provided the hardship was not created by the owner.
 - (4) The director's decision shall be in writing, shall state the basis for the decision, and shall be made no more than thirty (30) days following application.
- (d) *Appeals.*

- (1) *Appeals.* Appeals shall be made to the zoning board of appeals, as established in Chapter 27 of the Code, and shall be administered in accordance with the notice requirements, criteria and procedural requirements set forth therein, except as otherwise specified below.
 - (2) *Basis for appeal.* Whenever the director approves a variance pursuant to section 14-34(b) and it is alleged that said variance request did not meet the standards of said section, or where the director denies a variance request pursuant to section 14-34(b) and it is alleged that said variance request did meet the standards of said section, or where it is alleged by the applicant that there is error in any final order, requirement, or final decision made by an administrative official based on or made in the interpretation or enforcement of this Chapter 14, the aggrieved person, or any City of Tucker official, department, board or agency affected by said order, requirement or decision, shall have the right to appeal said final order, requirement or decision to the zoning board of appeals.
 - (3) *Initiation of appeal.* Appeals shall be made by filing with the secretary of the zoning board of appeals an application for appeal specifying the grounds thereof, within thirty (30) days after the action appealed from was taken.
 - (4) *Appeal stays all legal proceedings.* An appeal shall stay all legal proceedings in furtherance of the action appealed from unless the official from whom the appeal is taken certifies to the zoning board of appeals, after notice of appeal has been filed, that by reasons of facts stated in the certificate, a stay would, in that official's opinion, cause imminent peril to life and property. In such a case, proceedings shall be stayed only by a restraining order granted by the Superior Court of DeKalb County on notice to the officer from whom the appeal is taken and on due cause shown.
 - (5) *Time and notice of hearing.* The zoning board of appeals shall fix a reasonable time for hearing of the appeal and shall give notice thereof pursuant to the requirements of section 27-917 of the Code of City of Tucker as well as due notice to the parties in interest. Any party may appear at the hearing in person, by an agent, or by an attorney and may present oral and/or written documentation, testimony and evidence in accordance with the rules and procedures set by the zoning board of appeals.
 - (6) *Decision of the zoning board of appeals.* Following the consideration of all testimony, documentary evidence, and matters of record, the zoning board of appeals shall make a determination on each appeal. The zoning board of appeals shall decide the appeal within a reasonable time but in no event more than sixty (60) days from the date of the final hearing. An appeal shall be sustained only upon an express finding by the zoning board of appeals that the administrative official's action was based on an erroneous finding of a material fact, or that the administrative official acted in an arbitrary manner. In exercising its powers, the zoning board of appeals may reserve or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and to that end shall have all the powers of the administrative official from whom the appeal was taken and may issue or direct the issuance of a permit provided all requirements imposed by all other applicable laws are met.
- (e) All appeals of final decisions of the zoning board of appeals under the provisions of this article shall be as follows:
- (1) Any person aggrieved by a final decision of the zoning board of appeals, or any officer, department, board or agency affected by such decision, may seek review of such decision by petitioning the Superior Court of DeKalb County for a writ of certiorari, setting forth plainly the alleged errors. Such petition shall be filed within thirty (30) days after the final decision of the zoning board of appeals is rendered.
 - (2) In any such petition filed, the zoning board of appeals shall be designated the respondent in certiorari and the City of Tucker shall be designated the defendant in certiorari. The secretary of the zoning board of appeals shall be authorized to acknowledge service of a copy of the petition and writ for the zoning board of appeals as respondent. Service upon the city as defendant shall be as otherwise provided by law. Within the time prescribed by law, the zoning board of appeals shall cause to be filed with the clerk of DeKalb County Superior Court a duly certified record of

the proceedings had before the board, including a transcript of the evidence heard before it, if any, and the written decision of the board.

- (f) This article is not intended to abrogate, annul or otherwise interfere with any easement, covenant or other private agreement or legal relationship provided that when the regulations of this article are more restrictive or impose higher standards or requirements than such easements, covenants, or other private agreements or legal relationships, the regulations of this article shall govern. Further, where there is a conflict between any standard or requirement within Chapter 14, or between the Chapter 14 standards and any other provision of the Code, the more restrictive standard or requirement shall apply.

Sec. 14-35. - Plan submission requirements.

- (a) All site plans submitted in accordance with applicable provisions of this article shall meet the requirements for their preparation and shall also provide information to enable a determination to be made by the director as to plan conformance with the public policy statements of this article.
- (b) All persons proposing developments, redevelopments or construction shall submit site plans to the director illustrating the means by which conformance with policy provisions may be achieved and illustrating compliance with applicable development standards before issuance of a development or building permit.
- (c) Electric, telephone and gas utilities shall submit plans and obtain a development permit only for major transmission installations located within rights-of-way or easements devoted exclusively to installations of utility facilities. Individual single-family lots within approved subdivisions shall be exempt from these requirements for new residential construction with the exception that individual single-family lots where site plans for each are required by special designation on the recorded plat or such lots are located within the intermediate regional floodplain shall be submitted for review and approval in accordance with this article and other applicable provisions of the Code. Owners and developers of individual single-family lots shall be required to use best management practices to prevent sedimentation from leaving the site.
- (d) Grading, erosion control, sedimentation control, water quality control and drainage plans shall be prepared under the supervision of a currently state-registered professional engineer, architect or landscape architect, or combination as may be appropriate for project planning and design. Tree protection plans may be prepared by and implemented under the supervision of a currently state-registered forester, landscape architect or engineer as may be appropriate for project planning and design. When the hydrologic engineering analysis includes applications of the principles for flood routing, super critical flow, high energy dissipation or conversion, backwater curves, floodplain studies or other advanced hydrologic engineering techniques, the analysis shall be made by a currently state-registered professional engineer proficient in hydrology.
- (e) Site plans and supporting documentation to show conformance with this article shall be submitted in accordance with the applicable provisions of Chapter 27 and all conditions of zoning and shall include the following:
 - (1) Evidence of conformance with the requirements of this article for grading, vegetation alteration, erosion control, sedimentation control, water quality control and drainage system alteration or development. Grading plans shall illustrate existing and proposed contours to the two-foot interval at a minimum; golf courses and other open space areas shall be exempt from this requirement but general grading plans for golf courses and other open space areas shall be submitted. Water quality plans shall include the identification of existing wetland areas within the development site and shall demonstrate use of the stormwater quality site development review tool. Related plans shall show locations of structures, roads, surface drainage, existing and proposed drainage conduits, buffer areas, stream buffers, state buffer zones, and proposed alterations to the existing site;
 - (2) A hydrologic engineering analysis of stormwater runoff under pre-developed and post-developed site conditions and a detailed evaluation of the projected effects on upstream and downstream properties within the affected drainage basin. In determining downstream effects from stormwater

management structures, BMPs, and the development, hydrologic-hydraulic engineering studies shall extend downstream to a point where the proposed development represents less than ten (10) percent of the total watershed. This analysis shall include a determination of the culvert, floodplain and channel cross-section area required to carry the affected runoff at the intermediate regional flood stage level. The requirement for a complete hydrologic study may be waived in writing by the director for any development where the site plan submitted illustrates predeveloped or proposed improvements sufficient to ensure compliance with applicable provisions of this article;

- (3) Delineation of the boundaries, contour elevations and floodways of the intermediate regional floodplain for streams draining in excess of one hundred (100) acres. Unless shown on the flood hazard map, the intermediate regional flood contour elevations and floodways shall be established by engineering field control surveys and then be added to the flood hazard map upon approval of the director and be clearly designated on each site plan, subdivision plat and construction plan. The actual building site in relation to the intermediate regional floodplain boundaries shall be shown; the same information shall be indicated by the seller to the purchaser of each property so affected. The elevation contours representing the intermediate regional flood conditions shall be shown when they are located outside established ditch banks. A benchmark suitable for determining intermediate regional flood elevations shall be established;
- (4) The projected sequence of work represented by the grading, vegetation, erosion control, sedimentation control, water quality control and drainage plans as related to other major items of construction;
- (5) Upon development project completion, location, size and invert elevations of piped segments of the storm drainage system, of control weirs, BMPs and water surface elevations and volumes in detention ponds shall be shown on the final plat for a subdivision, and on a final plan for other developments which shall be submitted to the director prior to approval. The currently state-registered professional engineer, architect or landscape architect reviewing the construction shall provide a certificate that the development is in substantial compliance with approved plans. As-built elevation certifications prepared by currently state-registered land surveyors or currently state-registered professional engineers for all developments, including fill, allowed within a flood-prone area, shall be submitted to the director; and
- (6) A separate tree protection plan in conformance with the requirements of section 14-39 of this article.

Sec. 14-36. - Reserved.

Sec. 14-37. - Grading.

- (a) *Policies.* It is hereby declared to be public policy to:
 - (1) Encourage the design of residential grading plans to provide natural appearance of land contours and to provide ease of use in public areas.
 - (2) Minimize the adverse effects of land clearance and grading upon existing vegetation.
 - (3) Minimize the adverse effects of land clearance and grading upon the drainage system by strict erosion control and sedimentation control measures.
 - (4) Minimize erosion and shear failure potential by encouraging limited cutting and filling.
- (b) *Standards.*
 - (1) All grading operations shall be conducted in compliance with the approved site plans.
 - (2) Before beginning construction activity, the intermediate regional floodplain elevation contours shall be identified on the property by staking or other identifying mechanisms no less than every one hundred (100) feet, and shall be identifiable throughout project development.

- (3) Finish grade slopes on residential projects and lots shall not be steeper than three-to-one (3:1), unless absolutely impractical due to vegetation, topography, or soil conditions. Three-to-one (3:1) finish grade slopes shall transition to two-to-one (2:1) slopes at all perpendicular stream crossings.
- (4) Large-scale general grading shall include installation of approved soil and erosion control measures and be limited to phases approved by the director and completed prior to commencing building construction.
- (5) Prohibit grading and filling in floodplains, except for the construction and maintenance of perpendicular crossings of public utilities, drainage conveyances, roadways, sidewalks, and multi-purpose trails constructed in accordance with the City of Tucker design standards and specifications. Any variance from the requirements of this section 14-37(b)(5) shall be in accordance with the requirements of section 14-34 and with the following requirements:
 - a. If the required hydrologic studies reveal that a request for filling or grading within the intermediate regional floodplain would overload the capacity of the channel downstream or increase flood stages upstream, the development permit shall be denied unless equivalent flow and storage capacity is replaced and maintained by the owner within the intermediate regional floodplain. Altered sections of the intermediate regional floodplain shall have a positive slope so as to provide positive drainage back to the stream flow line and this section must be maintained by the owners in perpetuity so as to prevent or remove silt buildup.
 - b. Excavation within floodplain areas shall not be permitted unless the excavation can be accomplished in such a manner that the existing low level drainage pattern through the floodplain shall be maintained. The area of compensation within the floodplain shall be considered as ineffective flow area for the purpose of calculating floodplain elevations to meet no-rise certification requirements. The amount of compensation shall be limited to three hundred (300) cubic yards per acre of floodplain area.
- (6) The burying, piling, or concealing in any way of construction waste is prohibited, except where permitted within an M-2 (Industrial) District, as defined in Chapter 27 of this Code, and by a permit issued by the Georgia Department of Natural Resources, Environmental Protection Division. No certificate of occupancy shall be issued by the city under Chapter 7 of this Code until the applicant provides a written certification to the director of development or designee, accompanied by a landfill receipt that proves that all construction waste has been removed from the property.

Sec. 14-38. - Soil erosion and sedimentation control.

- (a) *Policies.* It is hereby declared to be public policy to:
 - (1) Minimize the removal of vegetation;
 - (2) Minimize the exposure of bare earth to precipitation by encouraging the scheduling of land development in increments of workable size which can be completed within a single construction season or within a time period compatible with the type and size of the project;
 - (3) Provide for the reestablishment of vegetation within a reasonable period following completion of final grading and utility installation;
 - (4) Give priority to the paving of streets, parking lots and other areas within a reasonable time following completion of final grading; and
 - (5) Encourage the use of erosion control and sedimentation techniques found in the Manual for Erosion and Sedimentation Control in Georgia, as published by the state soil and water conservation commission.
- (b) *Standards.*
 - (1) Any land-disturbing activity permitted under this chapter shall be carried out in accordance with the Georgia Erosion and Sedimentation Act of 1975, as amended; this chapter; and the permit conditions specified by the director.

- (2) Nothing contained in state law or this chapter shall prevent the issuing authority from adopting rules and regulations, ordinances, or resolutions which contain requirements that exceed the minimum requirements contained in this section or in state law.
- (3) *Exemptions.* This section 14-38 shall apply to any land-disturbing activity undertaken by any person on any land except for the following:
 - a. Surface mining, as the same is defined in O.C.G.A. § 12-4-72, the "Georgia Surface Mine Act of 1968";
 - b. Granite quarrying and land clearing for such quarrying;
 - c. Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
 - d. The construction of single-family residences, when such construction disturbs less than one (1) acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in subsection 14-38(b)(4) and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to article 2 of chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least fifty (50) horizontal feet and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least fifty (50) horizontal feet, but the community development director may grant variances to no less than twenty-five (25) feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least twenty-five (25) horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection 14-38(b)(4) and the buffer zones provided by this section shall be enforced by the development department;
 - e. Agricultural operations as defined in O.C.G.A. § 1-3-3, "Definitions", to include raising, harvesting or storing of products of the field or orchard; feeding, breeding or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits or for use in the production of poultry, including but not limited to chickens, hens and turkeys; producing plants, trees, fowl, or animals; the production of aquaculture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
 - f. Forestry land management practices, including harvesting; providing, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs 15. and 16. of subsection (b)(4)c. of this section, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three (3) years after completion of such forestry practices;
 - g. Any project carried out under the technical supervision of the Natural Resources Conservation Service of the United States Department of Agriculture;
 - h. Any project involving less than five thousand (5,000) square feet of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one (1) acre or within two hundred (200) feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams

which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one (1) acre, which involves land-disturbing activity, and which is within two hundred (200) feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the City of Tucker from regulating any such project which is not specifically exempted by paragraphs (b)(3)a., b., c., d., e., f., g., i., or j. of this section;

- i. Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the Georgia Highway Authority, or the state tollway authority; or any road construction or maintenance project, or both, undertaken by any city or municipality; provided, however, that construction or maintenance projects of department of transportation or state tollway authority which disturb one (1) or more contiguous acres of land shall be subject to provisions of O.C.G.A. § 12-7-7.2; except where the department of transportation, the Georgia Highway Authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
 - j. Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the Public Service Commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. § 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in section O.C.G.A. § 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
 - k. Any public water system reservoir.
- (4) *Minimum requirement for soil erosion and control and sedimentation control using best management practices.*
- a. *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities. Therefore, plans for those land-disturbing activities that are not exempted by this chapter shall contain provisions for application of soil erosion and sedimentation control measures and practices. The provisions shall be incorporated into the erosions and sedimentation control plans. Soil erosion and sedimentation control measures and practices shall conform to the minimum requirements of subsections (b)(4)b. and c. of this section and any other applicable provision of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, stormwater management facilities, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion and sedimentation pollution during all stages of any land-disturbing activity in accordance with the requirements of this ordinance and the NPDES general permit. The community development director may require that land disturbance activity be phased. Soil erosion and sedimentation control plans shall address appropriate measures to effectively control soil erosion during successive phases of construction.

- b. *Minimum requirements.*
1. Best management practices as set forth in subsections (b)(4)b. and c. shall be required for all land-disturbing activities. Proper design by phases, installation and maintenance of best management practices shall constitute a complete defense to any action by the director of the environmental protection division (EPD) or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act". As used in this subsection, the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. § 12-7-6(b).
 2. A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than twenty-five (25) nephelometric turbidity units for waters supporting warm water fisheries or by more than ten (10) nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director of the EPD. This paragraph shall not apply to any land disturbance associated with the construction of single-family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than one (1) acre.
 3. Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to O.C.G.A. § 12-5-30(f), the "Georgia Water Quality Control Act", for each day on which such failure occurs.
 4. The director of the EPD may require, in accordance with regulations adopted by the BNR, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
- c. The rules and regulations, ordinances, or resolutions adopted pursuant to this chapter for the purpose of governing land-disturbing activities shall require, at a minimum, protections at least as stringent as the state general permit; and best management practices, including conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:
1. Stripping of vegetation, regrading and other development activities shall be conducted in a manner so as to minimize erosion;
 2. Cut-fill operations shall be kept to a minimum;
 3. Development plans shall conform to topography and soil type so as to create the lowest practical erosion potential;
 4. Whenever feasible, natural vegetation shall be retained, protected and supplemented as provided in sections 14-39 and 14-42;
 5. The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
 6. Disturbed soil shall be stabilized as quickly as practicable;

7. Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
8. Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
9. To the extent necessary, sediment in runoff water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. § 12-7-1 et seq.;
10. Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
11. Cuts and fills shall not endanger adjoining property;
12. Fills shall not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
13. Grading equipment shall cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
14. Land-disturbing activity plans for erosion and sedimentation control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediment on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(4)b.2.;
15. Except as provided in paragraph 16. of this subsection, there is established a twenty-five-foot state buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director of the EPD determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director of the EPD pursuant to O.C.G.A. § 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the groundwater table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least twenty-five (25) feet established pursuant to part 6 of article 5, chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the director of the EPD as provided in this paragraph. The following requirements shall apply to any such buffer:
 - i. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quality to keep shade on the stream bed; and

- ii. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines;
16. There is established a fifty-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to article 2 of chapter 5 of title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of twenty-five (25) gallons per minute or less shall have a twenty-five-foot buffer or they may be piped, at the discretion of the landowner, pursuant to the terms of a rule providing for a general variance promulgated by the BNR, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director of the EPD may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:
- i. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed: provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - ii. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within twenty-five (25) degrees of perpendicular to the stream; cause a width of disturbance of not more than fifty (50) feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.
- d. The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.
- (5) *Application/Permit Process.*
- a. *General.* The property owner, developer and designated planners and engineers shall review the general development plans and detailed plans of the local issuing authority that affect the tract to be developed and the area surrounding it. They shall review the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this chapter, and other ordinances which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator is the only party who may obtain a permit.
 - b. *Application requirements.*
 - 1. No person shall conduct any land-disturbing activity within the jurisdictional boundaries of the City of Tucker without first obtaining a permit from the community development

director to perform such activity, and providing a copy of the notice of intent, if applicable, to the EPD.

2. The application for a permit shall be submitted to the community development director and must include the applicant's erosion and sedimentation control plan with supporting data, as necessary. Said plans shall include, at a minimum, the data specified in subsection (b)(5)c. Applications for a permit will not be accepted unless accompanied by eight (8) copies of the applicant's soil erosions and sedimentation control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD rule 391-3-7-.10..
 3. A permitting fee, as determined by the mayor and city council shall be charged for each acre or fraction thereof in the project area.
 4. In addition to the local permitting fees, fees will also be assessed pursuant to O.C.G.A. § 12-5-23(a)(5), provided that such fees shall not exceed eighty dollars (\$80.00) per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to O.C.G.A. § 12-7-8(a) half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to O.C.G.A. § 12-7-17(9) or (10) shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
 5. Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion and sedimentation control plan. A district shall approve or disapprove a plan within forty-five (45) days of receipt. Failure of a district to act within forty-five (45) days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the community development director. No permit will be issued unless the plan has been approved by the district, and any variances required by subsection (b)(4)c.15. and 16. and bonding if required by subsection (b)(5)b.7. have been obtained. Such review will not be required if the City of Tucker and the district enter into an agreement which allows the City of Tucker to conduct such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within forty-five (45) days of receipt. Failure of the local issuing authority with plan review authority to act within forty-five (45) days shall be considered an approval of the revised plan submittal.
 6. If a permit applicant has had two (2) or more violations of previous permits, this chapter, or the Erosion and Sedimentation Act, as amended, within three (3) years prior to the date of filing of the application under consideration, the community development director may deny the permit application.
 7. The community development director shall require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, three thousand dollars (\$3,000.00) per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this section or with the conditions of the permit after issuance, the mayor may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- c. *Plan requirements.*

1. Plans must be prepared to meet the minimum requirements as contained in subsection (b)(4) b. and c., or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this chapter. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any land disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. §12-7-20.
 2. Data required for the Site Plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.
- d. *Permits.*
1. Permits shall be issued or denied as soon as practicable but in any event not later than forty-five (45) days after receipt by the community development director of a completed application, provided variances and bonding are obtained, where necessary; no permit may be issued unless all applicable fees have been paid.
 2. No permit shall be issued by the community development director unless the erosion and sedimentation control plan has been approved by the district and the community development director has affirmatively determined that the plan is in compliance with this chapter, any variances required by subsection (b)(4)c.15. and 16. are obtained, bonding requirements, if necessary, as per subsection (b)(5)b.7. are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the City of Tucker are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 3. Any land-disturbing activity by the governing authority shall be subject to the same requirements of this section, and any other ordinances relating to land development as are applied to private persons, and the director shall enforce such requirements upon the governing authority.
 4. If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 5. The permit may be suspended, revoked, or modified by the City of Tucker, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this chapter. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
 6. No permit shall be issued until the applicant files documents with the community development director demonstrating compliance with all applicable local, state and federal requirements.
- (6) *Inspection and enforcement.*
- a. The community development director will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective

in controlling erosion and sedimentation. Also, the City of Tucker shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbance activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this section, a written notice to comply shall be served upon that person by the community development director. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land disturbing activity fails to comply within the time specified, he shall be deemed in violation of this section.

- b. The community development director shall have the power to conduct such investigations as may reasonably be necessary to carry out duties as prescribed in this section, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.
- c. No person shall refuse entry or access to any authorized representative or agent of City of Tucker, the commission, the district, or the division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.
- d. The district or the commission or both shall semi-annually review the actions of the city. The district or the commission or both may provide technical assistance to the City of Tucker for the purpose of improving the effectiveness of the city's erosion and sedimentation control program. The district or the commission shall notify the division and request investigation by the division if the city's program is found to be deficient or ineffective.
- e. The division may periodically review the actions of the City of Tucker which has been certified as a local issuing authority pursuant to O.C.G.A. § 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of the City of Tucker's ordinances and review of conformance with an agreement, if any, between the district and the City of Tucker. If such review indicates that the City of Tucker has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. § 12-7-7(e), the division shall notify the City of Tucker governing authority in writing. Upon receipt of the notification, the governing authority shall have ninety (90) days within which to take the necessary corrective action to retain certification as a local issuing authority. If the City of Tucker does not take necessary action within ninety (90) days after notification by the division, the division may revoke the certification of the City of Tucker as a local issuing authority.

(7) *Penalties and incentives.*

- a. *Failure to obtain a permit for land-disturbing activity.* If any person commences any land-disturbing activity requiring a land-disturbing permit as prescribed in this chapter without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the City of Tucker.
- b. *Stop work orders.* Upon notice from the community development director or other city authorized representative, work on any project that is being done contrary to the provisions of this chapter or in a dangerous or unsafe manner, shall be immediately stopped. Such notice shall be in writing and shall be given to the owner of the property, his/her authorized agent or the person or persons in charge of the activity on the property, and shall state the

conditions under which work may be resumed. Where an emergency exists, no written notice shall be required.

1. For the first and second violations of the provisions of this section on a site, the community development director shall issue a written notice of violation. The violator shall have five (5) days to correct the violation. If the violation is not corrected within five (5) days, the community development director shall issue a stop work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided that if the violation presents an imminent threat to public health or waters of the state, the community development director shall issue an immediate stop work order in lieu of a warning.
 2. For a third and each subsequent violation on a site, the community development director shall issue an immediate stop work order, and;
 3. All stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.
 4. When a violation in the form of land disturbance without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the community development director, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the community development director. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.
- c. *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served by the community development director upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this chapter and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection (b)(5)b.7. The community development director may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.
- d. *Monetary penalties.* Any person who violates any provisions of this section, or any permit condition or limitation established pursuant to this section, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the development director issued as provided in this section shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500.00) per day, or the maximum amount authorized by section 1-10 of the Code of the City of Tucker. Notwithstanding any limitation of law as to penalties which can be assessed for violations of city ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought under city ordinances approved under this section shall be authorized to impose penalties for such violations not to exceed two thousand five hundred dollars (\$2,500.00) for each violation; however the maximum assessment shall not exceed the amount authorized by section 1-10 of the Code. Each day during which violation or failure or refusal to comply continues shall be a separate violation.
- (8) *Education and certification.*
- a. Persons involved in land development design, review, permitting, construction, monitoring, or inspection of any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. § 12-7-20.

- b. For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary or tertiary permittee, as defined in the state general permit, shall have as a minimum one (1) person who is in charge of erosion and sedimentation control activities on behalf of said entity or person; said person(s) shall meet the applicable education or training certification requirements developed by the commission, and maintain evidence of the certification present whenever land-disturbing activities are conducted on the site. A project shall herein be defined as any land-disturbance site, or multiple sites within a larger common plan of development or sale, permitted by an owner or operator for compliance with the state general permit.
- c. Persons or entities involved in projects not requiring a state general permit, but otherwise requiring certified personnel on site, may contract with certified persons to meet the requirements of this section.
- d. If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of O.C.G.A. § 12-7-19(b)(1), then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in O.C.G.A. § 12-7-19(4), but shall not be required to meet any educational requirements that exceed those specified in said paragraph.

(9) *Administrative appeal, judicial review.*

- a. *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the City of Tucker upon finding that the holder is not in compliance with the approved erosion and sediment control plan; or that the holder is in violation of permit conditions; shall entitle the person submitting the plan or holding the permit to an appeal before the zoning board of appeals pursuant to the procedures and standards set forth in subsection 14-34(d).
- b. *Judicial review.* Any person aggrieved by administrative appeals from a decision or order of the zoning board of appeals authorized by subsection (b)(9)a. of this section shall be as provided for in section 14-34(d).

(10) *Validity and liability.*

- a. *Validity.* If any section, paragraph, clause, phrase, or provision of this section shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this section.
- b. *Liability.*
 - 1. Neither the approval of a plan under the provisions of this section nor the compliance with provisions of this section shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the City of Tucker, the district, its officers or employees for damage to any person or property.
 - 2. The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this section or the terms of the permit.
 - 3. No provision of this section shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

Sec. 14-39. - Tree protection.

- (a) *Statement of purpose.*

- (1) The purpose of these standards is to facilitate the preservation and/or replacement of trees as a part of land development in the city.
 - (2) The City of Tucker Mayor and city council hereby finds that the preservation of existing trees is a public purpose that protects the public health, safety, general welfare and aesthetics of the City of Tucker and all its citizens.
 - (3) The citizens of the city and their many communities enjoy many benefits that can be directly attributed to our trees.
 - a. Trees produce oxygen, which is essential to the well-being of all animal life, including humans.
 - b. Trees help to reduce the amounts of airborne pollutants. For example, trees remove carbon dioxide, that is a major environmental concern due to its current high levels.
 - c. Trees and their foliage intercept dust and particulate matter, thereby helping to purify our air and limiting health risks.
 - d. Trees and their root systems reduce soil erosion and storm water runoff. This decreases sedimentation problems and improves water quality.
 - e. Trees provide food and shelter for desirable urban wildlife.
 - f. Trees provide screening, which in turns aids in the reduction of noise and glare.
 - g. Trees help moderate our air temperature to provide us with a comfortable environment.
 - h. Trees provide scenic amenities to soften the harshness of city buildings and streets. They are aesthetically pleasing to all that view them.
 - i. Trees may affect property values and can have a positive impact upon the economy of an area.
 - j. Trees can enhance the natural functions of streams and related buffers.
 - (4) Protect specimen and historical trees in a manner consistent with the City of Tucker Tree Protection Administrative Standards which shall be promulgated by the director. The director shall maintain a list and map of these trees in the office of the director through the assistance of the following offices:
 - a. DeKalb County Board of Education.
 - b. DeKalb County Extension Service.
 - c. DeKalb Chapter, Georgia Conservancy.
 - d. Georgia Forestry Commission.
 - (5) Provide standards for the preservation of trees as part of the land development process.
 - (6) Prevent clear-cutting and mass grading of land that results in the loss of mature trees, and to ensure appropriate replanting when tree loss does occur.
 - (7) Protect trees during construction to enhance the quality of life in the City of Tucker.
 - (8) Protect trees in construction of public facilities and utilities.
- (b) *General applicability.*
- (1) The terms and provisions of the tree protection ordinance shall apply to all real property in the City of Tucker except as otherwise provided in this section 14-39.
 - (2) The terms and provisions of the tree protection ordinance shall further apply to any residential or non-residential development which requires the issuance of a land disturbance permit, development permit, or building permit, except as otherwise provided in this section 14-39.

- (3) The terms and provisions of the tree protection ordinance shall also apply to development on any city-owned property, including property owned by city agencies, boards, and authorities, except as otherwise provided in this section 14-39.
 - (4) The Local Issuing Authority status of the City of Tucker shall not impact the enforcement of the tree protection ordinance.
- (c) *Exemptions.*
- (1) a. The removal of five (5) or fewer trees, other than specimen trees, on any single-family residential property, within a single calendar year.
 - b. The removal of more than five (5) trees, other than specimen trees, from an owner-occupied, single-family lot may be approved by the city arborist if the owner must remove trees in order to build a newly permitted structure, or to build an addition to or make improvements to an existing structure, or to improve the health of other trees in the landscape.
 - (2) Zonings conditioned to a specific site plan prior to adoption of the tree protection ordinance on July 11, 2016, provided that said zoning contains specific conditions for both tree preservation and tree replacement.
 - (3) The removal of trees found to be diseased or insect infested by the county extension service, the state forestry commission, a certified arborist, or urban forester.
 - (4) Grandfathered projects:
 - a. Section 14-39 shall not apply to any portion of a property included within the limits of a valid and complete application for a land disturbance permit or preliminary plat approval where said application has proceeded through and completed first round red line review by the development department nor to commercial site plans that have been reviewed and red lined by the development department and which were received by the director prior July 11, 2016, provided that all time constraints relating to the permit issued shall be observed.
 - b. The requirements of this section 14-39 may be waived by the director for a land disturbance permit which is to proceed with development of a larger project, at least seventy-five (75) percent of the land area of which has already received a permit or permits initiating clearing or grading activities prior to July 11, 2016.
 - c. In no event shall any grandfathered project be extended for a greater time period than twelve (12) months from July 11, 2016.
 - d. The mayor and city council may grandfather a project not specifically covered under the foregoing subsections upon application of an applicant or owner of property, provided that an applicant can demonstrate that: 1) failure to grandfather the applicant's project will cause the applicant substantial economic hardship; 2) the proposed development activity will not substantially harm the public health, safety, aesthetics and welfare of the citizens of the City of Tucker; 3) the proposed development activity is otherwise consistent with all pertinent development standards and is compatible with surrounding land uses; and 4) applicant has on file with the city on the effective date of this article an application for a building permit, land disturbance permit or preliminary plat review or has submitted construction plans for development department review. Incomplete applications shall not be processed for hearing before the mayor and city council. Any application by an applicant for whom the department of community development did not have on file an application for a building permit, land disturbance permit preliminary plat review or construction plans on July 11, 2016, shall not be processed for hearing before the board. Such applications shall stand automatically denied.
 - e. Upon submission of a written application by the applicant or owner for a hardship waiver to the director, the mayor and city council shall, within twenty-one (21) days of receipt of such application, schedule a public hearing. At said public hearing, the applicant or owner and any other interested parties shall have the opportunity to be heard with regard to the application, and the mayor and city council shall render its decision either granting, with or

without conditions, or denying the application prior to the succeeding regularly scheduled meeting of the mayor and city council.

- f. In the event a hardship waiver is granted by the board, the applicant shall be required to comply with the vegetation protection ordinance in effect immediately prior to July 11, 2016.
- (5) The removal of trees from horticultural properties, such as farms, nurseries or orchards. This exemption shall not include tree harvesting.
 - (6) The removal of any tree which has become, or threatens to become, a danger to human life or property. In order for this exemption to be considered, a letter must be submitted by a certified arborist and approved by the director of community development
 - (7) Agricultural activities on land zoned R-200.
 - (8) Approved utility construction within permanent utility easements.
 - (9) Construction, expansion, and operation of county landfills.
 - (10) Building permits that do not require or authorize land disturbance.
- (d) *Definitions.* See section 14-1.
- (e) *Procedures.*
- (1) Application requirements.
 - a. *Pre-application conference.* Prior to submission of an application for development, the applicant is encouraged to meet with the city arborist to discuss the tree protection ordinance as it relates to the applicant's property. The purpose of the pre-application conference is to clarify the provisions and procedures of the tree protection ordinance and review applicable standards and guidelines for the submittal of documents and required tree protection, replacement, and maintenance measures.
 - b. *Tree survey.* Except as provided elsewhere in this section, a tree survey shall be required as part of any application for a land disturbance permit, development permit, building permit or preliminary subdivision plat. Except as provided elsewhere in this section, all trees eighteen (18) inches (DBH) and larger shall be identified. Specimen trees shall be identified by size, species and location. Trees larger than two (2) inches (DBH) may be identified and counted for unit credit on the tree protection plan. Single residential lots on which the applicant intends to reside may be exempted from the tree survey requirements at the discretion of the director. With the prior approval of the city arborist sampling methods may be used to determine tree densities for forested areas.
 - (2) Tree protection plan. A tree protection plan shall be submitted with other permit drawings as part of the development permits process. This plan may either be a separate drawing, or part of a landscape plan, and shall include the following information:
 - a. Definition of spatial limits:
 1. Limits of land disturbance, clearing, grading, and trenching;
 2. Tree save areas;
 3. Specimen trees; and
 4. Areas of revegetation.
 - b. Detailed drawings of tree protection measures and their location:
 1. Location, species and size (DBH) of existing significant trees and an indication of which significant trees would remain on the site.
 2. Tree fences;
 3. Erosion control fences;

4. Tree protection signs;
 5. Tree wells;
 6. Aeration systems;
 7. Transplanting specifications;
 8. Staking specifications; and
 9. Other applicable drawings as determined by the director.
- c. The tree protection plan shall show all utility lines existing and proposed, including irrigation and electric lighting lines. The applicant shall coordinate the location of these utility lines with the utility companies in order to prevent root damage within the critical root zones of protected trees, and to minimize damage to trees located in protected zones.
 - d. Procedures and schedules for the implementation, installation, and maintenance of tree protection measures.
 - e. Calculations of tree density proposed on site per subsection (g), tree preservation and replacement requirements.
 - f. Tree protection inspection. Following the receipt of a complete application, the city arborist shall schedule and conduct an inspection of the proposed development site. The applicant or applicant's designee shall be advised as to the date and time of the inspection and given an opportunity to participate.
 - g. Following inspection said plans shall be reviewed by the director for conformance with applicable zoning conditions, the tree protection ordinance, and any applicable administrative guidelines, and will either be approved or denied. Reasons for denial shall be noted on the tree protection plan or otherwise stated in writing.
 - h. No development or building permit shall be issued until the tree protection plan has been approved by the city arborist.
 - i. All tree protection measures shall be installed prior to land disturbance.
 - j. Single lots in platted residential subdivisions on which the applicant intends to reside may be exempted from the tree protection plan requirements at the discretion of the director.
- (3) Final inspection. No certificate of occupancy shall be issued by the director with respect to any permit subject to this section 14-39 unless and until the city arborist shall have inspected the site and confirmed that all existing trees to remain are in healthy condition and all replacement trees have been planted in accordance with this section.
- (4) Issuance of a building or land development permit shall be conditioned on the approved tree protection plan and conformance to the provisions of these regulations. Any permit may be voided if its terms are violated.

(f) *Fees. (Reserved)*

(g) *Tree preservation and replacement requirements.* The following tree preservation and replacement requirements are hereby established:

- (1) If significant trees exist on a tract of land for which a permit subject to this section is sought, either one hundred twenty (120) inches (DBH) per acre or twenty-five (25) percent of existing significant trees per acre of such significant trees, whichever is less, shall be preserved on the site. Except for zoned C-1, C-2, M, or M-2 sites, trees and tree save areas counting toward this requirement shall not be located in required buffer zones. Trees and tree save areas counting toward this requirement on sites zoned C-1, C-2, M or M-2 may be located in stream buffers and state buffer zones, transitional buffer zones and designated floodplains.

If the city arborist determines that special constraints of a site result in an inability to build or develop without removing significant trees on a site, where there are only one hundred twenty

(120) inches (DBH) per acre or less of existing significant trees, the arborist may permit the removal of one or more significant trees. Trees removed pursuant to this section must be replaced with trees one (1.0) times the diameter inches of those removed.

- (2) There shall be at least two (2) two-inch (DBH) over story trees in every front yard of properties zoned RE, RLG, R100, and R85,. There shall be at least one (1) two-inch (DBH) over story tree in every front yard of properties zoned R60 and RSM.
- (3) The applicant shall landscape the areas with trees and other plant materials in accordance with the following standards:
 - a. Residential developments: All residential subdivisions shall have an average density of fifteen (15) density units per acre. Required trees may be located on individual lots or in subdivisions in which there is commonly owned property may be located on such commonly owned property.
 - b. Non-residential and multifamily developments: The quantity of total existing/replacement trees on site must be sufficient so as to produce a total site density factor of no less than thirty (30) density units per acre.
 - c. With the exception of C-1, C-2, M, or M-2 zoned property, the total tree density units required for a parcel or lot shall be computed based on the area of the parcel or lot, excluding all area within the 100-year floodplain. Total tree density units required for C-1, C-2, M, or M-2 zoned property shall be computed based on the area of the parcel or lot, including all area within the one hundred-year floodplain.
- (4) Procedures for calculating the required tree density are provided in Charts 1, 2 and 3 of this Section 14-39. Tree unit values are assigned as follows:

CHART 1.
Conversion From Diameter To Density Factor Units For Existing Deciduous Trees To Remain On Site

DBH	Units	DBH	Units	DBH	Units
2 to 3	.8	25	6.8	38	15.8
4 to 6	1.6	26	7.4	39	16.6
7 to 9	2.4	27	8.0	40	17.4
10 to 12	3.2	28	8.6	41	18.4
13 to 15	4.0	29	9.2	42	19.2
16 to 18	4.8	30	9.8	43	20.2
19 to 21	5.4	31	10.4	44	21.2
22 to 24	6.0	32	11.2	45	22.0
		33	11.8	46	23.0

		34	12.6	47	24.0
		35	13.4	48	25.2
		36	14.2	49	26.2
		37	15.0	50	27.2

CHART 2.
Conversion From Diameter To Density Factor Units For Evergreens And Conifers

DBH	
2 to 9	.2 less unit than deciduous trees
10 to 15	.1 less unit than deciduous trees
All others	Same as deciduous trees

CHART 3.
Conversion From Caliper Diameter To Density Factor Units For Deciduous Replacement Trees.

Caliper inches	Units
0.0 to 0.9	Not allowed
1.0 to 1.9 no replants under 2 caliper inches	Not allowed
2.0 to 2.9	.4
3.0 to 3.9	.5
4.0 to 4.9	.7
5.0 to 5.9	.8
6.0 to 6.9	1.0
7.0 to 7.9	1.1

8.0 to 8.9	1.2
9.0 to 9.9	1.3
10.0 to 10.9	1.5
11.0 to 11.9	1.6
12 inches or greater	2.0

Container-grown pine trees are given replacement value as follows:

Size	Units
7-gallon	.05

The use of one- and three-gallon pines will be permitted only with prior approval. There will be no replacement value given for such trees.

- (5) Nothing in these regulations shall be construed to allow the removal of any tree or vegetation in a required stream buffer, transitional buffer zone or state buffer zone except buffer improvements as authorized by the director.
- (6) Tree relocation and credit for existing trees replacement units will be granted to trees relocated on site. Tree relocation is subject to approval of the city arborist. Existing trees between two (2) caliper inches and seven and nine-tenths (7.9) caliper inches may be used for credit on the tree replacement plan.
- (7) Understory vegetation. Tree preservation areas shall leave intact the naturally occurring groundcover and understory vegetation except where directed otherwise by the city arborist in order to allow the removal of undesirable groundcover or understory vegetation.
- (8) Specimen trees.
 - a. Specimen trees shall be identified by a certified arborist, and shall be located on the tree protection plan.
 - b. Standards for the identification, preservation, and protection of specimen trees shall be as follows: Any tree in fair or better condition which equals or exceeds the following diameter sizes:
 1. Large hardwoods, i.e. oaks, hickories, yellow poplars, and similar species: Thirty (30) inches DBH.
 2. Large softwoods, e.g. pines, evergreens, and similar species: Thirty (30) inches DBH.
 3. Small trees, e.g. dogwoods, redbuds, sourwoods, and similar species: Ten (10) inches DBH.

- c. A tree in fair or better condition should meet the following minimum standards:
 - 1. A life expectancy of greater than ten (10) years.
 - 2. A relatively sound and solid trunk with no extensive decay or hollow, and less than twenty (20) percent radial trunk dieback.
 - 3. No major insect or pathological problem.
 - d. A lesser-sized tree can be considered a specimen if:
 - 1. It is a rare or unusual species or of historical significance.
 - 2. It is specifically used by a builder, developer, or design professional as a focal point in a project or landscape.
 - 3. It is a tree with exceptional aesthetic quality.
 - e. A certified arborist may identify and require the preservation of a tree stand if it contains one (1) or more specimen trees and the specimen trees are interlocked with other members of the stand in such a way as to imperil the specimen tree if other members of the stand were to be removed.
 - f. It shall be prohibited to cut specimen trees existing on a tract of land that is the subject of a land disturbance permit, development permit or building permit without a special exception granted by the community development director or his/her designee if removal of the specimen tree has not been approved by the city arborist.
 - g. Any specimen tree removed from a parcel shall be replaced by one and five-tenths (1.5) times the equivalent inches (DBH) of replacement trees or existing trees in excess of the requirements of subsection (g), tree preservation and replacement requirements, using species with potentials for comparable size and quality at maturity.
- (9) Protection of trees during construction. Methods and standards for tree protection shall be established in administrative guidelines to this section 14-39.
- a. Trees identified to be preserved and counted as credit for meeting required unit density shall have four-foot orange tree protection fencing installed at the outer edge of the critical root zones.
 - b. No person engaged in the construction of any structure(s) or improvement (s) or any activity shall encroach or place solvents, material, construction machinery or temporary soil deposits within six (6) feet of the area outside the critical root zone as defined herein, or any existing significant tree within a tree save area, transitional buffer zone, stream buffer, or state buffer zone.
 - c. All tree protection devices must remain in functioning condition until completion of the project or until the certificate of occupancy is issued.
 - d. Any tree, designated in the plan to be saved, which is negligently damaged during construction or as a result of negligent construction, as determined by the community development director or his/her designee, shall be treated according to accepted National Arborists Association standards. If fatally damaged, trees shall be replaced with four-inch caliper trees equal to the unit value of the tree removed. However, any specimen tree negligently damaged as described above shall be replaced with four-inch caliper trees equal to one and five-tenths (1.5) times the equivalent inches (DBH) of the tree removed or damaged.
- (10) Removal of trees from floodplain not permitted. Trees shall not be cut or removed from the floodplain, except as follows:
- a. Those trees found to be diseased or insect infested by the county extension service, the Georgia Forestry Commission, a certified arborist, or a certified forester.

- b. As necessary for construction, repair or maintenance of public roads, utilities or stormwater management facilities.
 - c. As part of an approved wetland mitigation plan.
 - d. Trees in the one hundred-year floodplain or required stream buffer may not be cut nor shall they be counted, except as otherwise provided in subsection (g), tree preservation and replacement requirements, for C-1, C-2, M, and M-2 zoned property, to accomplish requirements of the tree protection ordinance.
- (11) The city arborist shall be responsible for distribution of appropriate public educational materials concerning the procedures of the tree protection ordinance, the value of maintaining existing trees, and proper methods of tree planting, preservation, and care.
- (h) *Tree replacement standards.*
- (1) The tree protection plan shall include planting schedules with proposed tree names (botanical and common), quantity, size spacing, and any special planting notes. Trees used for credit on the tree replacement plan must be chosen from the preferred list attached hereto as Appendix A to this section 14-39. At least fifty (50) percent of replacement trees must be overstory trees; no more than twenty-five (25) percent may be of any single species, and no more than twenty-five (25) percent may be of evergreen species.
 - (2) Unless otherwise approved by the city arborist, trees selected for replanting must meet the minimum standards as provided in the American Standard for Nursery Stock (ANSI Z60.1, 1980) and must be on the tree species selection list found in Appendix A to this section 14-39. Trees selected must be free of injury, pests, disease, nutritional disorders or root defects, and must be in good vigor to assure a reasonable expectation of survival. Standards for transplanting shall be in keeping with those established in the International Society of Arboriculture Publication Tree and Shrub Planting Manual or a similar publication.
 - (3) It is desirable that replanted trees be ecologically compatible with the site and neighboring sites. When practical, the replanted trees shall be of the same or similar species as those removed.
 - (4) Replacement trees shall be planted in manner that provides adequate space for nourishment, light, and maturation as recommended by the city arborist.
 - (5) Planting and staking details are addressed in the administrative guidelines and shall be specified in the required tree protection plan.
- (i) *Buffers.*
- (1) *Stream buffers.* Stream buffers shall be consistent with the requirements of section 14-44.1.
 - (2) *Land use transition buffers.* Buffers shall be provided between dissimilar districts or uses in accordance with the provisions of the zoning ordinance or as a condition of zoning, special land use permit or variance approval.
 - a. Buffer planting shall meet the minimum width requirements contained in Chapter 27 of the City of Tucker Code of Ordinances, except as authorized to be reduced by a condition of zoning, special land use permit or variance approval.
 - b. Disturbance or encroachments.
 - 1. Ditches, swales, stormwater conveyance facilities, stormwater detention ponds, sanitary sewer conveyance facilities, and any associated easements, shall not encroach into a buffer except that necessary access and utility crossings (e.g. stormwater or sanitary sewer pipes) may encroach into the buffer as near to perpendicular as practical.
 - 2. Supplemental plantings or replantings of vegetation or authorized non-vegetative screening devices shall be authorized to encroach into a buffer provided there is minimal disturbance of any existing vegetation.

3. Dying, diseased or dead vegetation may be removed from a buffer provided minimal disturbance occurs. Vegetation thus removed shall be replaced where necessary to meet the screening requirements contained herein.
- c. Protection during land disturbing activities.
 1. During authorized land disturbing activities, transitional buffer zones, stream buffers, and state buffer zones shall be clearly demarcated and protected prior to commencement of, and during, construction.
 2. The method of demarcation and protection utilized shall be in accordance with best management practices or as required by the arborist.
- (j) *Parking lot landscaping.*
 - (1) Off-street parking lots which contain more than twenty (20) off-street parking spaces on any single lot shall contain landscaping and plantings as provided in Chapter 27 of the City of Tucker Code of Ordinances.
 - (2) Variances to reduce required parking spaces may be granted by the zoning board of appeals when necessary to preserve a significant tree(s) that otherwise would be lost if the parking requirements were strictly applied. Such variance may only be granted if the arborist certifies to the zoning board of appeals that such tree(s) will be lost either by necessary removal for construction of the parking lot or as a consequence of construction having an adverse impact on the survivability of the tree by virtue of damage to the root system of the tree(s).
 - (3) Any variance granted under the provisions of this section shall include a condition that should the subject tree(s) die as a consequence, direct or indirect, of construction, despite granting of the variance, the tree or trees shall be replaced at the property owner's or applicant's expense, in accordance with a tree replacement plan approved by the arborist.
 - (4) The maximum variance allowed under this provision shall be four (4) parking spaces, or ten (10) percent of the total number of parking spaces required by the zoning ordinance, whichever is greater.
 - (k) *Street trees.* Street trees and continuous landscape strips shall be provided, in conformance with the design requirements specified in Chapter 27 of the City of Tucker Code of Ordinances, along newly constructed streets, and along existing streets which are widened or realigned subsequent to the adoption of this ordinance, in all office, commercial, and industrial developments and along newly constructed streets of residential developments with a net residential density exceeding three (3) dwelling units per acre or as otherwise directed by conditions of zoning or special land use permits.
 - (l) *Maintenance.* Trees which are used to meet the density requirements for this section 14-39, except on single family residential lots, shall be maintained for eighteen (18) months after the date of final inspection, and a landscape bond shall be required for one hundred (100) percent of the cost of the landscape materials and installation. The property owner shall maintain required tree density. The applicant or builder will be responsible for identifying newly planted trees to the homeowner and to inform the homeowner as to their proper maintenance.
 - (m) *Alternative compliance.* The city arborist must review and approve all requests for alternative compliance. In no instance shall one hundred (100) percent of the required site density be met through alternative compliance. Where the city arborist has determined that special constraints of a site result in an inability to provide the required tree density, the number of trees will be determined by the city arborist based on site review. Such site review shall require the developer to re-landscape each parcel using a density calculated as the maximum number of trees that can be sustained on the parcel less the impervious area of that parcel. The balance of trees shall be provided in common areas. If common areas are not sufficient, any remaining balance of trees may be provided for plantings on public grounds. Tree bank arrangements can be made through the director. The minimum size of trees replanted through the tree bank shall be two (2) caliper inches and shall be planted in accordance with the species list attached as appendix a hereto and in accordance with the requirements in subsection (h), tree replacement standards.

- (1) *Common area planting.* If trees are to be planted at another location, the following note must appear on the approved tree protection plan: "A tree protection plan addendum for this project shall be submitted to the city arborist at least thirty (30) days prior to requesting a final inspection. This plan shall include the species, size and location of trees to be planted off-site to meet the tree density deficit shown. Issuance of a certificate of occupancy is subject to approval of this plan, as well as verification of the installation of the trees."
 - (2) *Tree banking.* If trees cannot be planted on site and there is insufficient common area for replanting, the balance of trees will be accepted by the director for tree banking within the City of Tucker. Participants in the tree banking program administered by the director, including the signing of an off-site reforestation agreement.
- (n) *Tree harvesting.* Selective tree harvesting may be permitted upon authorization by the zoning board of appeals in consultation with the arborist. Permits authorizing tree harvesting shall be in accordance with the following standards:
- (1) A seventy-five-foot undisturbed buffer shall be provided and maintained along the entire perimeter of the property, including road frontages, during the land disturbing activity, except for authorized access crossings.
 - (2) Notwithstanding the other provisions of this section, no property owner shall be required to preserve an undisturbed buffer that covers more than twenty-five (25) percent of the total land area of the property, excluding area inside the one hundred-year floodplain. In any such case, an alternative buffer width shall be provided, as determined by the zoning board of appeals pursuant to its review of the application for a tree harvesting permit.
 - (3) The property shall be required to meet a tree density standard of thirty (30) units per acre, not including the seventy-five-foot buffer, upon completion of authorized land disturbing activities.
 - (4) The owner/applicant shall utilize the recommended best management practices as established by the Georgia Forestry Commission.
 - (5) No tree harvesting shall be allowed within the city except after approval of a special exception by the zoning board of appeals as is provided in Article V, Division 4 of Chapter 27 of the City of Tucker Code of Ordinances. Further, subsequent to such approval of a special exception, no such tree harvesting shall be undertaken on any nonresidential parcel of land unless the transitional buffer zones required by the zoning regulations of the district in which located, are preserved in a natural and undisturbed state.
 - (6) Once tree harvesting takes place in conformity with the above regulations, no development of the property shall be permitted that would require the cutting of trees preserved under subsection (n)(3) and (n)(5) for a period of five (5) years following authorization of tree harvesting.
- (o) *Utility company and public works guidelines.*
- (1) All utility companies shall be required to obtain an annual permit issued by the director. All applications for an annual permit shall include a list of subcontractors with names, addresses, and city business license numbers.
 - (2) Periodic work schedules are to be submitted to the arborist showing the proposed location and extent of tree work to be performed.
 - a. All tree trimming and pruning to be performed by public utilities, public agencies, and their subcontractors on trees growing on private or public rights-of-way shall be done according to the National Arborist Association Standards for Pruning of Shade Trees.
 - b. The routing of public and private utility easements shall be subject to review and comment by the city arborist.
- (p) *Enforcement.* It shall be the duty of the director to enforce this tree protection ordinance. The director shall have the authority to, and the city arborist may recommend that, the director revoke, suspend or void any land disturbance permit, development permit or building permit or suspend all work on a site or portion thereof in order to effect compliance with this section.

- (1) Violation and penalty. Any person, firm or corporation violating any of the provisions of this section, after having been first issued a warning, shall be deemed guilty of an offense and upon conviction in municipal court shall be punished as is provided in Chapter One (1) of the Code of the City of Tucker. Each tree removed or killed in violation of this section 14-39 shall be considered a separate offense. The owner of any buildings or premises or parts thereof, where anything in violation of this section exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense.
- (2) Any trees eight (8) inches (DBH) and over which have been removed in violation of this section shall be replaced by the violator with four-inch caliper replacement trees equal to the unit value of the trees removed. However, any specimen tree removed from a parcel shall be replaced with four-inch caliper trees one and five-tenths (1.5) times the equivalent inches (DBH) of replacement trees or existing trees in excess of the requirements of subsection (g), tree preservation and replacement requirements, using species with potentials for comparable size and quality at maturity.
- (3) Additional legal remedies. In addition to all other actions and penalties authorized in this section, the city municipal court is hereby authorized to institute injunctive, abatement or any other appropriate judicial or administrative actions or proceedings to prevent, enjoin, abate, or remove any violations of this section.
- (4) Appeals; power and duty of the board to hear appeals of decisions of administrative officials. The zoning board of appeals shall have the power and duty to hear and decide appeals where it is alleged by an aggrieved party that there is error in any final order, requirement, or decision made by the director based on or made in the enforcement of the tree protection ordinance. all such appeals shall be heard and decided following the notice requirements, criteria and procedural requirements in Chapter 27 of the City of Tucker Code of Ordinances.
- (5) Administrative variances. Front, side and rear yard setbacks and parking requirements may be reduced by an amount not to exceed fifty (50) percent where it is determined by the city arborist to be necessary in order to preserve existing specimen or significant trees. Appropriate conditions to said administrative variances shall be imposed so as to ensure the continued health of said trees following the granting of such variances, including mandatory replacement requirements. Such administrative variances shall be considered and decided consistent with the procedures and criteria contained in Chapter 27 of the City of Tucker Code of Ordinances. Appeals of final decisions regarding administrative variances may be taken as provided in subsection (p)(4) above.
- (6) Special exception. The community development director or his/her designee is authorized to consider requests for special exception for the removal of an unauthorized specimen tree. No such special exception for the unauthorized removal of a specimen tree shall be granted by the community development director or his/her designees unless the applicant has demonstrated and the director has found that the property is not capable of earning a reasonable economic return absent the grant of the special exception. In making this determination the community development director or his/her designee shall consider the following factors:
 - a. Value of the trees in question, considering their age, size, health, and significance;
 - b. The current level of economic return on the property;
 - c. The marketability of the property; and the unfeasibility of alternate design or uses. Appeals from final decisions of the community development director or his/her designee shall be as provided for in Chapter 27 of the City of Tucker Code of Ordinances.

APPENDIX A

City of Tucker Overstory Trees Acceptable for Replanting Credits

Scientific Name	Common Name	Recommended	Leaf Habit
<i>Acer rubrum</i>	Red Maple	October Glory, Red Sunset	Deciduous
<i>Betula nigra</i>	Riverbirch	Duraheat	Deciduous
<i>Carpinus betuls</i>	European Hornbeam		Deciduous
<i>Carya aquatica</i>	Water Hickory	Availability	Deciduous
<i>Carya cordiformis</i>	Bittemut Hickory	Availability	Deciduous
<i>Carya glabra</i>	Pignut Hickory	Availability	Deciduous
<i>Carya illinoensis</i>	Pecan		Deciduous
<i>Carya tomentosa</i>	Mockernut Hickory	Availability	Deciduous
<i>Cedrus atlantica</i>	Atlas Cedar		Evergreen
<i>Cedrus libani</i>	Cedar of Lebanon		Evergreen
<i>Cedrus deodara</i>	Deodar Cedar		Evergreen
<i>Cryptomeria japonica</i>	Japanese Cryptomeria		Evergreen
<i>Fagus grandifolia</i>	American Beech		Deciduous
<i>Fraxinus tomentosa</i>	Pumpkin Ash		Deciduous
<i>Gingko biloba</i>	Gingko	Plant male only. Autumn Bold, Fairmont	Deciduous
<i>Ilex opaca</i>	American Holly		Evergreen
<i>Juniperus virginiana</i>	Red Cedar	Brodie	Evergreen
<i>Liquidambar styraciflua</i>	Sweetgum	Limited Use-Rotundiloba (Avail.)	Deciduous
<i>Liriodendron tulipifera</i>	Tulip Poplar	Limited Use	Deciduous
<i>Magnolia acuminata</i>	Cucumbertree		Deciduous

Magnolia grandiflora	Southern Magnolia	Bracken's Brown Beauty, Greenback	Evergreen
Magnolia virginiana	Sweetbay Magnolia		Deciduous
Metasequoia glyptostroboides	Dawn Redwood	Limited Use	Deciduous
Nyssa sylvatica	Black Gum		Deciduous
Pinus echinata	Shortleaf Pine		Evergreen
Pinus taeda	Loblolly Pine		Evergreen
Platanus occidentalis	Sycamore		Deciduous
Quercus acutissima	Sawtooth Oak		Deciduous
Quercus alba	White Oak		Deciduous
Quercus bicolor	Swamp White Oak		
Quercus coccinea	Scarlet Oak		Deciduous
Quercus falcata	Southern Red Oak		Deciduous
Quercus georgiana	Georgia Oak		Deciduous
Quercus imbricaria	Shingle Oak		Deciduous
Quercus lyrata	Overcup Oak		Deciduous
Quercus laurifolia	Laurel Oak		Deciduous
Quercus michauxii	Swamp Chestnut Oak		Deciduous
Quercus macrocarpa	Bur Oak		Deciduous
Quercus nigra	Water Oak		Deciduous
Quercus nuttalli	Nuttall Oak		Deciduous
Quercus phellos	Willow Oak		Deciduous

Quercus prinus	Chestnut Oak	Availability	Deciduous
Quercus rubra	Northern Red Oak		Deciduous
Quercus shumardii	Shumard Red Oak		Deciduous
Quercus stellata	Post Oak		Deciduous
Quercus velutina	Black Oak		Deciduous
Taxodium distichum	Bald Cypress	Shawnee Brave	Deciduous
Tilia spp.	Linden		Deciduous
Thuja x 'Green Giant'	Arborvitae	'Green Giant'	Evergreen
Thuja plicata	Giant (Western) Arborvitae		Evergreen
Ulmus americana	American Elm	Princeton and other resistant varieties	Deciduous
Ulmus parviflora	Lacebark Elm	Allee, Athena, Bosque	Deciduous
Zelkova serrata	Japanese Zelkova	Green Vase	Deciduous

City of Tucker Understory and Other Small Trees Acceptable for Replanting Credits

Scientific Name	Common Name	Recommended	Leaf Habit
Acer barbatum	Florida Maple		Deciduous
Acer buergerianum	Trident Maple	Street Wise	Deciduous
Acer campestre	Hedge Maple		Deciduous
Acer leucoderme	Chalk Maple		Deciduous
Acer palmatum	Japanese Maple		Deciduous

<i>Acer saccharum</i>	Sugar Maple		Deciduous
<i>Aesculus pavia</i>	Red Buckeye		Deciduous
<i>Alnus serrulata</i>	Alder		Deciduous
<i>Amelanchier x grandiflora</i>	Serviceberry	Princess Diana, Autumn Brilliance	Deciduous
<i>Aralia spinosa</i>	Devils Walking Stick		Deciduous
<i>Betula nigra</i>	River Birch	Little King	Deciduous
<i>Carpinus caroliniana</i>	American Hornbeam		Deciduous
<i>Castanea pumila</i>	Chinkapin		Deciduous
<i>Celtis tenuifolia</i>	Georgia Hackberry		Deciduous
<i>Celtis laevigata</i>	Sugarberry		Deciduous
<i>Cercidiphyllum japonicum</i>	Katsura Tree		Deciduous
<i>Cercis canadensis</i>	Eastern Redbud		Deciduous
<i>Cercis reniformis</i>	Redbud	Oklahoma	
<i>Chioanthus retusus</i>	Chinese Fringetree		Deciduous
<i>Chioanthus virginicus</i>	White Fringetree		Deciduous
<i>Cladrastis kentukea</i>	Yellowwood		Deciduous
<i>Cornus spp.</i>	Dogwood	Florida and Kousa crosses	Deciduous
<i>Cornus florida</i>	Flowering Dogwood	Aurora	Deciduous
<i>Cornus kousa</i>	Kousa Dogwood		Deciduous
<i>Crataegus spp.</i>	Hawthorn	Thornless cultivars	Deciduous

<i>Crataegus phaenopyrum</i>	Washington Hawthorn		Deciduous
<i>Diospyros virginiana</i>	Persimmon		Deciduous
<i>Halesia carolina</i>	Silverbell		Deciduous
<i>Halesia diptera</i>	Two Winged Silverbell		Deciduous
<i>Hamamelis virginiana</i>	Witch-hazel		Deciduous
<i>Ilex</i> spp.	Holly	Burford, Carolina #2, Foster, Neillie R. Stevens, Savannah, Yaupon	Evergreen
<i>Ilex decidua</i>	Possumhaw		Deciduous
<i>Juniperus virginiana</i>	Red Cedar		
<i>Koelreuteria paniculata</i>	Golden Raintree		Deciduous
<i>Lagerstromia indica</i> x <i>faurieri</i>	Crape Myrtle	Tree form cultivars disease resistant and hardy, eg. Choctaw, Natchez	Deciduous
<i>Magnolia grandiflora</i>	Southern Magnolia	Alta, Bracken's Brown Beauty, Greenback, Claudia Wannamaker	Evergreen
<i>Magnolia</i> x <i>loebneri</i>	Loebner Magnolia	Merrill	Deciduous
<i>Magnolia macrophylla</i>	Bigleaf Magnolia		Deciduous
<i>Magnolia soulangiana</i>	Saucer Magnolia		Deciduous
<i>Magnolia stellata</i>	Star Magnolia	Star Man	
<i>Magnolia tripetala</i>	Umbrella Magnolia		Deciduous
<i>Magnolia virginiana</i>	Sweetbay Magnolia		Evergreen
<i>Malnus floribunda</i>	Japanese Flowering Crabapple		Deciduous
<i>Myrica cerifera</i>	Waxmyrtle		Evergreen

Osmanthus americanus	Devilwood		Evergreen
Ostrya virginiana	Eastern Hophombeam		Deciduous
Oxydendrum arboreurn.	Sourwood		Deciduous
Pinus Virginiana	Virginia Pine	Slopes, Screen	Evergreen
Pistacia chinensis	Chinese Pistache		Deciduous
Prunus spp.		Okame, Autumnalis	Deciduous
Sassafras albidurn	Sassafras		Deciduous
Styrax americana	Snowbell		Deciduous
Ulmus alata	Winged Elm		Deciduous
Vaccinium arboreurn	Sparkleberry		Evergreen

City of Tucker Recommended Trees for Under Powerlines

Scientific Name	Common Name	Recommended
Acer buergeranum	Trident Maple	
Acer palmatum	Japanese Maple	
Cercis candensis	Redbud	
Chionanthus retusus	Chinese Fringetree	
Chionanthus virginicus	White Fringetree	
Cornus spp.	Dogwood	Florida and Kousa crosses
Cornus florida	Flowering Dogwood	Disease resistant varieties, Aurora

Cornus kousa	Kousa Dogwood	
Crataegus phaenopyrum	Washington Hawthorn	
Ilex spp.	Holly	Nellie R. Stevens, tree form Burford, Yaupon
Koelreuteria paniculata	Golden Raintree	
Magnolia x loebneri	Loebner Magnolia	Merrill
Magnolia soulangiana	Saucer Magnolia	
Magnolia stellata	Star Magnolia	Star Man
Oxydendrum arboreum	Sourwood	
Prunus spp.		Okame, Autumnalis

Recommended Trees for Parking Lots

Scientific Name	Common Name	Recommended
Acer buergeranum	Trident Maple	Street Wise
Acer rubrum	Red Maple	October Glory, Red Sunset
Betula nigra	River Birch	Duraheat
Chionanthus virginicus	Fringetree	
Cladrastis kentukea	Yellowwood	
Crataegus phaenopyrum	Washington Hawthorn	
Juniperus virginiana	Red Cedar	Brodie
Ilex spp.		Tree form Yaupon, Burford, Carolina #2

Lagerstromia indica x faurier	Crape Myrtle	Tree form cultivars, disease resistant and hardy, eg. Natchez, Choctaw
Nyssa sylvatica	Black Gum	
Pistacia chinensis	Chinese Pistache	
Quercus michauxii	Swamp Chestnut Oak	
Quercus nigra	Water Oak	
Quercus nuttalli	Nuttall Oak	
Quercus palustris	Pin Oak	
Quercus phellos	Willow Oak	
Quercus rubra	Northem Red Oak	
Taxoduim distichum	Bald Cypress	Shawnee Brave
Ulmus parvifolia	Lacebark Elm	Athena
Zelkova serrata	Japanese Zelkova	Green Vase

Sec. 14-40. - Stormwater Management.

- (a) The governing authority believes the city's stream systems are a valuable natural resource that requires joint and cooperative action by the city and the development industry to resolve existing stormwater management and flooding problems, prevention of their worsening or recurrence while utilizing this resource for the good of the entire city.

The development industry and the city shall cooperate to control water quality and maintain the city's drainage and stream systems from stormwater runoff resulting from development activities.

- (b) Standards.
- (1) City of Tucker shall require all land development to comply with the criteria, technical specifications, and standards of the Georgia Stormwater Management Manual, as may be hereafter amended. The rainfall intensities used in hydrologic and hydraulic computations shall be those published in the Georgia Stormwater Management Manual.
 - (2) Applicability. A combination of storage and controlled release of stormwater runoff shall be required for all development and construction for the entire site which meets one (1) or more of the following criteria:

- (A) Increases the peak rate of runoff from the site by more than one (1) cubic foot per second for a ten-year frequency storm;
 - (B) Involves the creation of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activities of one (1) acre or more;
 - (C) Includes the creation, addition or replacement in redevelopment of five thousand (5,000) square feet or more of impervious cover, or that involves other land development activity of one (1) acre or more;
 - (D) Any new development or redevelopment, regardless of size, that meets the definition of a stormwater hotspot; or
 - (E) Land development activities that are smaller than the minimum applicability criteria set forth in items (A) and (B) above if such activities are part of a larger common plan of development, even though multiple, separate and distinct land development activities may take place at different times on different schedules.
- (3) Exemptions. The provisions of this article shall not apply to the following criteria:
- (A) Individual single-family or duplex residential lots that are not part of a subdivision or phased development project unless they meet one (1) of the criteria listed above in (b)(2);
 - (B) Additions or modifications to existing single-family or duplex residential structures unless it meets one (1) of the criteria listed above in (b)(2);
 - (C) Agricultural or silvicultural land management activities within areas zoned for these activities; and,
 - (D) Repairs to any stormwater management facility or practice deemed necessary by the community development director.
 - (E) If the installation of a stormwater management facility would increase downstream flood peaks by less than one (1) percent at a point in the drainage basin where the project area is ten (10) percent of the total basin area.
 - (F) The requirements, or portions thereof, of subsections (2) and (3) above shall not be waived if the director determines that such waiver would increase known flooding problems, or exceed the capacity of the downstream drainage system.
 - (G) A waiver of these minimum runoff quantity control requirements may be granted only after a written request is submitted by the applicant containing descriptions, drawings, and any other information that is necessary to evaluate the proposed land disturbing activity. A separate written waiver request shall be required if there are subsequent additions, extensions, or modifications, to the development which would alter the approved stormwater runoff characteristics of a land disturbing activity receiving a waiver.
 - (H) Appeals from said waiver decisions may be taken to the zoning board of appeals pursuant to the provisions of section 14-34(c).
- (4) If forty (40) percent of a site is to be redeveloped, all stormwater requirements must be met for the redeveloped area only and the non-disturbed area will be treated as predeveloped prior to the redevelopment. But if more than forty (40) percent of the site is to be redeveloped, then the entire site must meet all stormwater requirements.
- (5) A downstream peak flow analysis will include the assumptions, results and supporting calculations to show safe passage of post-development design flows downstream. The analysis of downstream conditions in the report shall address each and every point or area along the project site's boundaries at which runoff will exit the property. The analysis shall focus on the portion of the drainage channel or watercourse immediately downstream from the project. This area shall extend downstream from the project to a point in the drainage basin where the project area is ten (10) percent of the total basin area. In calculating runoff volumes and discharge rates,

consideration may need to be given to any planned future upstream land use changes. The analysis shall be in accordance with the Georgia Stormwater Management Manual.

- (6) Detention designs may be rejected by the director if they incorporate structures and facilities that will demand considerable maintenance or will be difficult to maintain or will utilize numerous small structures if other alternatives are physically possible.
- (7) Discharge velocities from detention facilities shall be reduced to provide a non-erosive velocity flow from a structure, channel, or other control measure as set forth in the approved Georgia Stormwater Management Manual.
- (8) Stormwater management and flood control facilities may include both structural and nonstructural components. Natural or planted vegetation as well as other natural runoff conduits are examples of these non-structural components and shall be retained where practicable. In addition, these components must provide for or enhance stormwater quantity and/or quality control or other stormwater benefits.
- (9) The drainage system being developed shall have adequate capacity to accommodate the flow from all upstream areas for a one hundred-year storm event.
- (10) The drainage system from a proposed development must discharge into an outfall that has adequate capacity to accommodate the runoff from the development. If the connecting downstream system is not able to accommodate the allowable design flows from the site, then the design engineer must design drainage facilities with the capacity to over-detain flows so they can be accommodated by the existing downstream conveyance structures whereby allowing the existing downstream system to operate correctly. If downstream easements are needed to extend the drainage system to an adequate outfall, the developer shall obtain these easements.
- (11) A landscaping plan shall be submitted for all detention and other storage facilities as part of the overall drainage plan.
- (12) Land uses within the intermediate regional floodplain shall not diminish or restrict the capacity of the channels or floodplains of the stream, its tributaries, drainage ditches or any other stormwater management facilities or systems and shall not increase the IRF elevation or velocity or concentration of flow in downstream areas. The development permit shall be denied if the required hydrologic studies reveal that a request for filling or grading within the intermediate regional floodplain would overload the capacity of the channel downstream or increase flood stages upstream, unless equivalent flow and storage capacity is replaced and maintained by the owner within the intermediate regional floodplain. Altered sections of the intermediate regional floodplain shall have a positive slope so as to provide positive drainage back to the stream flow line and this section must be maintained by the owners in perpetuity so as to prevent or remove silt buildup.
- (13) Excavation within floodplain areas shall not be permitted unless the excavation can be accomplished in such a manner that the existing low level drainage pattern through the floodplain shall be maintained. The area of compensation within the floodplain shall be considered as ineffective flow area for the purpose of calculating floodplain elevations to meet no-rise certification requirements. The amount of compensation shall be limited to one hundred fifty (150) cubic yards per acre of floodplain area.
- (14) The live detention storage to be provided shall be calculated on the basis of the one hundred-year frequency rainfall as published in the Georgia Stormwater Management Manual. The detention system required shall be necessary to handle the runoff of a one hundred-year rainfall, for any and all durations from the post-development, with a release rate that does not exceed the pre-development release rate during the same duration storm. Detention control structures and other drainage improvements shall be located and designed to prevent erosion damage to adjacent property owners.
- (15) When the applicant requests and the director determines that development and construction projects are too small, or that engineering and economic factors make combined detention or other stormwater management facilities more practical, the city may authorize the joint

construction of these facilities to serve two (2) or more properties by two (2) or more applicants. This authorization shall be granted by the zoning board of appeals upon application for approval being submitted through the director. Where joint detention facilities serving two (2) or more properties are approved for construction, no use of land or occupancy of buildings within the properties served by these facilities shall be permitted until completion of the detention facility, except upon approval of the zoning board of appeals.

- (16) The following requirements shall apply to the installation, development and maintenance of all stormwater and sedimentation control facilities designed for temporary storage of stormwater runoff:
- (A) Permanent fencing at least six (6) feet in height shall be required around all facilities having a temporary water storage depth of greater than four (4) feet or those designated by the board of health as constituting a public health hazard.
 - (B) This fencing shall be designed, installed and maintained to allow the free flow of runoff and sediment into the facility. Fencing shall be established on the outside edge of a facility. The fence shall include a gate of sufficient size to permit entrance of equipment necessary to allow periodic maintenance activities. The gate shall be placed in a manner such that the gate does not obstruct reasonable access or become obstructive. The director may waive fencing in nonresidential areas where a pond is more than five hundred (500) feet from a residential district and in residential districts when detention is provided in natural areas such as stream channels and fencing in the opinion of the director would damage the environment or affect stream flow.
 - (C) The access easement to the facility shall not have a profile slope steeper than thirty-three (33) percent and a cross slope of no more than ten (10) percent. The elevation of the maintenance easement around the facility shall be established at the top of the dam or wall elevation and be constructed with a cross slope of no more than ten (10) percent to the drainage facility. Fencing that complies with the requirement of section 14-40(b)(16)(B) shall be constructed on the outside edge of the maintenance easement. Gates that comply with the requirements of section 14-40(b)(16)(B) shall be constructed on each maintenance easement.
 - (D) Detention and sedimentation control facilities shall not be placed in any of the following:
 - (i) Transitional buffer zones as defined by Chapter 27.
 - (ii) Floodplains.
 - (iii) Wetlands.
 - (iv) Stream buffer zones.
 - (v) State buffer zones.
 - (E) Perforated standpipes or a French drain, in accordance with published design standards available from the director, or other methods which will achieve equal performance to prevent standing water and inadequate drainage shall be installed within all the detention and sedimentation control facilities.
 - (F) Except as provided in subparagraph (F) of this paragraph, the commercial and/or multifamily residential property owner shall be responsible for the maintenance of the stormwater management facilities during grading, construction, and following final approval of the completed project. This maintenance and certification obligation shall be binding on all future owners, successors and assigns of the property.
 - (G) In the case of single-family residential subdivisions approved after the date of adoption of this provision, and in accordance with the requirements of Article III of this chapter, the city shall assume maintenance responsibility one (1) year after the release of the performance bond for subdivision streets. A special drainage district as authorized by the Georgia Constitution, Article IX, Section II, Paragraph VI is established for property in a single-family

residential subdivision at the time the plat is finally recorded, and will be so noted on the plat. Upon completion of developer maintenance, all detention ponds shall have a positive slope to the outlet in order to facilitate complete drainage.

- (H) Stormwater management facilities in single-family residential subdivisions constructed under permits issued prior to the amendment of the city ordinance assigning maintenance responsibility will not be accepted for city maintenance unless individually approved by and at the discretion of the zoning board of appeals and suitable access easements are provided. At the time the director accepts a detention facility for city maintenance, a special drainage district will be established that includes all properties for which the detention facility is designed to compensate for increased peak runoff rates due to development.

(I) Stormwater facility access requirements

1. In both residential and non-residential projects, an easement at least 20 feet in width shall be required so as to provide access to all detention facilities from a public or private street. The access easement shall conform to the following requirements:

- a. The access easement shall be cleared, grubbed and graded so that it can be utilized by rubber-tired construction vehicles.
- b. The minimum drive surface width shall be 15 feet.
- c. The drive shall be grassed or paved.
- d. The maximum slope shall be 30 percent.
- e. Access easements may be combined with drainage easements containing an open channel; however, the combined easement shall be a minimum of 30 feet in width and shall be wide enough for the drainage channel and the drive.
- f. A drive to the bottom of the pond shall be provided when the facility is over ten feet deep from the bench elevation or the facility is wider than 50 feet as measured from bench to bench.
- g. Where the facility is completely enclosed by walls, an access ramp, ladder or stairs shall be provided into the facility to allow for inspection and maintenance activities.

2. Every normally-dry stormwater basin, lake, or parking lot detention facility shall be completely enclosed within a drainage/access easement. The drainage/access easement shall extend at least ten feet beyond the 100-year flooding limits of the stormwater facility and shall encompass any dam, outlet structure and energy dissipation devices. A 20-foot wide landscape strip planted to buffer standards shall be provided around the exterior of the detention area outside of the access easement or as may be approved by the city arborist.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

- (17) In residential districts, not less than seventy (70) percent of the minimum lot area, as established by applicable zoning district development standards, shall be above the intermediate regional flood elevation contours with the exception that lots in the R-150 district shall conform to requirements of the R-100 district.

- (18) All buildings located adjacent to the intermediate regional floodplain shall be constructed so that all portions of the structure, including the basement floor or crawl areas, shall be not less than three (3) feet above the intermediate regional flood elevations; however, structural support units may be located within the intermediate regional floodplain, provided they do not conflict with the hydrologic design characteristics of the approved plans and do not conflict with other requirements of this article. Any structure or manufactured home so erected must be designed (or modified) and adequately anchored to prevent flotation, collapse or lateral movement of the structure, and be constructed with flood-resistant materials and utility equipment resistant to flood damage. Electrical, heating, ventilation, plumbing, air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Floodproofing of residential construction will

be in accordance with section 14-40(b)(10) of the Code of City of Tucker. When floodproofing is utilized for a nonresidential structure, the owner of the property shall obtain written certification from a registered professional engineer or architect and shall provide such certification to the director before the director approves such activity.

- (19) The profile elevation of the centerline of all public streets shall be constructed a minimum of one (1) foot above the intermediate regional flood elevation contours. The director may grant exceptions to this provision in cases where construction of the street elevation is below the intermediate regional flood elevation and elevation contours would improve drainage or reduce the effects of flooding.
- (20) Special drainage system maintenance requirements are as follows:
- (A) Pursuant to Chapter 22.5 of the Code of City of Tucker, as amended, trash, garbage, construction materials, construction by-products or other debris shall not be deposited in any part of the drainage system.
 - (B) No restriction or barriers, including fences, may be placed in the drainage system or intermediate regional floodplain without first obtaining a development permit. When on-site or off-site debris has accumulated within an intermediate regional floodplain in such a manner as to interfere with the free flow of water so as to increase the risk of hazardous inundation of upstream properties adjacent to the intermediate regional floodplain, the director shall require the owner of the property where this debris was generated, if its source can be identified, to clear and remove the debris so as to permit the free flow of water.
 - (C) No impoundment of water which retains in excess of five-tenths (0.5) acre (in feet) of runoff shall be removed without first obtaining a development permit, which shall only be issued after competent engineering studies provided by the applicant show that this removal will not adversely affect downstream properties.
 - (D) No permanent structures or additions shall be constructed within the intermediate regional floodplain other than those non-building facilities required or authorized by the director which will not conflict with the hydrologic design characteristics of the approved development and construction plans. Land within the intermediate regional floodplain may be used to meet setback, yard, open space and buffer requirements in accordance with applicable provisions of Chapter 27 and the buffer requirements of this chapter.
- (21) Any proposal for development in a regulatory floodway as identified on the flood boundary-floodway map must be accompanied by engineering certifications assuring that no increase in the flood levels of the base flood would be caused by the proposed development. Such proposals include culverts and bridges.
- (22) New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundations and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls, as follows:
- (A) Designs for complying with this requirement must either be certified by a currently state-registered professional engineer or currently state-registered professional architect and meet the following minimum criteria:
 - (i) Provide a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding.
 - (ii) The bottom of all openings shall be no higher than one (1) foot above grade.
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
 - (B) Electrical, plumbing and other utility connections are prohibited below the base flood elevation.

- (C) Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- (D) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

Sec. 14-41. - Reserved.

Sec. 14-42. - Water Quality Control.

The following provisions are included in the land development regulations in order to control the water quality of storm runoff from all development and construction activities and all developed sites:

- (a) Standards.
 - (1) New development and redevelopments in City of Tucker must use the stormwater quality site development review tool to facilitate the evaluation of the project in accordance with recommendations of this ordinance and the Georgia Stormwater Management Manual.
 - (2) At a minimum, new projects shall include stormwater quality provisions and the BMPs necessary to accomplish each of the following.
 - (A) Water quality BMPs must be installed on all developments to improve the water quality of the storm runoff from the development site. Stormwater management systems (which can include both structural stormwater controls and better site design practices) must be designed to remove eighty (80) percent of the average annual post-development total suspended solids load. As a minimum, the runoff from the first one and two-tenths (1.2) inches of rainfall must be treated. Acceptable BMPs for treating stormwater runoff are set forth in the Georgia Stormwater Management Manual.
 - (B) BMPs shall be used to control discharges into the local drainage system of any organic or inorganic matter that cause or tend to cause pollution of such waters.
 - (i) Minimization of impervious areas within developments and minimization of impervious areas directly connected to the local drainage system is encouraged as a non-structural BMP for water quality and quantity control.
 - (ii) A plan shall be provided to protect all existing wetland/floodplain areas within the development site.
- (b) Drainage plans. The following performance criteria shall be used by the city in evaluating all drainage plans, unless otherwise provided for in this section:
 - (1) Water quality. All stormwater runoff generated from a site shall be adequately treated before discharge. It will be presumed that a stormwater management system complies with this requirement if:
 - (A) It is sized to treat the prescribed water quality treatment volume from the site, as defined in the Georgia Stormwater Management Manual;
 - (B) Appropriate structural stormwater controls or nonstructural practices are selected, designed, constructed or preserved, and maintained according to the specific criteria in the Georgia Stormwater Management Manual; and,
 - (C) Runoff from a stormwater hotspot and activities identified by City of Tucker are adequately treated and addressed through the use of appropriate structural stormwater controls, nonstructural practices and pollution prevention practices.
- (c) Stream channel protection. Protection of stream channels from bank and bed erosion and degradation shall be provided by using all of the following three (3) approaches:

- (1) Preservation, restoration and/or reforestation (with native vegetation) of the applicable stream buffer;
 - (2) Twenty-four-hour extended detention storage of the one-year, twenty-four-hour return frequency storm event;
 - (3) Erosion prevention measures such as energy dissipation and velocity control.
- (d) Overbank flooding protection. Downstream overbank flood and property protection shall be provided by controlling (attenuating) the post-development peak discharge rate to the pre-development rate for the twenty-five-year, twenty-four-hour return frequency storm event. If control of the one-year, twenty-four-hour storm is exempted, then peak discharge rate attenuation of the two-year through the twenty-five-year return frequency storm event must be provided.
- (e) Extreme flooding protection. Extreme flood and public safety protection shall be provided by controlling and safely conveying the one hundred-year, twenty-four-hour return frequency storm event such that flooding is not exacerbated.
- (f) Structural stormwater controls. All structural stormwater management facilities shall be selected and designed using the appropriate criteria from the Georgia Stormwater Management Manual. All structural stormwater controls must be designed appropriately to meet their intended function. For other structural stormwater controls not included in the Georgia Stormwater Management Manual, or for which pollutant removal rates have not been provided, the effectiveness and pollutant removal of the structural control must be documented through prior studies, literature reviews, or other means and receive approval from the director before being included in the design of a stormwater management system.
- (g) Stormwater credits for nonstructural measures. The use of one (1) or more site design measures by the applicant may allow for a reduction in the water quality treatment volume required. The applicant may, if approved by the director, take credit for the use of stormwater better site design practices and reduce the water quality volume requirement. For each potential credit, there is a minimum set of criteria and requirements that identify the conditions or circumstances under which the credit may be applied. The site design practices that qualify for this credit and the criteria and procedures for applying and calculating the credits are included in the Georgia Stormwater Management Manual.
- (h) Drainage system guidelines. Stormwater conveyance facilities, which may include but are not limited to culverts, stormwater drainage pipes, catch basins, drop inlets, junction boxes, headwalls, gutter, swales, channels, ditches, and energy dissipaters shall be provided when necessary for the protection of public right-of-way and private properties adjoining project sites and/or public right-of-ways. Stormwater conveyance facilities that are designed to carry runoff from more than one (1) parcel, existing or proposed, shall meet the following requirements:
- (1) Methods to calculate stormwater flows shall be in accordance with the Georgia Stormwater Management Manual;
 - (2) All culverts, pipe systems and open channel flow systems shall be sized in accordance with the stormwater management plan using the methods included in the Georgia Stormwater Management Manual; and
 - (3) Design and construction of stormwater conveyance facilities shall be in accordance with the criteria and specifications found in the Georgia Stormwater Management Manual.
- (i) Reserved.

Sec. 14-43. - Groundwater Recharge Area.

Development within groundwater recharge areas, as delineated by the Georgia Department of Natural Resources' (DNR) Significant Recharge Areas, Hydrological Atlas 18 (1989 Edition) and the DNR's Pollution Susceptibility Map, shall meet the criteria for the protection of groundwater recharge areas established in Chapter 391-3-16-.02 of the DNR's Rules for Environmental Planning Criteria.

Sec. 14-44. - Stream Buffer Protection

This section shall be known as the “City of Tucker Stream Buffer Protection Ordinance.”

SEC. 14-44.1. - FINDINGS AND PURPOSES

Findings

Whereas, the Mayor and City Council of City of Tucker finds that buffers adjacent to streams provide numerous benefits including:

- (1) Protecting, restoring and maintaining the chemical, physical and biological integrity of streams and their water resources
- (2) Removing pollutants delivered in urban stormwater
- (3) Reducing erosion and controlling sedimentation
- (4) Protecting and stabilizing stream banks
- (5) Providing for infiltration of stormwater runoff
- (6) Maintaining base flow of streams
- (7) Contributing organic matter that is a source of food and energy for the aquatic ecosystem
- (8) Providing tree canopy to shade streams and promote desirable aquatic habitat
- (9) Providing riparian wildlife habitat
- (10)Furnishing scenic value and recreational opportunity
- (11)Providing opportunities for the protection and restoration of greenspace

Purposes

It is the purpose of this Ordinance is to protect the public health, safety, environment and general welfare; to minimize public and private losses due to erosion, siltation and water pollution; and to maintain stream water quality by provisions designed to:

- (1) Create buffer zones along the streams of City of Tucker for the protection of water resources; and,
- (2) Minimize land development within such buffers by establishing buffer zone requirements and by requiring authorization for any such activities.

Sec. 14-44.2. - Definitions

“Buffer” means, with respect to a stream, a natural or enhanced vegetated area (established by Section 5.1.1 below), lying adjacent to the stream.

“Impervious Cover” means any manmade paved, hardened or structural surface regardless of material. Impervious cover includes but is not limited to rooftops, buildings, streets, roads, decks, swimming pools and any concrete or asphalt.

“Land Development” means any land change, including but not limited to clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, construction, paving and any other installation of impervious cover.

“Land Development Activity” means those actions or activities which comprise, facilitate or result in land development.

“Land Disturbance” means any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land, that do not involve construction, paving or any other installation of impervious cover.

“Land Disturbance Activity” means those actions or activities which comprise, facilitate or result in land disturbance.

“Floodplain” means any land area susceptible to flooding, which would have at least a one percent probability of flooding occurrence in any calendar year based on the basin being fully developed as shown on the current land use plan; i.e., the regulatory flood.

“Parcel” means any plot, lot or acreage shown as a unit on the latest county tax assessment records.

“Permit” means the permit issued by the City of Tucker required for undertaking any land development activity

“Person” means any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, city, county or other political subdivision of the State, any interstate body or any other legal entity.

“Protection Area, or Stream Protection Area” means, with respect to a stream, the combined areas of all required buffers and setbacks applicable to such stream.

“Riparian” means belonging or related to the bank of a river, stream, lake, pond or impoundment.

“Setback” means, with respect to a stream, the area established by Sec 14.44.1 extending beyond any buffer applicable to the stream.

“Stream” means any stream, beginning at:

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

“Stream Bank” means the sloping land that contains the stream channel and the normal flows of the stream.

“Stream Channel” means the portion of a watercourse that contains the base flow of the stream.

“Watershed” means the land area that drains into a particular stream.

Sec. 14-44.3. - Applicability

This ordinance shall apply to all land development activity on property containing a stream protection area as defined in Section 3 of this ordinance. These requirements are in addition to, and do not replace or supersede, any other applicable buffer requirements established under state law and approval or exemption from these requirements do not constitute approval or exemption from buffer requirements established under state law or from other applicable local, state or federal regulations.

(a) Grandfather Provisions

This ordinance shall not apply to the following activities:

- (1) Work consisting of the repair or maintenance of any lawful use of land that is zoned and approved for such use on or before the effective date of this ordinance.
- (2) Existing development and on-going land disturbance activities including but not limited to existing agriculture, silviculture, landscaping, gardening and lawn maintenance, except that new development or land disturbance activities on such properties will be subject to all applicable buffer requirements.
- (3) Any land development activity that is under construction, fully approved for development, scheduled for permit approval or has been submitted for approval as of the effective date of this ordinance.
- (4) Land development activity that has not been submitted for approval, but that is part of a larger master development plan, such as for an office park or other phased development that has been previously approved within two years of the effective date of this ordinance.

(b) Exemptions

The following specific activities are exempt from this ordinance. Exemption of these activities does not constitute an exemption for any other activity proposed on a property.

- (1) Activities for the purpose of building one of the following:
 - (a) a stream crossing by a driveway, transportation route or utility line;
 - (b) public water supply intake or public wastewater outfall structures;
 - (c) intrusions necessary to provide access to a property;
 - (d) public access facilities that must be on the water including boat ramps, docks, foot trails leading directly to the river, fishing platforms and overlooks;
 - (e) unpaved foot trails and paths;
 - (f) activities to restore and enhance stream bank stability, vegetation, water quality and/or aquatic habitat, so long as native vegetation and bioengineering techniques are used.
- (2) Public sewer line easements paralleling the creek, except that all easements (permanent and construction) and land disturbance should be at least 25 feet from the top of the bank. This includes such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures. This exemption shall not be construed as allowing the construction of roads, bike paths or other transportation routes in such easements, regardless of paving material, except for access for the uses specifically cited in Item 4.2. (1), above.
- (3) Land development activities within a right-of-way existing at the time this ordinance takes effect or approved under the terms of this ordinance.
- (4) Within an easement of any utility existing at the time this ordinance takes effect or approved under the terms of this ordinance, land disturbance activities and such impervious cover as is necessary for the operation and maintenance of the utility, including but not limited to manholes, vents and valve structures.
- (5) Emergency work necessary to preserve life or property. However, when emergency work is performed under this section, the person performing it shall report such work to the City of Tucker Community Development Department on the next business day after commencement of the work. Within 10 days thereafter, the person shall apply for a permit and perform such work within such time period as may be determined by the City of Tucker Community Development Department to be reasonably necessary to correct any impairment such emergency work may have caused to the water conveyance capacity, stability or water quality of the protection area.

- (6) Forestry and silviculture activities on land that is zoned for forestry, silvicultural or agricultural uses and are not incidental to other land development activity. If such activity results in land disturbance in the buffer that would otherwise be prohibited, then no other land disturbing activity other than normal forest management practices will be allowed on the entire property for three years after the end of the activities that intruded on the buffer.

After the effective date of this ordinance, it shall apply to new subdividing and platting activities.

Any land development activity within a buffer established hereunder or any impervious cover within a setback established hereunder is prohibited unless a variance is granted pursuant to Section 5.2 below.

SEC. 14-44.4. - LAND DEVELOPMENT REQUIREMENTS

Buffer and Setback Requirements. All land development activity subject to this ordinance shall meet the following requirements:

- (1) An undisturbed natural vegetative buffer shall be maintained for 50 feet, measured horizontally, on both banks (as applicable) of the stream as measured from the top of the stream bank.
- (2) An additional setback shall be maintained for 25 feet, measured horizontally, beyond the undisturbed natural vegetative buffer, in which all impervious cover shall be prohibited. Grading, filling and earthmoving shall be minimized within the setback.
- (3) No septic tanks or septic tank drain fields shall be permitted within the buffer or the setback.

SEC. 14-44.5. - VARIANCE PROCEDURES

Variances from the above buffer and setback requirements may be granted in accordance with the following provisions:

- (1) Where a parcel was platted prior to the effective date of this ordinance, and its shape, topography or other existing physical condition prevents land development consistent with this ordinance, and the City of Tucker finds and determines that the requirements of this ordinance prohibit the otherwise lawful use of the property by the owner, the Zoning Board of Appeals of City of Tucker may grant a variance from the buffer and setback requirements hereunder, provided such variance require mitigation measures to offset the effects of any proposed land development on the parcel.
- (2) Except as provided above, the Zoning Board of Appeals of City of Tucker shall grant no variance from any provision of this ordinance without first conducting a public hearing on the application for variance and authorizing the granting of the variance by an affirmative vote of the Board of Appeals. The City of Tucker shall give public notice of each such public hearing in a newspaper of general circulation within City of Tucker. The City of Tucker shall require that the applicant post a sign giving notice of the proposed variance and the public hearing. The sign shall be of a size and posted in such a location on the property as to be clearly visible from the primary adjacent road right-of-way. Variances will be considered only in the following cases:
 - (a) When a property's shape, topography or other physical conditions existing at the time of the adoption of this ordinance prevents land development unless a buffer variance is granted.
 - (b) Unusual circumstances when strict adherence to the minimal buffer requirements in the ordinance would create an extreme hardship.

Variances will not be considered when, following adoption of this ordinance, actions of any property owner of a given property have created conditions of a hardship on that property.

- (3) At a minimum, a variance request shall include the following information:

- (a) A site map that includes locations of all streams, wetlands, floodplain boundaries and other natural features, as determined by field survey;
 - (b) A description of the shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - (c) A detailed site plan that shows the locations of all existing and proposed structures and other impervious cover, the limits of all existing and proposed land disturbance, both inside and outside the buffer and setback. The exact area of the buffer to be affected shall be accurately and clearly indicated;
 - (d) Documentation of unusual hardship should the buffer be maintained;
 - (e) At least one alternative plan, which does not include a buffer or setback intrusion, or an explanation of why such a site plan is not possible;
 - (f) A calculation of the total area and length of the proposed intrusion;
 - (g) A stormwater management site plan, if applicable; and,
 - (h) Proposed mitigation, if any, for the intrusion. If no mitigation is proposed, the request must include an explanation of why none is being proposed.
- (4) The following factors will be considered in determining whether to issue a variance:
- (a) The shape, size, topography, slope, soils, vegetation and other physical characteristics of the property;
 - (b) The locations of all streams on the property, including along property boundaries;
 - (c) The location and extent of the proposed buffer or setback intrusion; and,
 - (d) Whether alternative designs are possible which require less intrusion or no intrusion;
 - (e) The long-term and construction water-quality impacts of the proposed variance;
 - (f) Whether issuance of the variance is at least as protective of natural resources and the environment.

SEC. 14-44.6. - COMPATIBILITY WITH OTHER BUFFER REGULATIONS AND REQUIREMENTS

This ordinance is not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. The requirements of this ordinance should be considered minimum requirements, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provisions are more restrictive or impose higher protective standards for human health or the environment shall be considered to take precedence.

SEC. 14-44.7. - ADDITIONAL INFORMATION REQUIREMENTS FOR DEVELOPMENT ON BUFFER ZONE PROPERTIES

Any permit applications for property requiring buffers and setbacks hereunder must include the following:

- (1) A site plan showing:
 - (a) The location of all streams on the property;
 - (b) Limits of required stream buffers and setbacks on the property;
 - (c) Buffer zone topography with contour lines at no greater than five (5)-foot contour intervals;

- (d) Delineation of forested and open areas in the buffer zone; and,
 - (e) Detailed plans of all proposed land development in the buffer and of all proposed impervious cover within the setback;
- (2) A description of all proposed land development within the buffer and setback; and,
- (3) Any other documentation that the City of Tucker Community Development Department may reasonably deem necessary for review of the application and to insure that the buffer zone ordinance is addressed in the approval process.

All buffer and setback areas must be recorded on the final plat of the property following plan approval.

SEC. 14-44.8. - RESPONSIBILITY

Neither the issuance of a development permit nor compliance with the conditions thereof, nor with the provisions of this ordinance shall relieve any person from any responsibility otherwise imposed by law for damage to persons or property; nor shall the issuance of any permit hereunder serve to impose any liability upon City of Tucker, its officers or employees, for injury or damage to persons or property.

SEC. 14-44.9. - INSPECTION

The City of Tucker Community Development Department may cause inspections of the work in the buffer or setback to be made periodically during the course thereof and shall make a final inspection following completion of the work. The permittee shall assist the City of Tucker Community Development Department in making such inspections. The City of Tucker shall have the authority to conduct such investigations as it may reasonably deem necessary to carry out its duties as prescribed in this ordinance, and for this purpose to enter at reasonable time upon any property, public or private, for the purpose of investigating and inspecting the sites of any land development activities within the protection area.

No person shall refuse entry or access to any authorized representative or agent who requests entry for purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out official duties.

SEC. 14-44.10. - VIOLATIONS, ENFORCEMENT AND PENALTIES

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved site plan or permit may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Notice of Violation

If the City of Tucker Community Development Department determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved site plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured the appropriate permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site. The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;

- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the approved site plan or this ordinance and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the City of Tucker Community Development Department by filing a written notice of appeal within thirty (30) days after the notice of violation (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).

Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Tucker Community Development Department shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten days (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Tucker Community Development Department may take any one or more of the following actions or impose any one or more of the following penalties.

- (1) Stop Work Order - The City of Tucker Community Development Department may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.
- (2) Withhold Certificate of Occupancy - The City of Tucker Community Development Department may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (3) Suspension, Revocation or Modification of Permit - The City of Tucker Community Development Department may suspend, revoke or modify the permit authorizing the land development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City of Tucker Community Development Department may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (4) Civil Penalties - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten days (or such greater period as the City of Tucker Community Development Department) shall deem appropriate) (except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the City of Tucker Community Development Department) has taken one or more of the actions described above, the City of Tucker Community Development

Department) may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.

- (5) Criminal Penalties - For intentional and flagrant violations of this ordinance, the City of Tucker Community Development Department may issue a citation to the applicant or other responsible person, requiring such person to appear in Municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

SEC. 14-44.11. - ADMINISTRATIVE APPEAL AND JUDICIAL REVIEW

(a) Administrative Appeal

Any person aggrieved by a decision or order of City of Tucker Director of Community Development, may appeal in writing within thirty (30) days after the issuance of such decision or order to the Construction Board of Appeals and shall be entitled to a hearing before the Construction Board of Appeals within sixty (60) days of receipt of the written appeal.

(b) Judicial Review

Any person aggrieved by a decision or order of City of Tucker Zoning Board of Appeal, after exhausting all administrative remedies, shall have the right to appeal de novo to the Superior Court of DeKalb County.

Any person aggrieved by a decision of order of the City of Tucker Construction Board of Appeal, after exhausting all administrative remedies, shall have the right to appeal by writ of certiorari to the Superior Court of DeKalb County.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

SEC. 14-44.12. - SEVERABILITY

If any article, section, subsection, paragraph, clause, phrase or provision of this ordinance shall be adjudged invalid or held unconstitutional, such decision shall not affect or invalidate the remaining portions of this ordinance.

Sec. 14-44.12. - Validity of previously issued stream buffer variances.

Any stream buffer variance issued by the county prior to July 11, 2016, is and shall remain valid. Stream buffer variances granted by the county prior to the effective date of this ordinance shall not be repealed or deemed invalid by the adoption or approval of this ordinance.

Secs. 14-45—14-54. - Reserved.

ARTICLE III. - SUBDIVISIONS^[3]

DIVISION 1. - GENERALLY

Sec. 14-55. - Title.

This article shall be known, cited, and referred to as the subdivision regulations of City of Tucker.

Sec. 14-56. - Effective date.

These subdivision regulations shall become effective on July 11, 2016.

Sec. 14-57. - Policies and purposes.

(a) Policies.

- (1) It is declared to be the policy of City of Tucker to consider the subdivision of land and the subsequent development of the subdivided land as subject to the control of the city pursuant to the city's official comprehensive plan in order to promote the orderly, planned, efficient, and economical development of the city.
- (2) Land to be subdivided shall be of such character that it can be used safely for building purposes without danger to health or peril from fire, flood, or other menace.
- (3) The existing and proposed public improvements shall conform to and be properly related to the proposals shown in the comprehensive plan, official map, and the capital budget and program of the city, and it is intended that these regulations shall supplement and facilitate the enforcement of the provisions and standards contained in building and housing codes, zoning ordinances, the comprehensive plan, official map and land use plan, and the capital budget and program of the city.

(b) These regulations are adopted for the following purposes:

- (1) To protect and provide for the public health, safety, and general welfare of City of Tucker.
- (2) To guide the future growth and development of the city in accordance with the comprehensive plan.
- (3) To protect and conserve the value of land and the economic stability of all communities in the city and to encourage the orderly and beneficial development of the city through appropriate growth management techniques, including consideration of the timing and sequencing of development, consideration of infill development in existing neighborhoods and nonresidential areas with adequate public facilities.
- (4) To guide public policy and both public and private actions in order to provide adequate and efficient transportation, water, sewerage, schools, parks, playgrounds, recreation, and public services and support facilities.
- (5) To provide for the safe and efficient circulation of traffic throughout the city, having particular regard to avoidance of congestion in the streets and highways and the pedestrians and bicycle traffic movements appropriate to the various uses of lands and buildings, and to provide for the proper location and width of streets and building lines.
- (6) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.
- (7) To establish reasonable standards of design and procedures for subdivisions and resubdivisions to further the orderly layout and use of land, and to ensure proper legal descriptions and monumenting of subdivided land.
- (8) To ensure to the extent legally possible that public facilities and services are available concurrent with development and will have a sufficient capacity to serve the proposed subdivision.
- (9) To protect and restore the highest quality of the city's air and water resources; to assure the adequacy of drainage facilities; to safeguard the water table, and to encourage the wise use and management of natural resources throughout the city in order to preserve the integrity, stability, and beauty of the city and the value of the land.

- (10) To preserve the natural beauty, environment, and topography of the city and to ensure appropriate development with regard to these natural features.

Sec. 14-58. - Public purpose.

Regulation of the subdivision of land and the attachment of reasonable regulations to land subdivision is an exercise of valid police power delegated by the state to this city. A developer of land has the duty of compliance with the regulations set forth herein for design, dedication, improvement, and restrictive use of the land to conform to the physical and economic development of the city and to the health, safety, and general welfare of the future lot owners in the subdivision and of the community at large.

Sec. 14-59. - Interpretation.

In their interpretation and application, these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. These regulations shall be construed broadly to promote the purposes for which they are adopted. Any conflict between provisions should be resolved in the way that best serves the purposes of the regulations.

Sec. 14-60. - Scope and applicability.

These regulations shall apply to all subdivision of land, as defined in section 14-1, located within the City of Tucker as may be provided by law.

Sec. 14-61. - Exemptions.

- (a) This article does not apply to a lot or parcel of land established by deed or plat recorded among the land records of the city prior to the effective date of these subdivision regulations or the division or sale of land by judicial decree.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-62. - Plats not to be recorded until accepted; lots not to be sold in unaccepted subdivision.

No person shall record any subdivision plat until it has been approved and accepted by the mayor, as the governing authority's designee, nor shall any lot be sold by reference to any subdivision plat whether recorded or not, if the plat is made after the effective date of this chapter, unless it shall have been approved and accepted by the mayor. The recording of a plat shall be based on an approved plat and shall not be recorded solely on the basis of a metes and bounds description.

Sec. 14-63. - Issuance of building permits and certificates of occupancy; extension of services.

No development permit, building permit, or certificate of occupancy shall be issued for a lot or plat subdivided or sold in violation of the provisions of these regulations, nor shall the city have any obligation to extend services to any parcel created in violation of these regulations.

Sec. 14-64. - Power and duty Director of Community Development to hear variances; criteria to be used in deciding variances, and appeals.

- (a) The Director of Community Development, or his/her designee, has the authority to hear variances. Appeals of the Director of Community Development decision will be heard by the Construction Board of Appeals. The Director of Community Development shall hear and decide applications for variances from the strict application of Division 3 of Article III of this Chapter 14, known as the subdivision regulations of City of Tucker, where strict application of any regulation enacted in Division 3 of Article III would result in exceptional and undue hardship to the owner of such property. These regulations provide the minimum necessary requirements for subdivisions in City of Tucker; thus, variances from the requirements of Division 3 of Article III shall be authorized only upon the planning commission making all of the following findings:
- (1) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, the strict application of Division 3 of Article III would deprive the property owner of rights and privileges enjoyed by other similarly situated property owners in the same zoning district;
 - (2) By reason of the shape or topographical conditions of a parcel of property which were not created by the owner or applicant, there is no opportunity for development under any design configuration allowed by these subdivision regulations unless a variance is granted;
 - (3) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute the grant of a special privilege inconsistent with the limitations upon other property owners in the zoning district in which the subject property is located;
 - (4) The requested variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zoning district in which the subject property is located; and
 - (5) The requested variance will not in any manner vary the provisions of Chapter 27, the City of Tucker Comprehensive Plan or the zoning map of City of Tucker.
- (b) No variance shall be granted by the Director of Community Development to:
- (1) Allow any variance which conflicts with or changes any requirement enacted as a condition of zoning or of a special land use permit by the mayor and city council;
 - (2) Increase the density allowed on the property; or
 - (3) Vary the requirements set forth in sections 14-256 through 14-260.
- (c) Applications for variances must be submitted in writing to the Director of Community Development. Applications shall contain all those materials and documents required by the Community Development Director that are necessary to demonstrate the necessity for the variance and compliance with the requirements of this Code. At a minimum, the variance application must contain a full explanation of the reasons for the variance and must include a plat that shows the proposed subdivision designed without the variance and a plat that shows the proposed subdivision designed with the variance.
- (f) Applications for variances shall be decided within 60 days after the filing of a complete application for variance. All land development activity associated with a proposed variance shall cease until a final decision on the variance is made by the Director of Community Development. Land development activity that is not related to the proposed variance may continue unabated.
- (g) All decisions by the Director of Community Development approving or disapproving a variance must be issued in writing and must provide the grounds for the decision of the Director of Community Development.
- (h) Appeals of variances shall be made to the Construction Board of Appeals. Any person or entity (i.e., an owner, applicant, adjoining neighbor or a neighbor whose property line is within one thousand five hundred (1,500) feet of the nearest property line of the proposed subdivision) aggrieved by a variance decision of the Director of Community Development may appeal such decision by filing a petition to the Construction Board of Appeals. Appeals of the decision of the Construction Board of Appeals made be writ of certiorari to the Superior Court of DeKalb County.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-65. - Enforcement, violations, and penalties.

- (a) *General.* It shall be the duty of the mayor to enforce this chapter.
- (b) *Violations and penalties.* Any person, firm or corporation violating any of the provisions of these regulations shall be deemed guilty of an offense and upon conviction in recorder's court shall be punished as is provided in section 1-10 of the Code of City of Tucker. Each violation of these regulations shall be considered a separate offense. The owner of any structures, buildings, lots or parcels or parts thereof, where anything in violation of these regulations exists, and any architect, builder, contractor or any other agent of the owner, or any tenant, who commits or assists in the commission of any violation, shall be guilty of a separate offense.
- (c) *Enforcement.* Appropriate actions and proceedings, including the issuance of stop work orders and actions in a court of law, may be taken by City of Tucker in law or in equity to prevent any violation of these regulations, to prevent unlawful construction, to recover damages, to restrain, correct, or abate a violation and to prevent illegal occupancy of a building structure or premises. These remedies shall be in addition to the penalties described above.

Secs. 14-66—14-86. - Reserved.

DIVISION 2. - PLAT APPROVAL PROCEDURE

Part A. – Minor Subdivision Plat

Sec. 14-87. – Minor Subdivision Plat Requirements.

- (1). A minor plat shall consist of the combination or division of two (2)
- (2). A minor plat may be either a combination plat (combining two lots into one), or a minor subdivision plat (dividing one lot into two).
- (3). The requirements for a minor plat shall be the same as for a preliminary plat as defined in Part B below, if applicable.

Part B. – Preliminary Plat

Sec. 14-88. - Application and preliminary plat required.

The owner of the land where the proposed development is to occur, or his authorized agent, shall file a preliminary plat with the community development department along with an application for approval. The application shall:

- (1) Be submitted with the plan set for a Land Disturbance Permit;
- (2) Be accompanied by minimum of six (6) copies of the plans, which must be prepared by a registered civil engineer, surveyor, or landscape architect, as described in these regulations and complying in all respects with these regulations;
- (3) Be accompanied by an application fee in the amount set by the mayor and city council; and
- (4) Include the name, address and telephone number of an agent who is authorized to receive all notices required by these regulations.

Sec. 14-89. - Required Information.

The following existing conditions shall be shown on a preliminary plat:

- (1) *Boundary lines.* Perimeter boundary of the overall tract, bearings and distances, referred the legal point of beginning;
- (2) *Streets on or adjacent to tract.* Name, right-of-way width, and location of streets on and adjacent to the tract, and any existing railroad, sidewalk, trail, or bike lane;
- (3) *Contour data.* Topographic contour data at no more than two-foot elevation intervals. The source of this data shall be written on the plat. Existing contour data from the City of Tucker Geographic Information System Department may be used where available;
- (4) *Tree survey.* A tree survey in compliance with section 14-39 or tree sample calculations where allowed by the city arborist which may be submitted as a separate plan;
- (5) *Historic resources.* Any building, structure, site or district identified as historic by the Historic Preservation Commission, the DeKalb County Historic Resources Survey, the comprehensive plan, by listing on the Georgia or National Register of Historic Places, or by listing as a National Historic Landmark.
- (6) *Natural features on tract.* Other conditions on the tract such as stream buffers, state waters, cemeteries, wetlands, existing structures, intermediate regional floodplain boundary (where available), rock outcroppings, and archeological resources;
- (7) *Soils.* Location of soils as shown on Soil Survey for the City of Tucker, Georgia by the United States Department of Agriculture;
- (8) *Geographical data.* Numerical and graphic scales, north arrow, land lot and district numbers and lines, city and city names and limit lines;
- (9) *Prior subdivisions.* Name and reference of any formerly recorded subdivision crossing any of the land shown on the plat;
- (10) *Zoning district.* Show zoning district, case number and conditions of zoning;
- (11) *Permits.* Show any special administrative permit number, special land use permit number, or board of appeals case number and conditions;
- (12) *Variances.* Show any administrative variance approvals;
- (13) *Septic tanks.* Show existing septic tank and drain field location or note absence;
- (14) *Sewers.* Show size and location of sanitary sewer main(s) available;
- (15) *Sewer easements.* Show a sanitary sewer easement with a minimum width of fifteen (15) feet for all county maintained lines not within county or city right-of-way, unless otherwise required by water and sewer department;
- (16) *Water mains.* Show size and location of water main(s) and fire hydrants;
- (17) *Water main easements.* Show a water main easement with a minimum width of fifteen (15) feet for all county maintained lines not within right-of-way;
- (18) *IRF.* Show on plan whether FEMA or city benchmark used to establish IRF also identify location of Benchmark;
- (19) *Wetlands.* Provide wetlands determination from U.S. Army corps of engineers;
- (20) *Receiving waters.* Provide distance to and name of receiving waters;
- (21) *Certificate of conformity.* Certification by the applicant that no lots platted are non-conforming or will result in any non-conforming lots.
- (22) *Bury pits.* Show location of any existing inert waste bury pits.
- (23) *Seal.* All sheets of plats must be sealed by a professional engineer, surveyor, or landscape architect currently registered in the state of Georgia;

Sec. 14-90. - Depiction of Proposed Physical Layout.

The following proposed features shall be shown on the preliminary plat:

- (1) *Title.* The title under which the proposed subdivision is to be recorded, if known, with the name of the property owner(s) and designers and the date of the plat;
- (2) *Street names.* The name of all proposed streets.
- (3) *Rights-of-way.* Street rights-of-way and widths indicated, including any necessary right-of-way required for improvements as shown on the thoroughfare plan;
- (4) *Sidewalks.* All proposed sidewalk and bike lane locations;
- (5) *Lots.* Lot lines, lot numbers, block letters, and the total number of proposed lots within the development;
- (6) *Dedications.* Sites, if any, to be dedicated or reserved for common areas, public parks, open space, schools, playgrounds, multi-use trails, or other public uses, together with the purpose and the conditions or limitations of these dedications, if any;
- (7) *Yards.* Minimum building setback lines as required under the yard requirements of zoning ordinance;
- (8) *Zoning conditions.* All conditions of zoning and proposed deed restrictions shall be recited on the preliminary plat;
- (9) *Corner lots.* Show that corner lots shall have an extra width of not less than fifteen (15) feet more than required for interior lots for the zoning district within which they are located;
- (10) *Transitional buffers.* Show transitional buffers, if any and any required screening fencing;
- (11) *BMPs.* Show conceptual location of storm water management and water quality BMP facilities on preliminary plat;
- (12) *IRF.* Show proposed IRF contour, spot elevation (if available) and source;
- (13) *Covenants.* Indicate whether the proposed subdivision will be subject to private covenants and whether a homeowner's association will be established;
- (14) *Sewer easements.* Show a sanitary sewer easement with a minimum width of fifteen (15) feet for all county maintained lines not within county or city right-of-way;
- (15) *Water main easements.* Show a water main easement with a minimum width of fifteen (15) feet for all county maintained lines not within right-of-way;
- (16) *Fire hydrants.* Show new fire hydrant(s) and eight-inch fireline(s); and
- (17) *Fencing.* Show any required fencing around detention ponds, if required.
- (18) *Electrical service.* Show whether electrical service will be above ground or underground.

Sec. 14-91. - Additional Information to be Filed with the Preliminary Plat.

The following additional information shall be submitted with the preliminary plat:

- (1) *Owner consent.* The property owner must consent in writing to the proposed development in a consent affidavit provided by the community development director with the application;
- (3) *Location.* A small map of City of Tucker depicting the subdivision location within the city;
- (4) *Vicinity map.* Vicinity map at a scale of four hundred (400) feet to one (1) inch showing the location of the tract with reference to surrounding properties, streets, municipal boundaries, and streams within five hundred (500) feet of the tract show zoning districts of adjoining property;
- (5) *Adjacent properties.* Names of adjoining property owners and the zoning classification of adjacent properties; and

(6) *Engineer.* Name, address and phone of developer and engineer on plat.

Sec. 14-92. - Scale.

Preliminary plats shall be prepared at an appropriate scale of not more than one hundred (100) feet to one (1) inch. Maximum sheet size shall be twenty-four (24) inches by thirty-six (36) inches.

Secs. 14-93—14-120. - Reserved.

Part C. - Final Plat

Sec. 14-121. - Preparation.

The applicant shall have a registered surveyor prepare the final plat of the subdivision. An application for final plat approval may be made when a preliminary plat of the proposed subdivision has been approved and construction of all required infrastructure is complete, or a surety is provided as approved by the director of community development, to ascertain its location as built.

Sec. 14-122. - Filing; Digital Submission of Final Plat; fee.

The final plat and a fee in the amount established by the mayor and city council shall be filed with the city. The final plat and as-built drawings shall also be submitted in a digital format acceptable to the city.

Sec. 14-123. - Review, Certification by City Departments.

- (a) Upon receipt of the final plat, the community development director shall forward copies of the final plat to the following city departments, if applicable, for certification that the improvements are complete and in conformity with the preliminary plat:
 - (1) Community development department;
 - (2) Geographic information system department;
 - (3) Police and fire department;
 - (4) Transportation division;
 - (5) Roads and drainage division; and
 - (6) Any other department or entity the community development director deems appropriate.
- (b) The applicant shall obtain the approval of the DeKalb County Health Department and the DeKalb County Department for Watershed Management; signatures for said approvals shall be provided on the cover sheet.
- (c) Any department to which the final plat is submitted shall note on the plat whether the development meets or fails to meet the requirements of this Code and of that department, specifically, whether all improvements were properly completed and whether the improvements are in conformity with the preliminary plat. If the improvements are incomplete or if the improvements are not in conformity with the preliminary plat, the department shall note on the plat the manner in which the plat fails to meet these requirements
- (d) Upon receipt of the annotated copies from all of the departments which received the final plat for notation, the community development director shall independently review the final plat and determine whether it complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws. The community development director shall certify in writing on the final plat their finding of whether the final plat complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.
- (e) The final plat shall conform to the approved preliminary plat on file with the city and shall comply with the city zoning ordinance including conditions of zoning.

- (f) The final plat shall not be forwarded to the mayor until such time as the community development director certify that the final plat conforms to the approved preliminary plat and complies with all city zoning, environmental, and subdivision ordinances and regulations and all applicable state and federal laws.

Sec. 14-124. - Referral to the Mayor.

- (a) No later than fourteen (14) calendar days after receiving the annotated copies from all of the departments which received the final plat for notation, the community development director shall transmit the final plat, containing the certification required in section 14-123(d) and any necessary supplemental materials to the mayor for decision.
- (b) The mayor as the designee for the governing authority of the city shall approve or disapprove the final plat within ten (10) days of receiving the final plat, as indicted by a receipt stamp on the final plat. If the final plat is not approved or denied within ten (10) days of receipt, the final plat shall be approved automatically and the mayor shall acknowledge and certify such approval. If the final plat is denied, the mayor shall provide the reason(s) for denial in writing and such writing shall be given to the applicant with the denied plat. If the final plat is approved, the mayor shall place the following wording on the original as follows:

This plat has been submitted to and accepted by the mayor of City of Tucker, Georgia, and has been approved as required by state law and city codes as meeting all conditions precedent to recording in the superior court of this circuit.

Dated this _____ day of _____, _____, _____/_____/_____.

By: _____
[Mayor as designee of the governing authority]

- (c) Final plat acknowledgement and approval by the mayor shall constitute that approval, if any, required in order to file subdivision plats with the clerk of the superior court of DeKalb County pursuant to O.C.G.A. § 15-6-67(d).

Sec. 14-125. - Appeal of final Plat Decision.

The decision of the mayor to approve or disapprove the final plat may be appealed only by a petition for writ of certiorari to the Superior Court of DeKalb County.

Sec. 14-126. - Recording.

The approved final plat shall be recorded with the clerk of the superior court of DeKalb County by the applicant and returned to the community development director.

Sec. 14-127. - Dedication Offers.

The filing and recording of the final plat by the community development director shall, upon completion of the improvements by the applicant and compliance with all procedures of this chapter, be deemed an acceptance of the dedication of the streets and other public land as shown upon said plat on behalf of the public.

Sec. 14-128. - Material Specifications for Drawing.

The final plat shall be composed of Mylar, or other durable, stable, and reproducible drafting medium approved by the community development director and must meet all provisions of the Georgia Plat Act.

Sec. 14-129. - Scale.

Final plats shall be prepared at a scale of not more than one hundred (100) feet to one (1) inch and shall have a maximum sheet size of not more than twenty-four (24) inches in width and thirty-six (36) inches in length, and a minimum sheet size of not less than seventeen (17) inches in width and twenty-one (21) inches in length.

Sec. 14-130. - Compliance with Zoning Ordinance.

The final plat shall comply with the requirements of Chapter 27 and all conditions of zoning for the subject property to be shown in the upper right corner of the final plat with text height at a minimum of .18 inches for 24" x 36" sheet size and .09 inches for 17" x 21" sheet size.

Sec. 14-131. - Required Information.

The final plat shall show the following:

- (1) Sufficient data to determine readily and reproduce on the ground the location, bearings and lengths of every right-of-way, street line, lot line, boundary line and building line, whether curved or straight;
- (2) Tract boundary lines, land lot and district lines, city and county limit lines, right-of-way lines of streets, easements and other rights-of-way and property lines of residential lots and other sites;
- (3) All dimensions shall be accurate to the nearest one hundredth of a foot and all angles accurate to the nearest second;
- (4) Name and right-of-way width of each street including necessary right-of-way required for present or future widening of major, minor, collector, residential or other streets as shown on the thoroughfare plan;
- (5) Sidewalk and bike path locations and width;
- (6) House numbers: numbers will be assigned by the geographic information system department and placed on the final plat by the community development department;
- (7) Title, north arrow, date, scale, land lot numbers and district numbers;
- (8) Location, dimensions and purpose of easements and areas to be dedicated to public use, common areas or sites for other than residential use with notices stating their purpose and limitations;
- (9) Intermediate regional floodplain contour line and setback line required by this chapter, state waters/state streams, wetlands, and required stream buffers;
- (10) Water and sewer utility locations, and the location and type of permanent stormwater management facilities and water quality facilities;
- (11) Lots numbered in numerical order and blocks lettered alphabetically; all lot and block numerals shall be kept in a uniform sequence on all plats and units of the subdivision;
- (12) Accurate location, material and description of monuments and markers; within each subdivision set one (1) monument on two (2) front corners of the property adjacent to existing rights-of-way on interior streets, or as otherwise approved by the development director; each monument shall be a minimum four-inch diameter disk by twenty-four-inch high concrete monument with brass caps set flush with finished grade; and

- (13) Lots which shall not be built upon until detailed plans for grading and drainage have been approved by the development director.

Sec. 14-132. - Space for Comments, Certifications.

A blank space of fifty (50) square inches shall be provided on the final plat to allow room for any stamps, notes, approval or denials as required to be placed thereon by county and city agencies and for the certification of the community development director and approval or denial by the mayor.

Sec. 14-133. - Surveyor's and Owner's Acknowledgments.

The following wording for the engineer's [surveyor's] and owner's acknowledgments shall be shown and certified on the final plat:

- (1) *Surveyor's Acknowledgment.*

In my opinion, this plat, drawn by me or under my supervision, was made from an actual survey, and is a correct representation of the land platted and has been prepared in conformity with the minimum standards and requirements of law.

_____ R.L.S. No. _____

- (2) *Owner's Acknowledgment.*

I, _____, the owner of the land shown on this plat and whose name is subscribed hereto, acknowledges that this plat was made from an actual survey, and for value received the sufficiency of which is hereby acknowledged, do hereby convey all water mains and sewer lines shown hereon in fee simple to DeKalb County, and further dedicate to the use of the public forever all streets and rights-of-way, alleys, parks, watercourses, drains, easements and public places hereon shown for the purposes and considerations herein expressed. In consideration of the approval of this development plan and other valuable considerations, the owner further releases and holds harmless City of Tucker from any and all claims, damages or demands arising on account of the design, construction and maintenance of the property shown hereon; on account of the roads, fills, embankments, ditches, cross-drains, culverts, water mains, sewer lines, and bridges within the proposed rights-of-way and easements shown; and on account of backwater, the collection and discharge of surface water, or the changing of courses of streams.

And further the owner warrants that he owns fee simple title to the property shown hereon and agrees that City of Tucker shall not be liable to him/her, his/her heirs, successors or assigns for any claims or damages resulting from the construction or maintenance of cross-drain extensions, drives, structures, streets, culverts, curbs or sidewalks, the changing of courses of streams and rivers, flooding from natural creeks and rivers, surface waters and any other matter whatsoever. I further warrant that I have the right to sell and convey the land according to this plat and do hereby bind myself and owners subsequent in title to defend by virtue of these present.

All single-family residential lots on this plat are included in a special taxing district for funding the maintenance of stormwater detention facilities required because of this development. [Note: This paragraph is only required in single-family residential subdivisions.]

All roads have been properly designed and dedicated to accommodate any required parking in the right-of-way.

In witness whereof, I have hereunto set my hand this _____ day of _____ / _____ / _____, _____ / _____ / _____.

(SEAL)

(Owner)_____

Witness:_____

Notary Public.

Sec. 14-134. - Protective Covenants to Meet Minimum Zoning Requirements.

The final plat shall not contain protective covenants stipulating lower standards than the minimum restrictions required by the city zoning ordinance.

Sec. 14-135. - Disclosure Statement Required for Residential Subdivisions and Multi-Phase Residential Developments.

- (a) Before any final plat for any residential subdivision and any multi-phase residential development, may be submitted for review by the city, a disclosure statement, sworn to by the applicant under penalty of perjury before a notary public or other officer authorized to administer oaths, must be filed with the community development director. The disclosure statement shall be in a form promulgated by the community development director and approved by the city attorney.
- (b) Any applicant for the final plat, intending to make written or oral representations to potential purchasers of homes in any residential subdivision and any multi-phase residential development must submit the information specified herein on the disclosure statement which shall be made available to members of the public by the community development director:
 - (1) An estimated date of completion of the entire residential subdivision;
 - (2) A statement of the average size of homes to be constructed in the subdivision, any specified style of architecture, landscaping, the type of construction materials to be used (i.e. brick, stone, stucco, pressboard, etc.), and the average size of lots;
 - (3) A statement of the applicant's commitment to build any community amenities within the subdivision, including but not limited to a clubhouse, tennis courts or swimming pool;
 - (4) A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the residential subdivision;
 - (5) Copies of all forms of conveyance to be used in selling lots to potential purchasers;
 - (6) A statement of all deed restrictions, easements and covenants applicable to the residential subdivision;
 - (7) Copies of instruments creating any deed restrictions, easements and covenants applicable to the residential subdivision;
 - (8) A statement regarding whether there will be a mandatory membership in any homeowner's association and if so, a copy of the budget for the association for its first year of operation including the estimated amount of the first year's assessments and the estimated amount of revenue to be subsidized by the developer; and
 - (9) An explanation of the timing and method of transfer of control of the association to the homeowners where there is a mandatory membership in the homeowner's association governing the residential subdivision.
- (c) With respect to the first phase and subsequent phases of a multi-phase residential development, the applicant must also submit the following information:
 - (1) An estimated date of completion of each phase of a multi-phase residential development and estimated date of completion of all phases of the development;

- (2) A statement of the average size of homes to be constructed in the future phases of the development, any specified type of architecture, landscaping, the type of construction materials to be used (i.e. brick, stone, stucco, pressboard, etc), and the average size of lots;
 - (3) A statement of any community amenities to be built within the development currently or in the future, including but not limited to a clubhouse, tennis courts or swimming pools the applicant is committed to constructing in future phases; and
 - (4) A statement of the general terms and conditions at which the applicant proposes to dispose of the lots and/or homes in the future phases of the development.
- (d) If the applicant intends to make no representations or commitments to potential purchasers concerning each of the representations set forth in subsection (b) and (c), the applicant shall note the same in the disclosure statement filed with the community development director which statement shall be made available by the community development director to the public.
 - (e) After the required disclosure statement has been submitted, the community development director shall examine the information provided and determine whether the information submitted is consistent with the final plat and if the information is consistent, the community development director shall approve the disclosure statement in writing within thirty-five (35) days of submission of the statement.
 - (f) If it appears to the community development director that a disclosure statement is incomplete or fraudulent, the community development director shall disapprove the disclosure statement and notify the applicant for the final plat in writing within fourteen (14) days after the initial submission of the statement. Such notification shall serve to suspend the review of the final plat by any city employee or official until the applicant files such additional information, as the community development director shall require. No final plat may be certified by the community development director until such time as the community development director approves the applicant's disclosure statement.
 - (g) If at any time after approval of the disclosure statement the community development director becomes aware that the disclosure statement contains false or misleading information, or that the applicant is developing in a manner inconsistent with the approved disclosure statement, the community development director shall disapprove the disclosure statement and notify the applicant in writing that the disclosure statement has been disapproved.
 - (h) Subsequent to the recording of the final plat for a residential subdivision and for each phase of a multi-phase residential development, the approved disclosure statement on file with the city shall be provided by any seller to potential purchasers at the execution of the purchase and sales contract or if no such contract is executed, ten (10) days prior to the real estate closing on any property governed by this section.

Sec. 14-136. - Violations.

It shall be unlawful for any person to sell property in a residential subdivision or a multi-phase residential development without providing a potential purchaser with a copy of an approved disclosure statement as required by section 14-135. It shall be unlawful for any person to provide the community development director with false or misleading information in an approved disclosure statement as required by section 14-135. It shall be unlawful for any person to develop in a manner inconsistent with the approved disclosure statement. Any person, firm or corporation convicted of violating this section shall be subject to fine and/or imprisonment in accordance with section 1-10 of this Code.

Secs. 14-137—14-145. - Reserved.

Part D. - Revised Final Plat

Sec. 14-146. - Procedure.

- (a) The original recorded plat shall be used for all revisions.

- (b) When it becomes necessary to revise an original recorded final plat due to some error, required adjustment or desired adjustment, the applicant shall confer with the community development director to determine if the revision is a minor or major revision. The applicant's surveyor shall make the necessary corrections on the original final plat or prepare a new tracing of that portion of the subdivision involved. The subdivision name, date and book and page number of the original recording shall be noted on the new plat. If the original final plat is not available, then any proposed revision to the final plat shall be considered a major change.
- (c) A minor change is one that corrects a drafting or scrivener's error, changes or moves a lot line while not changing the number of lots or site density or is otherwise administrative in nature and does not affect how the subdivision will be developed or built. A major change is any other change, including changes that alter how the subdivision will be developed or built, such as, but not limited to, increasing or decreasing the number of lots, changing the location of any public facilities or utilities, and revising protective covenants applying to the property.
- (d) If the community development director determines the change is minor, then the community development director will approve and accept the revised final plat; the applicant shall record the revised final plat with the clerk of superior court.
- (e) If the community development director determines the change is major, the revised plat must proceed through the approval process for final plats described in this Code.
- (f) The basis for the community development director's characterization of the change as either major or minor shall be recorded in black ink on the revised plat.

Sec. 14-147. - When New Tracing Required.

If the original final plat is not available, the applicant shall prepare a new Mylar or other durable, stable, and reproducible drafting medium approved by the community development department, in accordance with section 14-146(b) above.

Sec. 14-148. - Revisions and Explanation to Be in Black Ink.

Revisions and a notation explaining the revisions shall be shown in black ink on the revised plat.

Sec. 14-149. - Space for Certifications.

A blank space consisting of not less than fifty (50) square inches shall be provided on the revised plat to accommodate required certifications.

Sec. 14-150. - Scale.

Revised plats shall be prepared at a scale of not less than fifty (50) feet to one (1) inch.

Sec. 14-151. - Compliance with Zoning Ordinance.

The revised plat shall comply with the regulations of the city zoning ordinance, including all conditions of zoning, which are to be shown in the upper right hand corner of the revised plat.

Sec. 14-152. - Inclusion of required Wording.

The revised plat shall show the following wording in black ink:

This revised plat has been submitted to the mayor of City of Tucker, Georgia, and has been approved as required by state law and city codes as meeting all conditions precedent to recording in the superior court of this circuit. This plat is hereby approved subject to any protective covenants shown hereon.

Dated this _____ day of _____ / _____ / _____

Mayor
City of Tucker, Georgia

Sec. 14-153. - Original Protective Covenants not to be Changed.

All revisions to original plats shall be bound by the protective covenants on the original final plat and a statement to that effect shall be noted in black ink on the revised plat unless noted otherwise.

Sec. 14-154. - City May Require Additional Data.

Other data which may be required in support of a revised final plat are: a final engineering design report on proposed revisions and such other certificates, affidavits, endorsements, or dedications as may be required by city officials in the enforcement of this chapter.

Secs. 14-155—14-165. - Reserved.

DIVISION 3. - DESIGN STANDARDS

Part A. - General Provisions

Sec. 14-166. - Adequate Public Facilities.

The applicant shall submit sufficient information and data with the application on the proposed subdivision to demonstrate compliance with the following:

- (1) *Comprehensive plan consistency required.* Proposed public improvements shall conform to and be properly related to the City of Tucker Comprehensive Plan and all applicable capital improvement plans.
- (2) *Water.* All habitable buildings and buildable lots shall be connected to a public water system capable of providing water for health and emergency purposes, including adequate fire protection.
- (3) *Wastewater.* All habitable buildings and buildable lots shall be served by an approved means of wastewater collection and treatment.
- (4) *Stormwater management.* Drainage improvements shall accommodate potential runoff from the entire upstream drainage area and shall be designed to prevent increases in downstream flooding as required under section 14-40 stormwater management. Stormwater quality management facilities shall be adequate as required by section 14-42. The City of Tucker may require the use of control methods such as retention or detention, and or the construction of offsite drainage improvements to mitigate the impacts of the proposed developments.
- (5) *Roads.* Proposed roads shall provide a safe, convenient, and functional system for vehicular, pedestrian, and bicycle circulation, shall be properly related to the comprehensive plan, and shall be appropriate for the particular traffic characteristics of each proposed development.
- (6) *Extension policies.* All public improvements and required easements shall be extended through the parcel on which new development is proposed. Streets, water lines, wastewater systems, drainage facilities, electric lines, and telecommunications lines shall be constructed through new development to promote the logical extension of public infrastructure.

Sec. 14-167. - Conservation of Natural Resources.

- (a) To better implement the policies and purposes of this chapter, to protect the health, safety, and welfare of the citizens of City of Tucker and to minimize the negative environmental effects of development, subdivisions shall be designed and developed to avoid areas of environmental sensitivity. The following land areas shall be preserved in their natural state or not subject to any development or land disturbance activity, and shall not be part of the buildable area:
 - (1) Wetlands; and
 - (2) The intermediate regional floodplain;
- (b) Subdivisions shall be also laid out to:
 - (1) Avoid adversely affecting watercourses, ground water, and aquifer recharge;
 - (2) Minimize cut and fill;
 - (3) Minimize impervious cover and the environmental impacts of roads and access points;
 - (4) Minimize flooding; and
 - (5) Minimize adverse effects of noise, odor, traffic, drainage, and utilities on neighboring properties.
- (c) The community development director shall not recommend approval for a preliminary plat or parts thereof if the director determines that:
 - (1) The areas listed in subsection (a) above have not been set aside and protected from development;
 - (2) The proposed subdivision does not comply with the requirements of subsection (b) above; or
 - (3) If the proposed subdivision is not in the best interest of the public health, safety, and general welfare of the city.

Secs. 14-168—14-180. - Reserved.

Part B. - Streets

Sec. 14-181. - Generally.

- (a) The provisions of this part apply to streets in subdivisions and in other projects requiring a development or land disturbance permit from City of Tucker.
- (b) The arrangement, character, extent, width, grade and location of all subdivision streets shall conform to the provisions of this chapter and to the thoroughfare plan. New streets shall be designed and located with consideration of their relation to existing and planned streets, to topographical conditions, to public convenience and safety in their appropriate relation to the proposed uses of the land to be served by the streets.

Sec. 14-182. - Arrangement where not shown on thoroughfare plan.

Where not shown in the thoroughfare plan, the arrangement of streets in a subdivision shall either:

- (1) Provide for the continuation or appropriate projection of existing streets in surrounding areas; or
- (2) Conform to a plan for a neighborhood approved or adopted by the mayor and city council to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impracticable.

Sec. 14-183. - Minor streets/minor arterials.

- (a) Local residential streets shall be so designed to discourage speeding and encourage safe environment for pedestrians and bicyclists. They shall be designed to discourage high speed through traffic.

- (b) Within historic districts, the platting of lots and streets shall be compatible with the historic patterns that exist within the historic district except for numbered state or federal routes.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-184. - Thoroughfare plan.

The community development director and public works director shall review changes in the patterns of traffic, land development, and subdivisions, and prepare a report to the mayor and city council with recommendations concerning appropriate revisions to the thoroughfare plan. Such review shall:

- (1) Ensure safe and efficient access between neighborhoods and local services;
- (2) Ensure the continuity and adequacy of local streets, collector streets and arterial streets to form a coherent and continuous system of routes;
- (3) Identify applications of appropriate traffic calming and traffic management strategies to discourage unnecessary traffic and travel speeds in neighborhoods; and
- (4) Ensure a coherent and continuous system for pedestrian and bicycle travel.

Sec. 14-185. - Subdivisions bordering on or containing arterial streets, railroad right-of-way or limited-access highway right-of-way.

Where a subdivision borders on or contains an arterial street (major thoroughfares, and minor thoroughfares), a railroad right-of-way or limited-access highway right-of-way, the community development director may require the following:

- (1) Rear service alleys to facilitate traffic flow, safety and public services;
- (2) Provision of one (1) or a pair of smaller marginal access streets approximately parallel to and on each side of this right-of-way at a distance suitable for the appropriate use of the intervening land as park or open space and to provide for multipurpose trails. These distances shall also be determined with due regard for the requirements of approach grades and future grade separations; or
- (3) In the case of limited-access highways only, reverse frontage lots may be created with landscape buffers and a non-access reserve strip along the rear property line.

Sec. 14-186. - Reserve strips.

Reserve strips that separate developed or developable land from necessary access to streets shall be prohibited except when such access is controlled by City of Tucker.

Sec. 14-187. - Street intersection spacing.

Street intersections with centerline offsets of less than one hundred twenty-five (125) feet shall be prohibited in subdivisions.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-188. - Intersections—Right angles.

Street intersections in subdivisions shall be as nearly at right angles as practicable. No interior angle shall be less than seventy-five (75) degrees. Intersections or more than two (2) streets shall be designed according to the specific types illustrated in the City of Tucker Standards for Construction and Design.

Sec. 14-189. - Same—Property line to be mitered.

At each street intersection in a subdivision the property line at each block corner shall either be mitered or rounded. A mitered property line shall be located on the interior chord of a convex curve or located fifteen (15) feet inside the tangent of a concave curve.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-189.1. - Traffic improvements, street improvements, curb cuts, visibility requirements, and private street construction standards.

- (a) Each building shall be located on a lot or parcel that abuts a public street or private street. Private streets shall only be allowed if the development seeking to have a private street(s) is ten (10) acres or larger in size. The planning commission shall have the authority to waive this minimum acreage requirement if all real property owners that abut the proposed private street agree to such waiver.
- (b) Where this chapter measures minimum building setback lines and frontages, or imposes development standards in connection with, or with reference to public streets, such measurements or standards set forth in the district regulations and supplemental regulations of chapter 27, in this chapter or elsewhere in the Code of City of Tucker shall apply similarly for property abutting a private street where such private street has been approved by the planning commission. Nothing in this article is intended to authorize any kind of development on a private street that would not be authorized where there was public right of way.
- (c) Private streets within any zoning district shall not be used to satisfy the off-street parking requirements of the Code. Private streets within any district shall be assigned names and locations. The names of these streets shall be shown on plans required for the issuance of building and development permits as provided in this chapter and chapters 7 and 27 of the Code of City of Tucker. The geographical information services department shall approve all private street names and addresses, thereby avoiding conflicting names and addresses.
- (d) Lots may front on a public street or private street constructed to the standards found in this chapter.
- (e) Where sewer lines are constructed underneath a private street, the developer is required to grant an easement to the county for installation, maintenance and repair of such sewer lines.
- (f) Private streets shall not be eligible for participation in the city's traffic calming program as provided for in chapter 17 of this Code.
- (g) Private streets shall not be eligible for participation in the city's residential sidewalk district program as provided for in chapter 23 of this Code.
- (h) Developers and property owners' associations shall ensure access to all private streets by emergency and law enforcement vehicles and shall ensure that private streets are constructed to allow access by all emergency vehicles and law enforcement vehicles.
- (i) The use of private streets may not result in an increase in permitted density above that which would otherwise be permitted by the applicable district regulations. Density calculations shall be made based on a public street system and the preliminary plat that provides for a private street shall be density neutral. Additionally, a utility easement(s) is not to be included in any plat as a part of an individual lot and thus such land that comprises the utility easement(s) cannot be used to calculate the required minimum lot size, or minimum front yard size.
- (j) Private streets shall comply with requirements for public streets found in this chapter and all other applicable sections of the Code of City of Tucker. Private streets shall be surfaced with the same type of materials that are used by the city's department of public works for the surfacing and resurfacing of public streets or with materials that are as protective as those used by the city to surface and resurface streets so long as such alternative materials are approved by the director of public works.

Sec. 14-189.2. - Approval to create a private street.

- (a) The Community Development Director, or his/her designee, shall authorize a private street where the Community Development Department has certified that the applicant has submitted all required documentation as set forth herein and where the Community Development Director finds that:
 - (1) The location of the proposed private street(s) will not adversely impact use of any existing surrounding public street(s); and
 - (2) The location of the proposed private street will not adversely impact adjacent existing communities or neighborhoods; and
 - (3) The applicant has shown that there is the requisite legal mechanism for the maintenance of the proposed private street(s); and
 - (4) The applicant has provided written evidence that the proposed private street system is acceptable to the city departments or divisions responsible for law enforcement, sanitation, transportation and fire and rescue; and
- (b) If the private street is to be located in a historic district as that term is defined in chapter 13.5 of this Code, then the applicant must provide the Community Development Director with a certificate of appropriateness authorizing the private street from the historic preservation commission. If no such certificate of appropriateness is provided to the Community Development Director, then the Community Development Director shall deny the application for a private street.
- (c) Street rights-of-way shall be owned by the mandatory homeowners' association as required by section 14-189.3. Street rights-of-way shall comply with all the requirements set forth in this Code, including but not limited to the requirements set forth in this chapter and in chapter 27 of this Code. An access easement and a utility easement shall entirely overlay the rights-of-way and shall be dedicated to City of Tucker for public use. All applicable setbacks, lot widths and lot areas shall be measured from the homeowner's association right of way.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-189.3 - Legal mechanism for maintenance of private streets, resurfacing fund.

- (a) *Maintenance of private streets.*
 - (1) Each developer that chooses to include private streets within a condominium, as that term is defined by state law, or any other residential, commercial, institutional, industrial or office development shall organize and establish a property owners' association prior to recording of the final plat. Membership in the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit within the development. The property owners' association shall be organized so that it has clear legal authority to maintain and exercise control over the private street(s) and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses. The declaration of covenants creating the property owners' association shall be recorded with the clerk of the Superior Court of DeKalb County and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the city. The recorded declaration of covenants and articles of association shall specifically require the property owners' association to repair and maintain each private street in the same manner as similar public streets are maintained by the city and such maintenance and repair shall be performed in compliance with all city standards and all applicable provisions of law.
 - (2) Prior to any final plat approval, the developer shall submit articles of incorporation, declaration of covenants and bylaws for the property owners' association to the community development department. Those documents must thereafter be reviewed and approved by the city attorney.

- (b) *Maintenance fund.* The declaration of covenants and articles of association shall provide for a street maintenance fund the proceeds of which shall be used solely for the purpose of regular maintenance of the street(s), whether for resurfacing or a similar purpose. For the purposes of further providing further assurance that city funds shall not be used for maintenance of private streets, the developer shall submit proof of deposit of fifty (50) percent of the current estimate of resurfacing costs, as determined by the community development and development director or designee, in an interest bearing account on behalf of the property owners' association.
- (c) *Maintenance bond* At the end of the twelve-month maintenance period provided for in section 14-381, a developer must provide a maintenance bond renewable annually to cover the cost of maintenance and repair for any private streets within a subdivision. The bond shall be for an amount equal to fifty (50) percent of the current estimate of resurfacing costs, as determined by the community development director or designee. The developer may avoid securing the maintenance bond set forth in this subsection if the developer submits proof to the community development department that one hundred (100) percent of the then-current estimate of resurfacing costs, as determined by the community development and development director or designee, has been deposited in an interest-bearing account on behalf of the property owners' association. If the developer chooses this alternative, the declarations of covenants and articles of association shall specifically require the property owners' association to continuously maintain one hundred (100) percent of the then-current estimate of resurfacing costs of the private streets in this maintenance fund.
- (d) *Assessment and liens.* The property owners' association must be empowered to levy assessments against owners within the development for the payment of expenditures made by the association for maintenance of the private streets and other items set forth in subsection (a) herein. At least fifteen (15) percent of all fees or assessments paid shall be set aside in the maintenance fund. Any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building or unit of the owner.

Sec. 14-189.4 - Inspection of private streets within nine months of approval of the final plat; failure to correct deficiencies.

- (a) Within nine (9) months following approval of the final plat, the city's development director or designee shall inspect the private street(s) to ensure compliance with all city standards and all applicable provisions of this Code including, but not limited to, the requirements set forth in law for public streets, curbs, sidewalks, signage and street lighting. The developer shall be notified of any deficiencies in writing and such deficiencies shall be corrected within sixty (60) days of the written notice of deficiencies unless the city agrees to extension of that period in writing.
- (b) Failure to correct the complete list of deficiencies shall be a violation of this section and shall subject the developer to prosecution for a code violation in the Records Court of City of Tucker. Any person found to have violated this section shall be subject to a fine of not less than five hundred dollars (\$500.00) for each violation. A separate and distinct offense shall be regarded as committed each day on which such person shall continue any such violation.
- (c) The community development director or designee shall deny the issuance of certificates of occupancy until all deficiencies have been corrected.

Sec. 14-189.5. - Abandonment of existing public streets.

- (a) Any abandonment of a public street by the City pursuant to this section must comply with the applicable requirements set forth in state law and this code, including but not limited to the requirements set forth in O.C.G.A. §§ 32-7-2(b) and 32-7-4 and as may hereinafter be amended.
- (b) A property owner(s) may petition the governing authority to abandon an existing public street that abuts the owner(s)' property. The petition must include documents that comply with all of the following requirements set forth in this section.
- (c) The petition shall contain evidence that each abutting landowner to the public street seeks to have the street abandoned.

- (d) The petition shall contain evidence that once abandoned pursuant to the requirements of state law, all property owners that abut the street agree that ownership of the street shall be placed in a property owners' association. The petition shall include evidence that one hundred (100) percent of all property owners in the property owners' association have agreed that the street at issue may become private and have agreed to maintain and exercise control over the private street as required by this ordinance.
- (e) The petition shall contain evidence that the property owners' association has the financial ability to maintain the street and associated improvements in perpetuity.
- (f) The petition shall include evidence that the declaration of covenants and articles of association or other legal instrument(s) creating the property owners' association provide or have been amended to provide that membership in the property owners' association shall be mandatory for each original and successive purchaser of a lot, building or unit on the street.
- (g) The petition shall include evidence that the property owners' association shall be organized so that it has absolute legal authority to maintain and exercise control over the private street(s) and required improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses.
- (h) The petition shall include evidence that the declaration of covenants creating the property owners' association shall be recorded with the clerk of the Superior Court of DeKalb County and the recorded declaration of covenants and articles of incorporation creating the property owners' association shall provide that all private streets and associated improvements are owned by the property owners' association or are held in common by the property owners within the development. Said streets shall be properly maintained and insured with no liability or maintenance responsibilities accruing to the city.
- (i) The petition shall include evidence that the declaration of covenants and articles of association shall provide for a maintenance fund, the proceeds of which shall be used solely for the purpose of regular maintenance of the street(s), whether for resurfacing or similar purpose. For the purposes of further providing further assurances that city funds shall not be used for maintenance of private streets, the property owners' association shall submit proof of a maintenance fund equal to fifty (50) percent of the current estimate of resurfacing costs, as determined by the community development director or designee, in an interest bearing account on behalf of the property owners' association.
- (j) The petition shall include evidence that the property owners have a maintenance bond renewable annually in an amount equal to fifty (50) percent of the current estimate of resurfacing costs, as determined by the community development director or designee.
- (k) The petition shall include evidence that the property owners' association is empowered to levy assessments against owners on the street(s) for the payment of expenditures made by the association for maintenance of the private streets and improvements associated with private streets, including, but not limited to, sidewalks, bikeways, curbs and gutters, traffic signs and markings, associated landscaping and lighting, entry signs, monuments, perimeter walls and fences, entry gates and gatehouses and evidence that any unpaid assessments shall constitute a lien in favor of the property owners' association on the lot, building, or unit of the owner. At least fifteen (15) percent of all fees or assessments paid shall be set aside in the maintenance fund.
- (l) The governing authority shall not consider a petition for abandonment unless it:
 - (1) Contains all of the evidence and documents required by this ordinance and has been reviewed by the planning commission; and
 - (2) Is supported by an analysis by the transportation division of the department of public works that shows that the street is no longer used by the public to the extent that it serves no substantial public purpose and that the public at large will benefit from its closure since the public will no longer be responsible for any costs to maintain and repair the street; and
 - (3) Is supported by an analysis by the community development department that shows that the abandonment of the street shall not negatively impact adjacent neighboring communities and the public at large.

Deferral of a petition and/or failure to provide a recommendation by the planning commission shall not prevent the governing authority from taking any and all appropriate action with respect to the petition identified in this section.

Sec. 14-190. - Street classification and right-of-way width.

All streets shall be classified according to the table in this section. Street construction standards shall be no less than as follows:

Minimum Right-of-Way
Per Street Classification

Street Classification	Minimum Right-of-Way (Ft)	As Measured from Centerline (Ft)
Principal arterial	150	75
Minor arterial	80	40
Collector	60	30
Nonresidential local	60	30
Local (Residential subdivision)	50	25
Alley	20	10
Cul-de-sac	60	N/A

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-190.1 – Sidewalk Required

- (a) Sidewalk is required along the frontage of any property abutting a public or private street, in accordance with Section 27-5.4.
- (b) Where a property or development abuts both sides of an existing or future street, sidewalk will be required on both sides of the street.
- (c) Exemptions
 - 1. Where the Director of Community Development determines the topography of the road frontage is such that a special hardship exists on the property, he/she may authorize a payment to the city in lieu of the required installation of the sidewalk. Criteria shall be established for all such approved hardships by the Director of Community Development to determine how the amount of payment will be calculated.
 - 2. Subject to the approval of the Director of Community Development, sidewalk may be waived on a single lot development if said lot abuts a local road and the waiver would not adversely affect pedestrian safety or future pedestrian connectivity, including but not limited to proximity to a school, park, or public place. Payment to the city in lieu of the required installation of the sidewalk is required.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-191. - Improvements, right-of-way dedication.

- (a) All proposed new streets shall be designed and built according to one of the standards listed in section 14-190 and as shown in the City of Tucker Standards for Construction and Design.
- (b) Where a proposed subdivision or project requiring a land development permit has frontage on an existing public street, right-of-way shall be dedicated along that frontage so as to meet the standards of that street's classification in the city thoroughfare plan. The right-of-way shall be improved wherever required as further provided in this section. For existing streets on which a proposed subdivision or project requiring a land development permit has frontage, the applicant shall:
 - (1) Dedicate a minimum of fifty (50) percent of the required right-of-way width as measured from the centerline of the existing street right-of-way;
 - (2) Install all required sidewalks, street trees, streetlights, and place utilities according to the standards in section 14-190; and
 - (3) Provide a minimum of fifty (50) percent of the roadway pavement required in section 14-190 and install it to the right-of-way centerline.
- (c) Land reserved for any road purposes may not be counted in satisfying yard or area requirements on the City of Tucker Zoning Ordinance where the land is to be dedicated to the public in fee simple or an easement associated with the road is granted to City of Tucker.
- (d) Right-of-way dedication and road widening shall extend for the full length of road frontage of the property under development and shall conform the standards in these regulations. Flares at pavement ends may be required to extend beyond property under development.
- (e) The Director of Community Development, or his/her designee, after considering all related factors, may authorize deviations from this section as follows:
 - (1) Right-of-way dedication may be waived or modified if:
 - a. Existing use of property is not to be substantially changed as a result of proposed development or construction;
 - b. Existing government construction plans for the roadway indicate lesser right-of-way would be required for dedication; or
 - c. The adjoining frontage is developed and the predominate existing right-of-way meets city standards.
 - (2) Road improvements may be waived or modified if:
 - a. Existing use of property not to be substantially changed (i.e., traffic generation and ingress/egress would remain the same);
 - b. Governmental construction plans for the road indicate a pavement width less than city standards (only the planned pavement width shall be required);
 - c. No more than five (5) percent of average daily traffic generation would occur between 7:00 a.m. and 9:00 a.m. and 4:00 p.m. and 6:00 p.m., on weekdays;
 - d. The existing road meets current city standards; or
 - e. Widening would create a hazard to traffic, pedestrians, or bicyclists along the thoroughfare.
 - (3) The applicant may, with written concurrence of the development director and the city attorney, provide payment to the city in lieu of road improvements when:
 - a. Road improvements by state or local action are scheduled within twenty-four (24) months;
 - b. Existing utility companies' improvements are situated so as to require their removal or relocation before road improvements should be accomplished;

- c. Improvements would be economically unfeasible or would cause unreasonable land development hardships because of topography, soils, bridges, grades, etc., and delay of improvements would not adversely impact the city's road system; and
- d. Payment for road improvements shall be in accordance with a schedule adopted by the mayor and city council in January of each year and based on current street construction costs for the required section.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-192. - Half streets.

Half streets are prohibited. The applicant shall be required to pave the full standard width of any existing unpaved public right-of-way or any proposed public street on which the proposed subdivision has frontage and access.

Sec. 14-193. - Temporary dead-end streets.

Temporary dead-end streets may be platted, if recommended by the planning director and development director and approved by the mayor, where the proposed subdivision adjoins property not yet subdivided or property that may be redevelopment. A temporary dead end street shall end in a temporary turn-around. The right-of-way of any temporary dead end street shall be carried to the boundary of the properties being subdivided. Street signs shall be posted stating: "No Exit — temporary dead-end street."

Sec. 14-194. - Permanent dead-end streets; cul-de-sac required.

- (a) Dead-end streets designed to be so permanently shall be provided with a cul-de-sac at the closed end and shall not exceed one thousand two hundred (1200) feet.
- (b) The minimum outside radius of a cul-de-sac on a public street shall be forty (40) feet, measured to the inside face of the outside curb. Each cul-de-sac shall provide a landscaped island at the center, and the clear width of the paved roadway measured from the outside of the landscaped island to the inside face of the outside curb shall not be less than twenty-four (24) feet. The radius of the right of way for the cul-de-sac shall not be less than fifty (50) feet.

Sec. 14-195. - Alleys.

- (a) Alleys shall be required wherever topography or the presence of arterial roads or other features makes vehicular access from the front of the lot impractical or unsafe. Where the alley serves as the primary means of vehicular access to the lot, it shall be dedicated as a public right-of-way and built to the standards required in these regulations/this chapter.
- (b) Alleys may be permitted as private streets providing secondary or service access and where the principal buildings have adequate access for emergency vehicles from a public street on their frontage. Private alleys may end in a turn-around. All alleys dedicated to the public shall provide a continuous connection between one (1) or more public streets. Alleys shall be paved and constructed to the same standards as the connecting public streets except that:
 - (1) The paved width of an alley shall be not less than twelve (12) feet;
 - (2) Alleys shall be constructed with flush curbs;
 - (3) Buildings shall be set back at least ten (10) feet from the back of curb of an alley.

Sec. 14-196. - Street grades.

- (a) Subdivision street grades shall not exceed the following, with due allowance for reasonable vertical curves:

Type	Percent Grade
Major arterial	8
Minor arterial	10
Residential arterial and alley	12
Collector street	12
Local residential	12
Alleys	12

- (b) A sixteen (16) percent grade on local residential streets may be approved by the development director where a sight distance in feet of ten (10) times the speed limit is maintained. An as built street profile may be required.
- (c) No street grade shall be less than one (1) percent and no one (1) percent grade shall be longer than three hundred (300) feet.
- (d) Up to a twelve (12) percent grade on alleys may be allowed, provided the development director approves any required drainage plan.

Sec. 14-197. - Minimum horizontal curve radius.

Subdivision streets with design speeds of twenty (20) miles per hour may not have a minimum centerline horizontal curve radius less than ninety (90) feet. No other subdivision street shall have a horizontal curve radius less than one hundred fifty (150) feet. Radius shall be measured from the centerline of the right-of-way.

Sec. 14-198. - Minimum sight distance.

All subdivision streets shall have minimum sight distance according to the table below.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-199. - Design of intersections.

Design Speed (MPH)	Sight Distance (Ft) ⁽¹⁾					
	2-Lane		3 and 4 Lanes		5 and 6 Lanes	
	SDL=SDR	SDL	SDR	SDL	SDR	

25	280	n/a	n/a	n/a	n/a
30	335	350	375	400	420
35	390	410	440	465	490
40	445	470	500	530	560
45	500	530	560	595	630
50	555	590	625	660	700
55	610	650	685	730	770

Notes:

1. SDL refers to "sight distance to the left" and SDR refers to "sight distance to the right."

2. Minimum intersection sight distance for stopped passenger vehicles turning onto a roadway with no median and grades of three percent or less. Distances shall be adjusted for entering roadways with different design characteristics.

If, due to other restrictions, this minimum sight distance cannot be maintained, the applicant shall, at the applicant's expense, provide adequate traffic-control devices or other physical improvements subject to the approval and installation by the city.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-200. - Access management.

The following standards shall apply to all subdivisions and all projects requiring a land development permit where the primary access is from a state or federal highway or an arterial classified as a major, minor or residential arterial or collector street in the City of Tucker Transportation and Thoroughfare Plan. These standards shall apply unless a more restrictive standard is required by the Georgia Department of Transportation:

- (1) Commercial or office properties may be required, based on site conditions as determined by the development director, to provide a cross access drive and pedestrian access to allow circulation between sites. Cross access is not required between non-residential uses and single-family uses.
- (2) Joint driveways, cross access easements and pedestrian access shall be established wherever feasible along a major or minor arterial or collector street. The building site shall incorporate the following:
 - a. Continuous service drive or cross access corridor extending the entire length of each block served to provide for driveway separation of at least 1,000 feet of linear frontage along the thoroughfare.
 - b. A design speed of ten (10) mph and a two-way travel aisle width of twenty-four (24) feet to accommodate automobiles, service vehicles, and loading vehicles.
 - c. Stub-outs and other design features to indicate that abutting properties may be connected to provide cross access via a service drive.
- (3) *Reserved.*
- (4) The development director may reduce the required separation distance of access points where they prove impractical, provided all of the following requirements are met:
 - a. Joint access driveways and cross access easements are provided in accordance with this section.
 - b. The site plan incorporates a unified vehicular and pedestrian access and circulation system in accordance with this section.

- c. The property owner shall enter a written agreement with City of Tucker, recorded with the deed, that pre-existing connections on the site that do not meet the requirements of section 14-200 will be closed and eliminated after construction of each side of the joint use driveway.
- (5) All developments shall have access to a public right-of-way. The number of access points shall be as follows:

Minimum Number of Access Points

Type of Development	Minimum No. of Access Points	Type of Primary Access
Residential, under 75 units	1	Residential arterial or collector street
Residential, 76—150 units	2	Residential arterial or collector street
Residential, 151—300	3	Collector street
Residential over 300 units	4	Collector street
Nonresidential, less than 300 required parking spaces	1	Collector street
Nonresidential, 300—999 required parking spaces	2	Major or minor arterial or collector street
Nonresidential, 1,000 or more required parking spaces	2 or more as determined by the department	Major or minor arterial or collector street

- (6) The separation of access points on a major or minor arterial or collector street shall be determined by the speed limit of the road with the following minimum spacing requirements:

Posted Speed Limit of Road	Minimum Driveway Spacing
Less than or equal to 35 MPH	125 feet
36 to 45 MPH	245 feet

Greater than 45 MPH	440 feet
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- a. The distance between access points shall be measured from the centerline of the proposed driveway or public street to the centerline of the nearest existing adjacent driveway or public street.
 - b. Driveway spacing at intersections and corners shall provide adequate sight distance, response time, and permit adequate queuing space.
 - c. No driveway, except residential access, shall be allowed within one hundred (100) feet of the centerline of an intersecting arterial or collector street.
 - d. No non-residential access except right in/right out channelized access shall be allowed within one hundred (100) feet of the centerline of any other major or minor arterial.
 - e. The requirements of this section are not intended to eliminate all access to a parcel of land that was legally subdivided prior to the enactment of this section.
- (7) Where major or minor arterials or collector streets include medians, directional median openings shall be separated by a minimum of three hundred thirty (330) feet and full median openings shall be separated by a minimum of six hundred sixty (660) feet.
- (8) All street design and other development activities, including landscaping, shall be arranged on site so as to provide safe and convenient access for emergency vehicles.
- (9) Along major or minor arterials, residential arterials, or collector streets, a deceleration lane, a turn lane, larger or reduced turning radius, traffic islands or other devices or designs, including traffic calming devices and designs, may be required to avoid specific traffic hazards which would otherwise be created by the proposed driveway location.

a. Deceleration lane. A deceleration lane shall be required at each project driveway or subdivision street entrance, as applicable, that meets either the average daily traffic (ADT) or right turning volumes shown in the following table.

	2 Lanes on Main Road		>2 Lanes on Main Road	
	35-40 MPH	>40 MPH	35-40 MPH	>40 MPH
Main roadway ADT	8,000	4,000	12,000	10,000
Daily right turning volume	150	75	150	75
Peak hour right turning volume	15	7	15	7

Operating Speed	Deceleration Lanes
Subdivision Streets	Not Required
35 mph	150'+50' taper
40 mph	150'+50' taper
45 mph	150'+50' taper
55 mph	200'+150' taper

Deceleration lanes located within 75' of an intersection radius may be extended to the intersection.

b. Left turn lanes.

Left turn lanes must be constructed at no cost to the city if either the ADT or left turning volumes shown in the following table are met. The Director of Community Development may also require the addition of a left turn lane, even when the conditions in the following table are not met, if roadway geometry or field conditions indicate that the safety of the traveling public would be improved.

Table
Minimum
Left Turn Lanes

Volumes

11.4-5
Requiring

	2 Lanes on Main Road		>2 Lanes on Main Road	
	35-40 MPH	>40 MPH	35-40 MPH	>40 MPH
Main roadway ADT	6,000	4,000	10,000	8,000
Daily turning volume left	300	200	300	200
Peak hour left turning volume	30	20	30	20

* This section was amended by Ordinance 2017-10-77, dated October 23, 2017.

Sec. 14-201. - Planting strips.

The city arborist shall maintain a list of trees that are appropriate for the planting strips, and no trees other than those on the list shall be placed in the planting strips. The city arborist shall also maintain

specifications regarding spacing trees, and the appropriate time for planting. The trees may not count toward the fulfillment of the requirement to plant front yard trees but may fulfill any remaining density tree requirements under the tree protection ordinance, provided the requirements for tree type for planting strips are met.

Sec. 14-202. - Access management areas; purpose and intent.

The purpose and intent in enacting these regulations is as follows:

- (a) To promote policies for the uniform improvement of safe and efficient movement of traffic, both vehicular and pedestrian, throughout City of Tucker;
- (b) To maximize the benefit of transportation investments by maintaining a high level of functionality along major roadways;
- (c) To encourage efficient development plans that enable individuals to fulfill their daily activities through minimal use of single-occupancy vehicles, and through increased use of alternative transportation modes such as public transit, walking, and bicycling;
- (d) To provide for uniform control of the location, spacing, design, and operation of driveways, median openings, interchanges, and street connections to a roadway throughout City of Tucker;
- (e) To support the goals stated in the DeKalb County Comprehensive Transportation Plan, including improved multimodal transportation, increased accessibility, and improved travel safety and efficiency; and
- (f) To provide a transportation system that results in less congestion and increased use of alternative modes of travel.

Sec. 14-202.1. - Scope and applicability of regulations.

These regulations apply to each application for the development, use, alteration, parking, open space, building or modification of any structure where the subject property is, in whole or in part, contained within the boundaries of an access management area. The procedures, standards, and criteria herein apply only to that portion of the subject property within the boundaries of the access management area. Access management area regulations are supplemental to the underlying zoning district regulations. No development or building permit shall be issued to any applicant for permits for property or portions of property within an access management area until such time as the application complies with all applicable access management area regulations and underlying zoning district regulations. Where there is a conflict between an access management area regulation and another regulation contained in the Code, the access management area regulation shall govern. Where an access management area regulation is equally restrictive with other regulations in the Code, the access management area regulation shall govern.

Sec. 14-202.2. - Definitions.

Continuous service drive means a privately owned and maintained continuous drive providing for ingress and egress to a public road.

Lower functional classification means those areas the Georgia Department of Transportation designates as lower functional classification on the current Functional Classification Map for City of Tucker.

Throat length means the distance between the edge of the street and the end of the driveway within a development. The fifty-foot throat length will allow three (3) cars to stack up waiting to leave without interfering with the internal circulation of the parking lot.

Sec. 14-202.3. - Driveways.

The following standards for driveway access and spacing shall apply to all properties included in an access management area. These standards shall apply unless a more restrictive standard is required by the Georgia Department of Transportation:

- (a) Where roadways include medians, median openings shall be separated by a minimum of six hundred sixty (660) feet.
- (b) Right-turn lanes shall be required at all driveways where the right-turning volume exceeds three hundred (300) vehicles per day;
- (c) The following driveway spacing shall be required for all driveways along the corridor between median openings or intersections with public roadways (measured center line to center line):
 - (1) The minimum distance of an upstream driveway from a median opening or intersection with a public roadway shall be three hundred (300) feet in addition to the storage length required for the driveway.
 - (2) The minimum distance of a downstream driveway from a median opening or intersection with a public roadway shall be three hundred (300) feet;
- (d) All developments shall have access to a public right-of-way. Access to a public right-of-way may be obtained via an adjacent public roadway with a lower functional classification. The maximum number of driveways per parcel depends upon the length of frontage along the corridor:
 - (1) For parcels with less than six hundred (600) feet of frontage, there shall be a maximum of one (1) driveway allowed per parcel.
 - (2) For parcels with at least six hundred (600) feet of frontage, there shall be a maximum of two (2) driveways per parcel.
 - (3) For parcels which have frontage along an adjacent public roadway with a lower functional classification, the maximum number of driveways will be unchanged, but the first driveway shall be located on the adjacent public roadway.
- (e) All driveways serving a single parcel must be at least one hundred (100) feet (measured from the centerline) from the property line that is perpendicular to the property frontage, and all deceleration lanes must be contained entirely within the property frontage. For parcels with insufficient frontage to accommodate these requirements, exceptions will be allowed, but driveway locations must be approved by the mayor or his or her designee. Access to a public right-of-way may be obtained through a shared driveway, which provides access to more than one (1) parcel. Shared driveways are exempt from the requirement regarding distance of the driveway from the property line.
- (f) There shall be a minimum driveway throat length of fifty (50) feet. Throat length is the distance needed into a site to transition vehicles to the internal circulation system of the site.

(g) Driveway Width Dimensions

Nonresidential Driveway Width

Entrance Configuration	Minimum Width (Ft)	Maximum Width (Ft)
One way	15 ⁽¹⁾	18 ⁽¹⁾
Two way	24	36 ⁽²⁾

Notes:

- (1) Where no other access is provided a minimum width of 20 feet shall be required.
- (2) Additional width may be approved by the Director of Community Development based on an approved engineering design.

(h) Driveway Radii

The minimum driveway radii for the intersection of local and non-residential driveways and local streets is 25 feet. For all other roadway classifications, the minimum driveway radii is 50 feet.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-202.4. - Interparcel access.

To the maximum extent possible, sidewalks and parking lots serving adjacent lots shall be interconnected to provide continuous driveway connections and pedestrian connections between adjoining lots and streets, except that this requirement shall not apply to lots zoned for single family or duplex residential units. Where necessary, the mayor or his or her designee may require access easements be provided to ensure continuous access and egress routes connecting commercial, office, and multifamily lots. Stub-outs shall be provided to indicate that abutting properties may be connected to provide cross-access via a continuous service drive.

Sec. 14-202.5. - Pedestrian and bicycle access.

Connections to available transportation modes, such as driveways, sidewalks, and bike paths shall be constructed along adjacent streets and those entering adjoining properties. Safe, convenient, and handicap-accessible pedestrian ways shall be provided from sidewalks along streets to each building entrance, including pedestrian access routes across parking lots and between adjacent buildings within the same development.

Sec. 14-202.6 – Reserved.

Secs. 14-203—14-215. - Reserved.

Part C. - Easements

Sec. 14-216. - Scope.

The provisions of this division apply to easements for or in subdivisions.

Sec. 14-217. - Permission for dedication required.

The applicant must obtain permission from the community development director for the dedication of utility easements prior to the submission of the dedication.

Sec. 14-218. -. Reserved.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-219. - Drainage easements—Off-site.

Where drainage system improvements are required on private land outside the subdivision, appropriate drainage rights must be secured by the applicant and indicated on the plat.

Sec. 14-220. - Pedestrian and bicycle easements and paths.

Pedestrian and bicycle easements and paths shall be required in subdivision or projects requiring a land development permit to provide circulation or access to schools, parks, libraries, shopping centers, transportation centers and other community facilities. Such easements shall have a paving width of five (5)

feet. Such paths shall be constructed according to the specifications set forth in the City of Tucker Standards for Construction and Design Drawings.

Secs. 14-221—14-235. - Reserved.

Part D. - Blocks

Sec. 14-236. - Generally.

The lengths, widths and shapes of blocks in subdivisions shall be determined with due regard to:

- (1) Provision of building sites suitable to the special needs of the type of use contemplated or for the conservation of open space or existing historic features;
- (2) Zoning requirements as to lot sizes and dimensions;
- (3) Needs for convenient access by pedestrians and bicyclists to public transit, nearby schools, or commercial districts, vehicular circulation at safe speeds and adequate access for emergency vehicles; and
- (4) Limitations and opportunities of topography to minimize land disturbance and erosion.

Sec. 14-237. - Desirable maximum and minimum lengths.

The dimensions of blocks shall be designed to accommodate and promote vehicular circulation at safe speeds. The desirable maximum block length in a subdivision is one thousand two hundred (1,200) feet and the desirable minimum length is three hundred (300) feet.

Sec. 14-238. - Mid-block easements and pedestrian paths.

In blocks of eight hundred (800) feet or more, the community development director may require the reservation of a ten-foot easement and the paving of a five-foot wide path through the block to accommodate utilities, drainage-facilities, or pedestrian traffic. Such paths shall be constructed according to the specifications set forth in the City of Tucker Standards of Construction and Design Drawings.

Secs. 14-239—14-255. - Reserved.

Part E. - Lots

Sec. 14-256. - Generally.

The lot size, width, depth, shape and orientation and the minimum building, setback, side yard, and rear yard lines in subdivisions shall be in accordance with requirements of the city zoning ordinance.

Sec. 14-257. - Corner lots.

Corner lots for residential use in a subdivision shall have an extra width of not less than fifteen (15) feet more than required for interior lots by the zoning ordinance for the zoning district within which they are located in order to provide appropriate front building setback from and orientation to both streets.

Sec. 14-258. - Frontage.

Each subdivision lot shall front upon a publicly maintained street.

Sec. 14-259. - Through lots and reverse frontage lots prohibited.

Through lots and reverse frontage lots shall be prohibited in subdivisions except along limited access highways, such as interstate highways. Where it is necessary to provide separation of residential development from major arterials or to overcome-specific disadvantages of topography and orientation, the

lots fronting such features may be platted in greater depth so that dwellings may be set back an appropriate distance from the major arterial or other feature. Such lots may obtain vehicular access from a rear alley. Lots having access from a public alley shall not constitute a prohibited through lot. A landscape reservation of at least ten (10) feet in width, and across which there shall be no right of vehicular access, may be required-along the lot lines of lots abutting any disadvantageous feature or land use where access should be restricted in the public interest.

Sec. 14-260. - Side lot lines.

Side lot lines in subdivisions shall be substantially at right angles or radial to street lines as they extend from the front lot line to the front building line.

Secs. 14-261—14-274. - Reserved.

Part F. - Reservation of Open Spaces

Sec. 14-275. - Open space required; purposes.

- (a) All residential subdivisions under five (5) acres or consisting of thirty-six (36) or less dwelling units may, and all residential subdivisions greater than five (5) acres or consisting of more than thirty-six (36) dwelling units shall be required to provide open space, in order to achieve the following public purposes:
 - (1) Conserve open land, including those areas containing historic or cultural resources, or sensitive natural features and wildlife habitats;
 - (2) Reduce erosion and sedimentation by minimizing land disturbance; and
 - (3) Preserve and develop an adequate-tree cover.
- (b) Open space shall be a minimum of twenty (20) percent of the land in all new subdivision developments.
- (c) Open space required by this section may be used in a variety of ways, including natural areas for wildlife and ecological functions, parks, gardens, landscaped medians, squares, village greens, courtyards, recreational space, or recreational facilities, provided the use is consistent with the requirements of this part.

Sec. 14-276. - Restrictions on open space.

No more than twenty (20) percent of the open space area may be covered with an impervious surface. Impervious surfaces may include paved trails, bike paths or multi-use paths, buildings, plazas, swimming pools, or athletic courts. Impervious surfaces in open space may not include sidewalks along public rights of way or parking lots, streets, or other areas for motorized vehicular use.

Sec. 14-277. - Dedication of parks, open space, recreation areas and conservation easements.

Parks, open space, multi-use trails, recreation areas and conservation easements may be offered for dedication to the city by the property owner.

Secs. 14-278—14-285. - Reserved.

Part G. - Sites for Civic Uses

Sec. 14-286. - Reservation of sites for civic uses.

A developer may reserve and offer property within a subdivision as a site for a civic use, including but not limited to public schools, fire stations, police stations, or recreation centers. The developer shall allow a minimum period of one (1) year from the date of submittal of the preliminary plat during which time the proper authorities may authorize acquisition of the property for its intended civic purposes. If the

reserved site has not been authorized for acquisition by the proper authorities within one (1) year, the reservation shall terminate unless extended by the developer. If not extended, development of the formerly reserved site must follow the standard plat approval process. An amended final plat for the entire subdivision shall then be processed in the required manner when submitted by the developer.

Secs. 14-287—14-295. - Reserved.

DIVISION 4. - REQUIRED IMPROVEMENTS

Part A. - General Provisions

Sec. 14-296. - Scope.

This division applies to required improvements for or in subdivisions.

Sec. 14-297. - Location of required utilities in public rights of way.

All required utilities within county or city rights of way shall be located as shown in City of Tucker Standards of Drawings and Specifications maintained by the development department and as otherwise provided herein.

Secs. 14-298—14-311. - Reserved.

Part B. - Water

Sec. 14-312. - Certification of final plat.

There shall be a certification placed upon the final plat from the chief engineer of the DeKalb County Department of Watershed Management after the applicant has complied with the requirements of this part.

Sec. 14-313. - Design, Construction and Acceptance.

The design and construction of all water main and appurtenances shall conform to the specifications and requirements of the DeKalb County Department of Watershed Management prior to the approval of a development permit by the community development department.

Sec. 14-314. - Pavement replacement.

Cuts in existing street pavement and driveways will be patched by the applicant/owner. The applicant/owner shall maintain the cuts in good condition until a permanent patch is made. When necessary to abate dust, mud or potholing, the contractor shall furnish and install crushed rock or cold patch asphaltic concrete to the surface of the trench. Appropriate utility permits must be obtained from the public works director prior to work being initiated.

Secs. 14-334—14-350. - Reserved.

Part C. - Sewers

Sec.14-351. – Certification of final plat.

There shall be a certification placed upon the final plat from the chief engineer of the DeKalb County Department of Watershed Management after the applicant has complied with the requirements of this part.

Sec. 14-352. – Design, Construction and Acceptance.

The design and construction of all sewer lines and appurtenances shall conform to the specifications and requirements of the DeKalb County Department of Watershed Management prior to the approval of a development permit by the community development department.

Sec. 14-353. Pavement replacement.

Cuts in existing street placement and driveways will be patched by the applicant/owner. The applicant/owner shall maintain the cuts in good condition until a permanent patch is made. When necessary to abate dust, mud or potholing, the contractor shall furnish and install crushed rock or cold patch asphaltic concrete to the surface of the trench. Appropriate utility permits must be obtained from the public works director prior to work being initiated.

Secs. 14-354—14-375. - Reserved.

Part D. - Streets

Sec. 14-376. - Standards.

- (a) *Generally.* Street improvements shall be provided in each subdivision in accordance with the specifications in this part and the standard plans and specifications available from the city. The term "state transportation department specifications" shall refer to the state department of transportation specifications in effect at the time the work is placed under contract. The references made to these specifications shall control the materials and equipment as well as the construction method of every class of work so applicable unless otherwise noted.
- (b) *Grading.* The construction limits shall be cleared of all trees, stumps, brush and rubbish before grading operations are begun. No trees, stumps, brush or rubbish shall be placed in fill sections within the construction limits. Such debris shall be disposed of in a manner satisfactory to the development director. Fill sections shall be placed in six-inch layers with each layer thoroughly compacted with a sheep foot roller or by other approved methods before the next layer is placed, compaction to be not less than ninety-five (95) percent as determined by AASHO, section T-99. Where unsatisfactory material is encountered (namely any material that will not compact properly, including solid rock) an additional twelve (12) inches shall be excavated below the subgrade elevation and backfilled with a select material. Where unstable material is used in fills, the fill shall be left twelve (12) inches below the subgrade elevation. This twelve-inch fill section shall be filled with select material. Streets shall be graded to width of not less than forty-two (42) feet in the center of the right-of-way to provide eight-foot shoulders in accordance with city's standard plan.
- (c) *Curbing.* Header curbing shall be required on all streets and shall be furnished and installed by the applicant unless grassed swales are used for water quality control and approved by the development director. The minimum classes and types of curbing permitted will be as follows:
 - (1) Granite curbing, class D or better.
 - (2) Other than approved by the community development director, all curbing shall be placed in firm well-compacted subgrade, and curbing displaced prior to acceptance for maintenance by the city shall be reset or replaced. Specifications for the granite curbing are available from the City of Tucker Community Development Department.
 - (3) The use of rollback curb as approved by the Director of Community Development.
- (d) *Base and paving.* All roadways shall be paved according to the table below.

Minimum Construction Standards

Street Classification	Base	Binder	Topping 9.5 mm-Type II or 12.5 mm
Principal and minor arterials	12" GAB	6" (2)	1½"
Collectors	12" GAB	6" (2)	1½"
Nonresidential local	8" GAB	3" 19mm	1½"
Residential local and alleys	8" GAB	2" 19 mm	1"

Notes:

1. Unless otherwise specified by the community development department or GDOT.
2. Binder course shall consist of four inches 25 mm Superpave base and two inches of 19 mm Superpave binder.
- (e) As-built drawings for all new streets shall be submitted to the community development department depicting a street profile based on the centerline and fifty (50) foot stations.

* This section was amended by Ordinance 2017-10-77, dated October 23, 2017.

Sec. 14-377. - Street signs.

- (a) The city's standard steel post with horizontal reflectorized street nameplates with four-inch letters shall be furnished and set by the city at all subdivision street intersections.
- (b) Street name signs shall have four-inch black letters on reflectorized silver background with black border. Nameplates shall be mounted parallel or nearly parallel to the street. The names shall be marked and visible from both sides. Signposts shall be ten-foot poles with at least three (3) feet well-embedded in the ground.
- (c) The applicant shall pay to the city for each street name sign a fee in the amount established by action of the mayor and city council, a copy of which is on file in the office of the clerk of the mayor and city council.
- (d) To ensure that all street markers are paid for by the applicant and installed at the proper time, the required street markers will be paid for by the applicant at the time of recording.
 - (1) For subdivisions recorded under a performance bond, the street marker will not be installed until the paving has been completed.
 - (2) For subdivisions recorded under a maintenance bond, the public works department will be furnished a plat and a memo requesting that street markers be installed at the time of recording.

Sec. 14-378. - Road hazards prohibited.

Subdivision signs, planter boxes, and other similar permanent structures shall not be located on street rights-of-way and shall not be constructed in a manner which, in the opinion of the city, obstructs driveway sight distance or creates a traffic hazard; detailed plans for these structures shall be submitted to development director.

Sec. 14-379. - Surface drainage specifications.

- (a) The size, length and location of all surface drainage pipe or structures shall be shown on the final subdivision plats and shall be subject to the approval of the public works department. All storm drain

pipes or culverts carrying stormwater from the street and adjacent property between or through lots shall be extended to at least thirty (30) feet behind the rear of the house. Stormwater must be released into a channel without causing scouring, erosion or resulting sedimentation to the receiving channel. When necessary, the outlet channel shall include structural and vegetative measures to assure nonerosion velocities. This requirement for pipe extension shall only apply to the discharge ends of piped systems.

- (1) An exception to extending pipes thirty (30) feet behind the rear of the house may be made for pipes fifty-four (54) inches and larger where the house site is proposed to be more than thirty (30) feet from the center of the drainage way.
 - (2) An exception to extending pipes thirty (30) feet behind the rear of the house may be granted by the city when soil conditions prohibit erosion.
 - (3) An exception to extending pipes thirty (30) feet behind the rear of the house may be granted by the city where lots are at least one (1) acre in size, open channels are provided, and neither ponding nor erosion control will result.
- (b) Installation, backfilling and compaction shall be in accordance with state transportation department specifications, sections 106 and 520. All pipes shall have a minimum cover of one (1) foot and headwalls or inlet basins constructed at the end of each pipe.
 - (c) The design of drainage structures shall be based on recognized hydrological formulas as outlined in the approved City of Tucker Stormwater Management Manual.
 - (d) A contour map with an interval of two (2) feet shall be submitted as part of preliminary plats; where available, the city two-foot topographic map shall be used. As determined by the community development director, any lots within the subdivision which are undesirable for building due to bad drainage conditions shall be excluded, and no building shall be permitted thereon until these conditions have been corrected as specified by the department.

Sec. 14-380. - Plans, profiles to be approved.

Four (4) copies of the complete plans and profiles for subdivision street improvements shall be submitted for review and recommendation of approval or denial by the public works department of subdivision streets prior to approval of the final plat.

Sec. 14-381. - Bonds or escrow required.

- (a) If, at the time the final plat is submitted for approval, the construction of the street improvements has not been accomplished, then the final plat shall be disapproved. No performance bonds shall be allowed or authorized except the mayor shall require a performance bond to be filed with the city to ensure that all final road improvements required by this Code are made by the owner or applicant. The city shall accept no road until such time as all road improvements required by the city are made.
- (b) After the work has been completed according to the city specifications and duly inspected by the city, then a maintenance bond shall be required equal to ten (10) percent of the estimated construction cost. The proposed maintenance bond shall be reviewed and approved as to form by the city attorney prior to acceptance by the city. The maintenance bond shall cover the street improvements, drainage system, water system and sewer system. Funds may be placed in escrow with the city in lieu of maintenance bonds.
- (c) The applicant shall be required to sign a maintenance agreement with the city, by which the applicant shall agree to maintain the streets, drainage, water quality BMPs, water and sewer systems, and rights-of-way for a period of twelve (12) months. During the applicant maintenance period, the city shall make inspections and instruct the applicant by letter as to what correction must be made.
- (d) In case of emergency repairs, which must be made immediately, or required corrections, which are not made within thirty (30) days of notice, the city shall have the authority to make these corrections and recover costs from the applicant. In cases where funds are being held in escrow by the city, the

cost of making these corrections shall be deducted from these funds, and the applicant charged with any costs above the amount of escrow funds.

- (e) At the end of the twelve-month applicant maintenance period, the city shall make a final inspection and notify the applicant and the bonding company of any corrections to be made. If the work is acceptable the community development director shall recommend to the city attorney that all remaining escrow funds be released.
- (f) Provided, however, in the discretion of the mayor based upon:
 - (1) Weather conditions;
 - (2) Labor market;
 - (3) Material market; or
 - (4) Circumstances beyond the control of the applicant or the city unforeseen by either party.
- (g) The maintenance period may be extended for a definite period of time sufficient to make the necessary corrections by an agreement in writing executed by the city, the applicant and his/her surety. Provided further, that the applicant shall be responsible for any damages done to work already completed by him to the time of the extension agreement whether or not the city had accepted it.
- (h) Maintenance bonds and acceptance by the city of any dedicated improvements shall be as one (1) package upon completion of all improvements, even though the final plat may have been approved prior to completion.

Sec. 14-382. - Standard plans and specifications available.

Standard city plans and specifications referred to in this part are on file and may be obtained from the development department. The plans are cross sections and construction drawings for a graded street, paved street, driveway section for curbed streets, brick catch basin, barricade for dead-end streets, twenty-four-inch concrete curb and gutter section and standard street marker.

Sec. 14-383. - Sidewalks and bicycle lanes.

- (a) Sidewalks shall be required on all sides of street frontage on all new and improved local residential streets in all subdivisions and along the street frontage of all new and improved non-residential developments and as set forth in section 14-190 of this article, unless determined by the Community Development Director to be infeasible only due to severe cross-slopes, shallow rock, soil or topographic conditions. At a minimum, however, continuous sidewalks shall be required on at least one (1) side of all new and improved local residential streets in all new and improved. Refer to section 14-191 for sidewalk exemptions.
- (b) The community development director may require that sidewalks required pursuant to 14-383(a) be continued to the nearest major or minor arterial or collector street.
- (c) A grassed, planted or landscaped strip, as set forth in section 14-190 of this article, shall separate all sidewalks from adjacent curbs, bridges excepted. The community development director may approve a variable sidewalk location and landscape strip width based on site conditions and future road expansions. Where sidewalks currently exist, new sidewalk construction or re-construction shall be continuous with existing sidewalks.
- (d) Sidewalks shall be concrete with the width based on Table 5.1 in the zoning ordinance and four (4) inches thick. Concrete shall be Class "B", as defined by the Georgia Department of Transportation, and have strength of two thousand five hundred (2,500) psi at twenty-eight (28) days. Disturbed areas along sidewalks shall be backfilled, stabilized, and grassed. The required width of a sidewalk may be increased, as determined by the community development director, based on site conditions to ensure pedestrian safety. See also, section 14-190.
- (e) Sidewalks shall be installed at the same time as the building construction, unless an alternative method is approved by the community development director. Sidewalks shall be completed prior to the

issuance of certificate of occupancy for property on which the sidewalk fronts. The sidewalk plan shall be recorded on the final plat and all sidewalks completely installed prior to approval of the final plat.

- (f) Sidewalks shall not be cut, removed or closed temporarily without a permit from the Community Development Department. Such permit shall not be issued unless safe, adequate, and convenient provision is made for pedestrian travel through the area that is disrupted. Damage to sidewalks caused during construction or development activity shall be repaired at no cost to the city within thirty (30) days or prior to issuance of a certificate of occupancy, whichever is earlier.
- (g) In any "landmark district" or "historic district", as defined by the city, where replacement or reconstruction of the sidewalk is deemed necessary, the sidewalk shall be replaced or reconstructed using materials, widths, and designs that are compatible with the historic materials and designs, if any, that exist within the historic district. Design compatibility shall be determined by the City of Tucker Historic Preservation Commission.
- (h) All sidewalk construction and repairs shall provide for wheelchair ramps to and from sidewalks at the intersection of each street corner and crosswalk. Access ramps shall be constructed pursuant to standards approved by the public works department.
- (i) No person shall construct a sidewalk on any street in the city without first having obtained a permit to do so from the public works department. Any person constructing a sidewalk on a street, without first obtaining a permit, shall be in violation of this Code, and the public works department shall be authorized to condemn the sidewalk and have it removed and replaced at no cost to the city.
- (j) Bicycle lanes shall be required on new or substantially improved major or minor arterials, parkways, or collector streets where the posted speed limit is thirty-five (35) miles per hour or greater. Bicycle lanes may also be required by the community development director where necessary to provide connections to bikeways in concert with the city bikeway master plan. Bicycle lanes shall be constructed as follows:
 - (1) Bicycle lanes, where required, shall be at least four (4) feet wide and placed in the outside lane of a roadway, adjacent to the curb or shoulder. When on-street parking is permitted, the bicycle lane shall be at least five (5) feet wide and located between the parking lane and the outer lane of moving vehicles. Bicycle pavement widths shall be in addition to the minimum pavement width required for the road. See also section 14-190.
 - (2) Bicycle lanes shall be delineated with signs and striping consistent with the latest edition of the manual for uniform traffic control devices, and approved by the development director.
 - (3) Bikeways and bicycle lanes shall be constructed according to the most recent specifications set forth in American Association of State Highway and Transportation Officials (AASHTO) guidelines.
 - (4) The design, striping and sign system for bicycle lanes shall be coordinated with that of the vehicular road system to provide a safe and continuous route for bicycles. Deceleration lanes shall be striped so that bicycles can safely remain in a lane marked between the deceleration lane and the through traffic lane.
- (k) No wall, fence, sign or other structure shall obstruct passage along a sidewalk or bicycle lane.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-384. - Parking on public right-of-way.

For residential projects constructed under the provisions of the zoning ordinance as single-family attached residential projects, wherein title to the single-family unit is held by fee simple ownership, the city shall assume maintenance responsibility one (1) year after the release of the subdivision bonds for parking constructed on public rights-of-way, in accordance with minimum city standards.

** This section was amended by Ordinance 2017-10-77, dated October 23, 2017.*

Sec. 14-385. - Underground utilities.

All utilities are required to be placed underground in all new subdivisions of two (2) or more lots except where no utility improvements are required by this chapter, or where the development director determines underground utilities are infeasible due to shallow rock, high water table, or other similar geologic or hydrologic conditions.

Sec. 14-386. - Streetlights.

Streetlights consistent with Georgia Power specifications, are required in all new subdivisions of two (2) or more lots except where no utility improvements are required by this chapter. Streetlights shall be provided on the same side of the street as sidewalks.

Secs. 14-387—14-395. - Reserved.

Part E. - Private Sewage Disposal

Private sewage disposal including septic tanks shall be approved and permitted by the health department.

ARTICLE IV. - FLOODPLAIN MANAGEMENT

DIVISION 1. GENERAL PROVISIONS

Sec. 14-407. - Findings of Fact.

- (a) The flood hazard areas of City of Tucker are subject to periodic inundation which may result in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- (b) Flood hazard areas can serve important stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological purposes when permanently protected as undisturbed or minimally disturbed areas.
- (c) Effective floodplain management and flood hazard protection activities can (1) Protect human life and health; (2) Minimize damage to private property; (3) Minimize damage to public facilities and infrastructure such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains; and (4) Minimize expenditure of public money for costly flood control projects associated with flooding and generally undertaken at the expense of the general public.
- (d) Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, City of Tucker, Georgia, does ordain this ordinance and establishes this set of floodplain management and flood hazard reduction policies for the purpose of regulating the use of flood hazard areas. It is determined that the regulation of flood hazard areas and the

prevention of flood damage are in the public interest and will minimize threats to public health and safety, as well as to private and public property.

Sec. 14-408. - Purpose and Intent

The purpose of this ordinance is to protect, maintain and enhance the public health, safety, environment and general welfare and to minimize public and private losses due to flood conditions in flood hazard areas, as well as to protect the beneficial uses of floodplain areas for water quality protection, streambank and stream corridor protection, wetlands preservation and ecological and environmental protection by provisions designed to:

- (a) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (b) Restrict or prohibit uses which are dangerous to health, safety and property due to flooding or erosion hazards, or which increase flood heights, velocities, or erosion;
- (c) Control filling, grading, dredging and other development which may increase flood damage or erosion;
- (d) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- (e) Limit the alteration of natural floodplains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; and,
- (f) Protect and improve the stormwater management, water quality, streambank protection, stream corridor protection, wetland preservation and ecological functions of natural floodplain areas.

Sec. 14-409. - Lands and Structures to Which This Article Applies.

This article shall apply to all areas of special flood hazards within the City of Tucker, and all new or substantially improved residential units, all subdivisions, nonresidential structures, manufactured homes, recreational vehicles, and utilities. This article will be enforced in areas outside the floodplain where runoff poses a risk similar to the special flood hazard areas. In addition, all streams with a drainage area of one hundred (100) acres or more are assumed to have an area of special flood hazard.

Sec. 14-410. - Basis for Establishing the Areas of Special Flood Hazard.

- (a) The areas of special flood hazard currently identified by the Federal Insurance Administration of FEMA in the Flood Insurance Study and accompanying Flood Insurance Rate Maps and Flood Boundary and floodway maps, currently dated May 16, 2013, and all subsequent amendments and/or revisions, are hereby adopted by reference and declared to be a part of this article.
- (b) The flood insurance study and attendant mapping is the minimum area of applicability of this article and may be supplemented by studies for other areas which allow implementation of this article and which are recommended to the governing authority by the floodplain coordinator. The Flood Insurance Study, Federal Insurance Rate Maps and Flood Boundary and Floodway Maps are on file with the City of Tucker.
- (c) For those land areas acquired by city annexation, the flood insurance study and data in effect at the time of approval of this ordinance by the mayor for areas are hereby adopted by reference.

- (d) The areas of special flood hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a flood insurance study.
- (e) Studies which may be relied upon for the establishment of the base flood elevation or delineation of the one-hundred-year floodplain include, but are not limited to, the following:
 - (1) Any flood or flood-related study conducted by the United States [Army] Corps of Engineers or the United States Geological Survey applicable to the City of Tucker; or
 - (2) Any flood study authored by a registered professional engineer in the state which has been approved by City of Tucker.
- (f) Other studies, which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain, include, but are not limited to, the following:
 - (1) Any flood or flood-related study conducted by the United States [Army] Corps of Engineers or the United States Geological Survey applicable to City of Tucker; or
 - (2) Any regulatory flood study authored by a registered professional engineer in the state which has been approved by City of Tucker.

Sec. 14-411. - Methods of Reducing Flood Losses.

In order to accomplish its purposes, this article includes methods and provisions that:

- (a) Restrict or prohibit uses which are dangerous to health, safety, and property due to water or erosion hazards, or result in damaging increases in erosion or flood heights or velocities;
- (b) Require that uses vulnerable to floods, including facilities which serve such uses, be protected against flood damage at the time of initial construction;
- (c) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- (d) Control filling, grading, dredging, and other development which may increase flood damage; and
- (e) Prevent or regulate the construction of flood barriers, which will unnaturally divert flood waters or which may increase flood hazards in other areas.
- (f) Limit the alteration of natural floodplains, stream channels and natural protective barriers which are involved in the accommodation of flood waters.

Sec. 14-412. - Designation of Ordinance Administrator.

The community development director is hereby appointed as the floodplain coordinator and is authorized to administer, implement, and enforce this article by granting or denying permits in accord with its provisions.

Sec. 14-413. - Duties and Responsibilities of the Floodplain Coordinator.

The duties and responsibilities of the floodplain coordinator shall include, but not be limited to, the following:

- (a) Review all development permits to determine that:
 - (1) The permit requirements of this article have been satisfied;

- (2) Copies for all necessary permits from any governmental agencies from which approval is required are on file;
 - (3) All other required state and federal permits have been obtained;
 - (4) The site is reasonably safe from flooding; and
 - (5) The proposed development does not adversely affect the carrying capacity of areas where base flood elevations have been determined but a floodway has not been designated.
- (b) Review, use and develop base flood data:
- (1) When base flood elevation data has not been provided in accordance with section 14-413, the floodplain coordinator shall obtain, review, and reasonably utilize any base flood elevation, future conditions flood elevation, floodway or future conditions floodway data available from a federal or state agency, or other source, in order to administer the provisions of this article. Any such information shall be submitted to the zoning board of appeals for adoption; or
 - (2) Review and record the actual elevation in relation to the mean sea level, or highest adjacent grade, of the lowest floor, including basement, of all new or substantially improved structures.
- (c) Notify other government agencies of an alteration or relocation of a watercourse:
- (1) Notify adjacent communities and the Georgia Department of Water Resources prior to any alteration or relocation of a watercourse; and
 - (2) Submit evidence of such notification to the Federal Insurance Administration and FEMA; and
 - (3) Assure that the flood carrying capacity within the altered or relocated portion of said watercourse is maintained.
- (d) Obtain and maintain for public inspection and make available, as needed, the following:
- (1) Certification required by subsection 14-432(b)(3) and section 14-435 (lowest floor elevations);
 - (2) Certification required by subsection 14-432(b)(3) b. (elevation or floodproofing of nonresidential structures);
 - (3) Certification required by subsection 14-432(b)(3) b. (wet floodproofing standard);
 - (4) Certification of elevation required by section 14-434 (subdivision standards); and
 - (5) Certification required by section 14-442 (floodway encroachments).
- (e) Make map determinations and interpretations where needed, as to the exact location of the boundaries of the areas of special flood hazard. Where there appears to be a conflict between a mapped boundary and actual field conditions, grade and base flood elevations shall be used to determine the boundaries of the special flood hazard area. The person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation of the floodplain coordinator.
- (f) Review and record the actual elevation, in relation to mean sea level to which any substantially improved structures have been flood-proofed.
- (g) Take action to remedy violations of this article as specified in section 14-413.
- (h) Respond to requests for listings of properties in the floodplain. The adopted method for disclosure at the time of sale or rental of a property is accomplished by providing to the interested parties, general public, realtor, insurance, mortgage and engineering consulting firms with an electronic database listing all properties in the floodplain, annually updated, and free of charge.

- (i) Duties for variances.
 - (1) Maintain a record of all variance actions, including justification for their issuance, and report such variances issued in its biennial report submitted to the Federal Insurance Administration, Federal Emergency Management Agency.

Sec. 14-414. - Appeals.

The zoning board of appeals shall hear and decide appeals when an applicant alleges there is an error in any requirement, decision, or determination made by the floodplain coordinator within one thousand (1,000) feet of the property in the enforcement or administration of this article.

Sec. 14-415. - Basis for Area of Special Flood Hazard – Flood Area Maps and Studies

For the purposes of this division, the following are adopted by reference:

- (1) The Flood Insurance Study (FIS), dated May 16, 2013 for DeKalb County and Incorporated Areas with accompanying maps and other supporting data and any revision thereto are hereby adopted by reference.
- (2) Other studies which may be relied upon for the establishment of the base flood elevation or delineation of the 100-year floodplain and flood-prone areas include:
 - (a) Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey or any other local, State or Federal agency applicable to City of Tucker; or
 - (b) Any base flood study authored by a registered professional engineer in the State of Georgia which has been prepared by FEMA approved methodology and approved by City of Tucker.
- (3) Other studies which may be relied upon for the establishment of the future-conditions flood elevation or delineation of the future-conditions floodplain and flood-prone areas include:
 - (a) Any flood or flood-related study conducted by the United States Army Corps of Engineers, the United States Geological Survey, or any other local, State or Federal agency applicable to City of Tucker; or
 - (b) Any future-conditions flood study authored by a registered professional engineer in the State of Georgia which has been prepared by FEMA approved methodology approved by City of Tucker.
- (4) The repository for public inspection of the FIS, accompanying maps and other supporting data is located at the Tucker City Hall.

Sec. 14-416. - Compliance.

No structure or land shall hereafter be constructed, located, extended, converted, or altered without full compliance with the term of this article and other applicable regulations. Violation of the requirements (including violations of conditions and safeguards established in connection with conditions) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be subject to a fine and/or imprisonment in accordance with section 1-10 of the City of Tucker Code. Each day such violation continues shall be considered a separate offense. Nothing herein shall prevent the mayor and city council from taking such lawful action as is necessary to prevent or remedy any violation.

Sec. 14-417. - Repetitive loss structure and cumulative substantial damage.

A building must be brought into compliance with requirements for new construction if it has incurred flood-related damages on two (2) occasions during a ten-year period in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building

at the time of each such flood event, or damage of any origin is sustained whereby the cost of restoring the building to its before damage condition would equal or exceed fifty (50) percent of the market value of the building before the damage occurred.

Sec. 14-418. - Compatibility with Other Regulations

This ordinance is not intended to modify or repeal any other ordinance, rule, regulation, statute, easement, existing covenant, deed restriction or other provision of law. The requirements of this ordinance are in addition to the requirements of any other ordinance, rule, regulation or other provision of law, and where any provision of this ordinance imposes restrictions different from those imposed by any other ordinance, rule, regulation or other provision of law, whichever provision is more restrictive or impose higher protective standards for human health or the environment shall control.

Sec. 14-419. - Mandatory purchase of flood insurance.

In the event that a property owner chooses not to purchase flood insurance on property at risk, or does not comply with a notice to bring a building into compliance, reducing the community efforts for flood protection, the insurance premium discount for the community's property owners as a community rating system participant, may not apply.

Sec. 14-420. - Interpretation.

(a) In the interpretation and application of this article, all provisions shall be:

- (1) Considered as minimum requirements;
- (2) Liberally construed in favor of the governing body; and
- (3) Deemed neither to limit nor repeal any other powers granted under state statutes.

Sec. 14-421. Warning and Disclaimer of Liability.

The degree of flood protection required by this ordinance is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This ordinance does not imply that land outside the Areas of Special Flood Hazard or uses permitted within such areas will be free from flooding or flood damages. This ordinance shall not create liability on the part of City of Tucker or by any officer or employee thereof for any flood damages that result from reliance on this ordinance or any administrative decision lawfully made there under.

Sec. 14-422. - Severability

If the provisions of any section, subsection, paragraph, subdivision or clause of this ordinance shall be adjudged invalid by a court of competent jurisdiction, such judgment shall not affect or invalidate the remainder of any section, subsection, paragraph, subdivision or clause of this ordinance.

DIVISION 2. DEFINITIONS

Sec. 14-423. - Specific definitions.

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Accessory use means a use which is incidental and subordinate to the principal use of the parcel of land on which it is located.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and

roofed addition which is connected by a firewall or is separated by an independent perimeter load-bearing wall shall be considered new construction.

Adversely affects means that the cumulative effect of the proposed development when combined with all other existing and anticipated development will increase the water surface elevation of the base flood more than one foot at any point.

Apex means the point of highest elevation on an alluvial fan, which on undisturbed fans is generally the point where the major stream that formed the fan emerges from the mountain front.

Appeal means a request for a review of the floodplain coordinator's interpretation of any provision of this article.

Area of shallow flooding means a designated AO or AH zone on the flood insurance rate map (FIRM). The base flood depths range from one to three feet; a clearly defined channel does not exist; the path of flooding is unpredictable and indeterminate; and velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard. See "Special flood hazard area."

Base flood means a flood which has a one percent chance of being equaled or exceeded in any given year (also called the "100-year flood"). Base flood is the term used throughout this article. It is equivalent to the "intermediate regional floodplain" (IRF), previously used in the city.

Base flood elevation means the highest water surface elevation anticipated at any given point during the base flood.

Basement means any area of the building having its floor subgrade i.e., below ground level on all sides.

Basin means a region or land area drained by a single river system.

Building means any structure built for support, shelter or enclosure for any occupancy or storage.

Code section 1-10 means an infraction subject to a penalty not to exceed one thousand dollars (\$1,000.00) or thirty (30) days imprisonment in the county jail or both per violation for each day of violation.

Development means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavating or drilling operations or storage of equipment or materials.

Director means the community development director or designee.

Elevated building means a nonbasement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

Encroachment means the advance or infringement of uses, plant growth, fill, excavation, buildings, permanent structures or development into a floodplain which may impede or alter the flow capacity of a floodplain.

Existing construction means any structure for which the "start of construction" commenced before May 15, 1980, (the initial flood insurance map date).

Existing manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed

(including, at a minimum, the instillation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before June 6, 1974.

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

FEMA means the Federal Emergency Management Agency.

Flood, flooding, or flood water means:

- (1) A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters; the unusual and rapid accumulation or runoff of surface waters from any source; and/or mudslides (i.e., mudflows); and
- (2) The condition resulting from flood-related erosion.

Flood hazard boundary map (FHBM) means the official map on which the Federal Emergency Management Agency or the Federal Insurance Administration has delineated the areas of flood hazards.

Flood insurance rate map (FIRM) means the official map on which the Federal Emergency Management Agency or Federal Insurance Administration has delineated both the areas of special flood hazards and the risk premium zones applicable to the community.

Flood insurance study (FIS) means the official report provided by the Federal Insurance Administration that includes flood profiles, the flood insurance rate map, the flood boundary and floodway map and the water surface elevation of the base flood.

Floodplain or flood-prone area means any land area susceptible to being inundated by water from any source. See "Flooding."

Floodplain Boundaries means The width of a floodway shall be determined from the FIS or FEMA approved flood study. For all streams with a drainage area of 100 acres or greater, the regulatory floodway shall be provided by the City of Tucker. If floodway data is not available from the City of Tucker, then it shall be determined by a registered professional engineer using a method approved by FEMA and the City of Tucker.

- (a) Studied "A" zones, as identified in the FIS, shall be used to establish base flood elevations whenever available.
- (b) For all streams with a drainage area of 100 acres or greater, the future-conditions flood elevations shall be provided by the City of Tucker. If future-conditions elevation data is not available from the City of Tucker, then it shall be determined by a registered professional engineer using a method approved by FEMA and the City of Tucker.

Floodplain coordinator is the individual appointed to administer and enforce the floodplain management regulations.

Floodplain management means the operation of an overall program of corrective and preventive measures for reducing flood damage and preserving and enhancing, where possible, natural resources in the floodplain, including but not limited to emergency preparedness plans, flood control works, floodplain management regulations, and open space plans.

Floodproofing means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents (Refer to FEMA technical Bulletins TB 1-93, TB 3-93, and TB 7-93).

Floodway means the channel of river or other watercourse and the adjacent land areas that must be reserved in order to discharge the future-conditions flood without cumulatively increasing the water surface elevation more than one (1) foot, also referred to as "regulatory floodway."

Floodway fringe is the area of the floodplain on either side of the regulatory floodway where encroachment may be permitted.

Fraud and victimization as related to Division 6, Variances, of this article, means that the variance granted must not cause fraud on or victimization of the public. In examining this requirement, the mayor and city council will consider the fact that every newly constructed building adds to government responsibilities and remains a part of the community for fifty (50) to one hundred (100) years. Buildings that are permitted to be constructed below the base flood elevation are subject during all those years to increased risk of damage from floods, while future owners of the property and the community as a whole are subject to all the costs, inconvenience, danger, and suffering that those increased flood damages bring. In addition, future owners may purchase the property, unaware that it is subject to potential flood damage, and can be insured only at very high flood insurance rates.

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

Future-conditions flood means the flood having a one (1) percent chance of being equaled or exceeded in any given year based on future-conditions hydrology. Also known as the one-hundred-year future-conditions flood.

Future-conditions floodplain means any land susceptible to flooding by the future-conditions flood.

Future-conditions flood elevation means the flood standard equal to or higher than the base flood elevation. The future-conditions flood elevation is defined as the highest water surface anticipated at any given point during the future-conditions flood.

Future-conditions hydrology means the flood discharges associated with projected land-use conditions based on a community's zoning map, comprehensive land-use plans, and/or watershed study projections, and without consideration of projected future construction of flood detention structures or projected future hydraulic modifications, within a stream or other waterway, such as a bridge or culvert construction, fill and excavation.

Governing body is the City of Tucker, that is empowered to adopt and implement regulations to provide for the public health, safety and general welfare of its citizenry.

Hardship as related to Division 6, Variances, of this article means the exceptional hardship that could result from a failure to grant the requested variance. The mayor and city council requires that the variance be exceptional, unusual, and peculiar to the property involved. Mere economic or financial hardship alone is not exceptional. Inconvenience, aesthetic considerations, physical handicaps, personal preferences, or the disapproval of one's neighbors likewise cannot, as a rule, qualify as an exceptional hardship. All of these problems can be resolved through other means without granting a variance, even if the alternative is more expensive, or requires the property owner to build elsewhere or put the parcel to a different use than originally intended.

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

Historic structure means any structure that is:

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

Increased costs of compliance coverage means the National Flood Insurance Program coverage used to mitigate repetitive flood loss properties, where the cumulative flood damage over a ten-year period is such that the cost of repairing the damage is more than half of the building's fair market value.

The intermediate regional flood (IRF) means a one-hundred-year frequency flood as defined on the flood hazard map which has a probability of occurring once every one hundred (100) years or having a one (1) percent chance of being equaled or exceeding in any given year, also known as the base flood, or one-hundred-year flood.

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

Land Development Activities means those actions or activities that comprise or facilitate a result in land development.

Land development project means a specific land development undertaking.

Levee means a man-made structure, usually an earthen embankment, designed and constructed in accordance with sound engineering practices to contain, control or divert the flow of water so as to provide protection from temporary flooding.

Levee system means a flood protection system which consists of a levee, or levees, and associated structures, such a closure and drainage devices, which are constructed and operated in accord with sound engineering practices.

Lowest floor means the lowest floor of the lowest enclosed area, including basement (see "Basement"), which includes the following:

- (a) An unfinished or flood-resistant enclosure below the lowest floor that is usable solely for parking or vehicles, building access or storage in an area other than a basement area, is not considered a building's lowest floor provided it conforms to applicable non-elevation design requirements, including, but not limited to:
 - (1) The wet floodproofing standard in subsection 14-432(b)(3).
 - (2) The anchoring standards in subsection 14-432(b)(1).
 - (3) The construction materials and method standards in subsection 14-432(b)(1).
 - (4) The standards for utilities in section 14-433.

- (b) For residential structures, all subgrade-enclosed areas are considered to be basements, including below-grade garages and storage areas.

Manufactured home means a structure, transportable in one (1) or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for one hundred eighty (180) consecutive days or longer and intended to be improved property. The term "manufactured home" does not include a "recreational vehicle."

Manufactured home park or subdivision means a parcel (or contiguous parcels) or land divided into two (2) or more manufactured home lots for rent or sale.

Mean sea level means the average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of this article, the term is synonymous with National Geodetic Vertical Datum (NGVD) and/or the North American Vertical Datum (NAVD) of 1988.

Minimum necessary means to afford relief with a minimum of deviation from the requirements of this article.

National Geodetic Vertical Datum (NGVD) as corrected in 1929, means the vertical control used as a reference for establishing varying elevations within a floodplain.

New construction, for floodplain management purposes, means structures for which the "start of construction" commenced after July 11, 2016, and includes any subsequent improvements to such structures. For the purposes of determining insurance rates, new construction means structures for which the "start of construction" commenced after July 11, 2016 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the instillation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after July 11, 2016.

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

One-hundred-year flood or 100-year flood. See "Base flood."

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

Permit means the permit issued by the director to the applicant that is required prior to undertaking any development activity.

Public safety and nuisance, as the term is used in division 6, Variances, of this article means that the granting of a variance must not result in anything which is injurious to safety or health of an entire community or neighborhood, or any considerable number of persons, or unlawfully obstructs the free passage or use, in the customary manner, of any navigable lake, or river, bay, stream, canal, or basin.

Recreational vehicle means a vehicle which is:

- (1) Built on a single chassis;
- (2) Four hundred (400) square feet or less when measured at the largest horizontal projection;
- (3) Designed to be self-propelled or permanently towable by a light-duty truck; and

- (4) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

Remedy a violation means to bring the structure or other development into compliance with state or local floodplain management regulations, or, if this is not possible, to reduce the impacts of its noncompliance. Ways that impacts may be reduced include protecting the structure or other affected development from flood damages, implementing the enforcement provisions of the ordinance or otherwise deterring future similar violations, or reducing state or federal financial exposure with regard to the structure or other development.

Repetitive loss structure means a building covered by a contract for flood insurance that has incurred flood-related damages on two (2) occasions during a ten-year period ending on the date of the event for which a second claim is made, in which the cost of repairing the flood damage, on the average, equaled or exceeded twenty-five (25) percent of the market value of the building at the time of each such flood event.

Riverine means relating to, formed by, or resembling a river (including tributaries), streams, brooks, etc.

Sheet flow area. See "Area of shallow flooding."

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

Special flood hazard area (SFHA) means an area in the floodplain subject to a 1 percent or greater chance of flooding in any given year. It is shown on an FHBM or FIRM as zone A, AO, A1-A30, AE, A99 or AH.

Start of construction includes substantial improvement and other proposed new development and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within one hundred eighty (180) days from the date of the permit. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab for footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufacture home on a foundation. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

Structure means a walled and roofed building that is principally above ground; this includes a gas or liquid storage tank or a manufactured home.

Subdivision means the division of a tract or parcel of land resulting in one (1) or more new lots or building sites for the purpose, whether immediately or in the future, of sale, other transfer of ownership or land development, and includes divisions of land resulting from or made in connection with the layout or development of a new street or roadway or a change in an existing street or roadway.

Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed fifty (50) percent of the market value of the structure before the damage occurred.

Substantial improvement means any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a ten-year period, in which the cumulative cost equals or

exceeds fifty percent of the market value of the structure prior to the improvement. The market value of the building means:

- (1) The appraised value of the structure prior to the start of the initial repair or improvement, or
- (2) In the case of damage, the value of the structure prior to the damage occurring.

This term includes structures that have incurred "substantial damage" regardless of the actual amount of repair work performed. For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building.

Substantially improved existing manufactured home park or subdivision means the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads when the cost of such repair, reconstruction, rehabilitation or improvement equals or exceeds 50 percent of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

Variance means a grant of relief from the requirements of this article which permits construction in a manner that would otherwise be prohibited by this article.

Violation means the failure of a structure or other development to be fully compliant with this article. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in this article is presumed to be in violation until such time as that documentation is provided.

DIVISION 3. - PERMIT PROCEDURES AND REQUIREMENTS

Sec. 14-424. – Development Permit Application Requirements

No owner or developer shall perform any development activities on a site where an Area of Special Flood Hazard is located without first meeting the requirements of this ordinance prior to commencing the proposed activity. Application for a development permit shall be made on forms promulgated by the director and may include, but not be limited to, floodplain management/flood damage prevention plan; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials drainage facilities; and location of the foregoing

Unless specifically excluded by this ordinance, any landowner or developer desiring a permit for a development activity shall submit to the City of Tucker a permit application on a form provided by the City of Tucker for that purpose.

No permit will be approved for any development activities that do not meet the requirements, restrictions and criteria of this ordinance.

Sec. 14-425. – Development Permit Requirements

A development permit shall be obtained before any construction of other development begins within any area of special flood hazard established in section 14-410. Application for a development permit shall be made on forms promulgated by the director and may include, but not be limited to, floodplain management/flood damage prevention plan; plans in duplicate drawn to scale showing the nature, location, dimensions, and elevation of the area in question; existing or proposed structures, fill, storage of materials

drainage facilities; and location of the foregoing. Specifically, all of the following information is required before the director will consider the application for a development permit:

(a) Application Stage:

- 1) Site plan drawn to scale, which includes but is not limited to:
 - a. For all proposed structures, spot ground elevations at building corners and twenty-foot or smaller intervals along the foundation footprints, or one-foot contour elevations throughout the building site; and
 - b. Proposed locations of water supply, sanitary sewer, and utilities; and
 - c. If available, the base flood elevation from the flood insurance study and/or flood insurance rate map; and
 - d. If applicable, the location of the regulatory floodway; and
 - e. Existing and proposed elevation of the area in question and the nature, location and dimensions of existing and/or proposed structures, earthen fill placement, amount and location of excavation material and storage of materials or equipment; and
 - f. Proposed locations of drainage and stormwater management facilities; and
 - g. Proposed grading plan; and
 - h. Base flood elevations and future-conditions flood elevations; and
 - i. Boundaries of the base flood floodplain and future-conditions floodplain; and
 - j. Certification of the site plan by a registered professional engineer in the state.
- 2) Building and foundation design detail, including but not limited to:
 - a. Proposed elevation in relation to mean sea level, or highest adjacent grade, of the lowest floor, including the basement, of all structures; and
 - b. For a crawl space foundation, location and total net area of foundation openings as required in subsection 14-432(b)(3) and FEMA Technical Bulletins 1-93 and 7-93; and
 - c. For foundations placed on fill, the location and height of fill, and compaction requirements (compacted to ninety-five (95) percent using the Standard Proctor Test Method); and
 - d. Certification that any proposed nonresidential floodproofed structure meets the criteria in 14-432; and
 - e. For enclosures below the base flood elevation, location and total net area of foundation openings as required in 14-432c.(i).
 - f. Certification that the foundation design detail is by a registered professional engineer in the state.
- (3) Proposed elevation in relation to mean sea level to which any nonresidential structure will be floodproofed, as required in subsection 14-432(b)(3)b. and FEMA Technical Bulletin TB 3-93; and
- (4) All appropriate certifications listed in subsection 14-432(b)(3); and
- (5) Description of the extent to which any watercourse will be altered or relocated as a result of proposed development; and
- (6) Hard copies and digital files of computer models, if any, copies of work maps, comparison of pre- and post-development conditions base flood elevations, future conditions flood elevations, flood protection elevations, special flood hazard areas and regulatory floodway widths, flood profiles and all other computations and other information similar to that presented in the FIS; and
- (7) Copies of all applicable state and federal permits and certifications necessary for proposed development.

The approved floodplain management / flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved revisions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.

(b) Construction Stage Submittal Requirements

- (1) For all new construction and substantial improvements on sites with a floodplain management/flood damage prevention plan, the permit holder shall provide to the floodplain coordinator a certified as-built elevation certificate for nonresidential construction, including the lowest floor elevation, immediately after the lowest floor or floodproofing is completed. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a currently state-registered land surveyor or currently state-registered professional engineer and certified by same. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a currently state-registered professional engineer or architect and certified by the same.
 - (2) Any work undertaken prior to submission of the certifications identified in subsection 14-420(b)(1) shall be at the permit holder's risk. The floodplain coordinator shall review the above-referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required herein, shall be cause to issue a stop-work order for the project.
 - (3) Copies of permits issued for construction in the floodplain shall be forwarded to the floodplain coordinator.
- (c) The approved floodplain management/flood damage prevention plan shall contain certification by the applicant that all development activities will be done according to the plan or previously approved regions. Any and all development permits and/or use and occupancy certificates or permits may be revoked at any time if the construction and development activities are not in strict accordance with approved plans.
- (d) A development permit will not be approved for any construction or other development activities that do not meet the requirements, restrictions and criteria of this article.

DIVISION 4. - PROVISIONS FOR FLOOD DAMAGE REDUCTION

Sec. 14-426. - Floodplain Management Planning and Public Information.

- (a) To comply with requirements of the community rating system, the city adopts the following:
- (1) A floodplain management plan and progress that will be reported in the annual re-certification process. This plan will be updated for each subsequent two-year period.
 - (2) Public information shall include, but it is not limited to elevation certificate repository, map information, outreach projects, hazard disclosure, flood protection, and flood protection assistance.

Sec. 14-427. - Stream Dumping Penalties.

Any natural growth or human-made debris that reduces the carrying and storage capacity of the city drainage system may be a violation of this article. Any person who dumps log, trash, trees, and similar debris, shall, upon conviction, is subject to a fine and/or imprisonment according to Chapter One (1) of the Code of the City of Tucker.

Sec. 14-428. - Plan Review and Field Inspections of Structures.

The building code effectiveness grading used by the community rating system required from the city to perform plan review and field inspections of one- and two-family dwellings to obtain additional insurance benefits for its citizenry. Plan review and field inspections of one- and two-family dwellings in the floodplain, as they relate to flood prevention and protection, will be effective [and] start upon approval of this article.

Sec. 14-429. - Engineering Study Requirements for Floodplain Encroachments

An engineering study is required, as appropriate to the proposed development activities on the site, whenever a development proposes to disturb any land within the future-conditions floodplain, except for a residential single-lot development on streams without established base flood elevations and/or floodways for which the provisions of Sec 14-415 apply. This study shall be prepared by a currently registered Professional Engineer in the State of Georgia and made a part of the application for a permit. This information shall be submitted to and approved by the City of Tucker prior to the approval of any permit which would authorize the disturbance of land located within the future-conditions floodplain. Such study shall include:

- (a) Description of the extent to which any watercourse or floodplain will be altered or relocated as a result of the proposed development;
- (b) Step-backwater analysis, using a FEMA-approved methodology approved by the City of Tucker. Cross-sections (which may be supplemented by the applicant) and flow information will be obtained whenever available. Computations will be shown duplicating FIS results and will then be rerun with the proposed modifications to determine the new base flood profiles, and future-conditions flood profiles;
- (c) Floodplain storage calculations based on cross-sections (at least one every 100 feet) showing existing and proposed floodplain conditions to show that base flood floodplain and future-conditions floodplain storage capacity would not be diminished by the development;
- (d) The study shall include a preliminary plat, grading plan, or site plan, as appropriate, which shall clearly define all future-conditions floodplain encroachments.

Sec. 14-430. - General Standards

- (a) No development shall be allowed within the future-conditions floodplain that could result in any of the following:
 - (1) Raising the base flood elevation or future-conditions flood elevation equal to or more than 0.01 foot;
 - (2) Reducing the base flood or future-conditions flood storage capacity;
 - (3) Changing the flow characteristics as to the depth and velocity of the waters of the base flood or future-conditions flood as they pass both the upstream and the downstream boundaries of the development area; or,
 - (4) Creating hazardous or erosion-producing velocities, or resulting in excessive sedimentation.
- (b) Any development within the future-conditions floodplain allowed under (a) above shall also meet the following conditions:
 - (1) Compensation for storage capacity shall occur between the average ground water table elevation and the base flood elevation for the base flood, and between the average ground water table elevation and the future-condition flood elevation for the future-conditions flood, and lie either within the boundaries of ownership of the property being developed and shall be within the immediate vicinity of the location of the encroachment. Acceptable means of providing required compensation include lowering of natural ground elevations within the floodplain, or lowering of adjoining land areas to create additional floodplain storage. In no case shall any required compensation be provided via bottom storage or by excavating below the elevation of the top of the natural (pre-development) stream channel unless such excavation results from the widening or relocation of the stream channel;
 - (2) Cut areas shall be stabilized and graded to a slope of no less than 2.0 percent;

- (3) Effective transitions shall be provided such that flow velocities occurring on both upstream and downstream properties are not increased or decreased;
- (4) Verification of no-rise conditions (0.01 foot or less), flood storage volumes, and flow characteristics shall be provided via a step-backwater analysis meeting the requirements of Sec 14-426;
- (5) Public utilities and facilities, such as water, sanitary sewer, gas, and electrical systems, shall be located and constructed to minimize or eliminate infiltration or contamination from flood waters; and
- (6) Any significant physical changes to the base flood floodplain shall be submitted as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. The CLOMR submittal shall be subject to approval by the City of Tucker using the Community Consent forms before forwarding the submittal package to FEMA for final approval. The responsibility for forwarding the CLOMR to FEMA and for obtaining the CLOMR approval shall be the responsibility of the applicant. Within six months of the completion of construction, the applicant shall submit as-built surveys for a final Letter of Map Revision (LOMR).

Sec. 14-431. - Standards of Construction within a Floodplain.

- (a) New construction of principal buildings (residential or nonresidential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all of the pertinent requirements of this article have been met.
- (b) No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this article and other applicable provisions of this Code, state or federal law. In all areas of flood hazards the following standards are required:
 - (1) Anchoring. All new construction and substantial improvements shall be adequately anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy.
 - (2) Construction materials and methods. All new construction and substantial improvements shall be constructed:
 - a. With flood resistant materials as specified in FEMA Technical Bulletin TB 2-93, and utility equipment resistant to flood damage;
 - b. Using methods and practices that minimize flood damage;
 - c. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing and other service facilities shall be designed and/or located three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding; and
 - d. Within zones AH or AO, so that there are adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.
 - (3) Elevation and floodproofing.
 - a. Residential buildings.
 - (i) New construction. New construction of principal buildings, including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain unless all requirements of sections 14-430, 14-431 and 14-422 have been met. If all of the requirements of sections 14-430, 14-431 and 14-422 have been met, all new

construction shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards of subsection (c).

- (ii) Substantial improvements. Substantial improvement of any principal structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of flood waters shall be provided in accordance with the standards of subsection (c).
- b. Nonresidential buildings.
- (i) New construction. New construction of principal buildings, including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain unless all requirements of sections 14-430, 14-431 and 14-422 have been met. New construction that has met all of the requirements of sections 14-430, 14-431 and 14-422 may be flood proofed in lieu of elevation. The structure, together with attendant utility and sanitary, must be designed to be watertight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the floodplain coordinator.
 - (ii) Substantial improvements. Substantial improvement of any principal non-residential structure located in A1-30, AE or AH zones, may be authorized by the floodplain coordinator to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the floodplain coordinator.
- c. [Parking.] All new construction and substantial improvements with fully enclosed areas below the lowest floor (excluding basements) that are usable solely for parking of vehicles, building access or storage, and which are subject to flooding, shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting these requirements shall follow the guidelines in FEMA Technical Bulletins TB 1-93 and TB-7-93, and must exceed the following minimum criteria:

- (i) Have a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding. The bottom of all openings shall be no higher than one (1) foot above grade. Openings may be equipped with screens, louvers, valves or other coverings or devices provided that they permit the automatic entry and exit of floodwater; and
 - (ii) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms; and
 - (iii) Be certified by a currently state-registered professional engineer or currently state-registered architect.
- d. Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this article, shall be undertaken only if the nonconformity will be eliminated.
 - e. On-site waste disposal system shall be located and constructed to avoid impairment to them, or contamination from them, during flooding;
 - f. If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive future condition elevation and development standards shall take precedence.

Sec. 14-432. - Standards for Utilities.

- (a) All new and replacement water supply and sanitary sewage systems shall be designed to minimize or eliminate:
 - (1) Infiltration of floodwaters into the systems, and
 - (2) Discharge from the systems into floodwaters.
- (b) On-site waste disposal systems shall be located to avoid impairment to them, or contamination from them during flooding.
- (c) All above-ground utilities shall be elevated three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher.

Sec. 14-433. - Standards for Subdivisions.

- (a) All subdivision proposals (also known as land-disturbance permits) shall identify the special flood hazard area and provide base flood elevation data and future-conditions flood elevation data.
- (b) All residential lots in a subdivision proposal (also known as land-disturbance permits) shall have sufficient buildable area outside of the future-conditions floodplain such that encroachments into the future conditions floodplain for residential structures will not be required.
- (c) All applications for land-disturbance permits will provide the elevation of proposed structure(s) and pad(s). If the site is filled above the base flood elevation, the lowest floor and pad elevations shall be certified by a currently state-registered professional engineer or currently state-registered land surveyor and provided to the floodplain coordinator.
- (d) All applications for land-disturbance permits shall be consistent with the need to minimize flood damage.
- (e) All applications for land-disturbance permits shall have public utilities and facilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.

- (f) All applications for land-disturbance permits shall provide adequate drainage to reduce exposure to flood hazards.
- (g) All subdivision proposals shall provide the elevations of proposed structures in accordance with section 14-420.

Sec. 14-434. - Standards for Manufactured Homes.

- (a) All manufactured homes that are substantially improved within zones A1-30, AH, and AE on the community's flood insurance rate map shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher, and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, if the manufactured home is on a site located:
 - (1) Outside of a manufactured home park or subdivision;
 - (2) In a new manufactured home park or subdivision;
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood.
- (b) All manufactured homes to be substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the community's flood insurance rate map that are not subject to the provisions of subsection (a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - (1) Lowest floor of the manufactured home is three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher, or
 - (2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.
- (c) Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a currently state-registered professional engineer or currently state-registered land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain coordinator.
- (d) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of section 14-431, 14-432, 14-442 have been met.

Sec. 14-435. - In all Areas of Special Flood Hazard the following provisions apply:

- (1) New construction of principal buildings (residential or non-residential), including manufactured homes, shall not be allowed within the limits of the future-conditions floodplain, unless all requirements of 14-431, 14-432, 14-442 have been met;
- (2) New construction or substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (3) New construction or substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (4) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;

- (5) Elevated Buildings - All new construction and substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished and flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
 - (a) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both directions.
 - (b) So as not to violate the "Lowest Floor" criteria of this ordinance, the unfinished and flood resistant enclosure shall solely be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and,
 - (c) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (6) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be designed and/or located three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher, so as to prevent water from entering or accumulating within the components during conditions of flooding;
- (7) Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable State requirements for resisting wind forces;
- (8) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;
- (9) New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters;
- (10) On-site waste disposal systems shall be located and constructed to avoid impairment to them, or contamination from them, during flooding; and,
- (11) Any alteration, repair, reconstruction or improvement to a structure which is not compliant with the provisions of this ordinance, shall be undertaken only if the non- conformity is not furthered, extended or replaced.
- (12) If the proposed development is located in multiple flood zones or multiple base flood elevation cross the proposed site, the higher or more restrictive base flood elevation or future condition elevation and development standards shall take precedence.

Sec. 14-436. - Building Standards for Structures and Buildings within the Future-Conditions Floodplain
The following provisions, in addition to those in Sec 14-431-14-135, shall apply:

- (1) Residential Buildings
 - (a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sec 14-431-14-135 have been met. If all of the requirements of Sec 14-

431-14-135 have been met, all new construction shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate the structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 5.1(5).

(b) Substantial Improvements. Substantial improvement of any principal structure or manufactured home shall have the lowest floor, including basement, elevated no lower than three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to equalize the hydrologic flood forces on exterior walls and to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 5.1(5).

(2) Non-Residential Buildings

(a) New construction. New construction of principal buildings, including manufactured homes shall not be allowed within the limits of the future-conditions floodplain unless all requirements of Sec 14-430 to Sec 14-434 have been met. New construction that has met all of the requirements of Sec 14-430 to Sec 14-434 may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be watertight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Director.

(b) Substantial Improvements. Substantial improvement of any principal non-residential structure located in A1- 30, AE, or AH zones, may be authorized by the Director to be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, or at least as high as the future-conditions flood elevation, whichever is higher, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered Professional Engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the Director.

Sec. 14-437. - Accessory Structures and Facilities

Accessory structures and facilities (i.e., barns, sheds, gazebos, detached garages, parking lots, recreational facilities and other similar structures and facilities) that are permitted to be located within the limits of the floodplain shall be constructed of flood-resistant materials and designed to pass all floodwater in accordance with subsection 14-432(c) and be anchored to prevent flotation, collapse or lateral movement of the structure.

Sec. 14-438. - Standards for Recreational Vehicles

All recreational vehicles placed on sites must either:

(a) Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions); or

- (b) The recreational vehicle must meet all the requirements for Residential Buildings—Substantial Improvements Sec 14-430, including the anchoring and elevation requirements.

Sec. 14-439. - Standards for manufactured homes.

- (a) All manufactured homes that are substantially improved within zones A1-30, AH, and AE on the community's flood insurance rate map shall be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher, and be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, if the manufactured home is on a site located:
 - (1) Outside of a manufactured home park or subdivision;
 - (2) In a new manufactured home park or subdivision;
 - (3) In an expansion to an existing manufactured home park or subdivision, or
 - (4) In an existing manufactured home park or subdivision on a site upon which a manufactured home has incurred "substantial damage" as the result of a flood.
- (b) All manufactured homes to be substantially improved on sites in an existing manufactured home park or subdivision within zones A1-30, AH and AE on the community's flood insurance rate map that are not subject to the provisions of subsection (a) will be securely fastened to an adequately anchored foundation system to resist flotation, collapse, and lateral movement, and be elevated so that either the:
 - (1) Lowest floor of the manufactured home is three (3) feet above the base flood elevation, or one (1) foot above the future-conditions flood elevation, whichever is higher, or
 - (2) Manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade.
- (c) Upon the completion of the structure, the elevation of the lowest floor, including basement, shall be certified by a currently state-registered professional engineer or currently state-registered land surveyor, and verified by the community building inspector to be properly elevated. Such certification and verification shall be provided to the floodplain coordinator.
- (d) New manufactured homes shall not be allowed to be placed within the limits of the future-conditions floodplain unless all requirements of section 14-431, 14-432, 14-442 have been met.

Sec. 14-440. - Building Standards for Structures and Buildings Authorized Adjacent to the Future-Conditions Floodplain

- (1) Residential Buildings – For new construction or substantial improvement of any principal residential building or manufactured home, the elevation of the lowest floor, including basement and access to the building, shall be at least three (3) feet above the base flood elevation or one (1) foot above the future-conditions flood elevation, whichever is higher.
- (2) Non-Residential Buildings – For new construction or substantial improvement of any principal non-residential building, the elevation of the lowest floor, including basement and access to the building, shall be at least one (1) foot above the level of the base flood elevation or at least as high as the future-conditions flood elevation, whichever is higher.

Sec. 14-441. - Building Standards for Residential Single-Lot Developments on Streams Without Established Base Flood Elevations and/or Floodway (A-Zones)

- (a) For a residential single-lot development not part of a subdivision that has Areas of Special Flood Hazard, where streams exist but no base flood data have been provided (A-Zones), the Director shall review and reasonably utilize any available scientific or historic flood elevation data, base flood elevation and floodway data, or future-conditions flood elevation data available from a Federal, State, local or other source, in order to administer the provisions and standards of this ordinance.
- (b) If data are not available from any of these sources, the following provisions shall apply:
- (c) No encroachments, including structures or fill material, shall be located within an area equal to twice the width of the stream or fifty (50) feet from the top of the bank of the stream, whichever is greater.
- (d) In special flood hazard areas without base flood or future-conditions flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with this article.

Sec. 14-442. - Building Standards for Areas of Shallow Flooding (AO-Zones)

- (a) Areas of Special Flood Hazard may include designated "AO" shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. In these areas the following provisions apply:
 - (1) All substantial improvements of residential and nonresidential structures shall have the lowest floor, including basement, elevated to no lower than one (1) foot above the flood depth number specified on the flood insurance rate map, above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three (3) feet above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with the standards for "elevated buildings" set forth in this Code or promulgated by the director or the state. The applicant's or owner's engineer shall certify to the floodplain coordinator that the lowest floor elevation level and the record shall become a permanent part of the permit file.
 - (2) Substantial improvement of a nonresidential structure may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified flood insurance rate map flood level plus one (1) foot above the highest adjacent grade, with walls substantially impermeable to the passage of water, and structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that the design and methods of construction are in accordance with accepted standards of practice; and,
- (b) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

Sec. 14-443. - Definition of Floodway Boundaries.

- (a) The width of a floodway shall be determined from the flood insurance study or FEMA-approved flood study. For all streams with a drainage area of one hundred (100) acres or greater, the regulatory floodway shall be provided by the floodplain coordinator. If floodway data is not available from the floodplain coordinator, then it shall be determined by a registered professional engineer using a method approved by FEMA and the floodplain coordinator.
- (b) Following a pre-design conference with the floodplain coordinator, the boundaries or limits of the floodway shall be shown on the development or stormwater site plan containing existing topographic information.

Sec. 14-444. - Floodway Encroachments

Located within Areas of Special Flood Hazard are areas designated as floodway. A floodway may be an extremely hazardous area due to velocity flood waters, debris or erosion potential. In addition, floodways must remain free of encroachment in order to allow for the discharge of the base flood without increased flood heights. Therefore, the following provisions shall apply:

- (a) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway, except for activities specifically allowed in (2) below.
- (b) Encroachments for bridges, culverts, roadways and utilities within the regulatory floodway may be permitted provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase to the pre-project base flood elevations, floodway elevations, or floodway widths during the base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof; and,
- (c) If the applicant proposes to revise the floodway boundaries, no permit authorizing the encroachment into or an alteration of the floodway shall be issued by the City of Tucker until an affirmative Conditional Letter of Map Revision (CLOMR) is issued by FEMA and no-rise certification is approved by the City of Tucker.

Sec. 14-445. - Maintenance Requirements

The property owner shall be responsible for continuing maintenance as may be needed within an altered or relocated portion of a floodplain on his property so that the flood-carrying or flood storage capacity is not diminished. The City of Tucker may direct the property owner at no cost to the City of Tucker to restore the flood-carrying or flood storage capacity of the floodplain if the owner has not performed maintenance as required by the approved floodplain management plan on file with the City of Tucker.

DIVISION 5. VARIANCE PROCEDURES

Sec. 14-446. - Nature of Variance.

The following variance and appeals procedures shall apply to an applicant who has been denied a permit for a development activity, or to an owner or developer who has not applied for a permit because it is clear that the proposed development activity would be inconsistent with the provisions of this ordinance. A request for a variance may be submitted by an applicant who has been denied a permit by the City of Tucker, or by an owner or developer who has not previously applied for a permit for the reasons stated herein above.

- (a) Requests for variances from the requirements of this ordinance shall be submitted to the City of Tucker. All such requests shall be heard and decided in accordance with procedures to be published in writing by the City of Tucker. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (b) Any person adversely affected by any decision of the City of Tucker shall have the right to appeal such decision to the Zoning Board of Appeals as established by City of Tucker in accordance with procedures to be published in writing by the Zoning Board of Appeals. At a minimum, such procedures shall include notice to all affected parties and the opportunity to be heard.
- (c) Any person aggrieved by the decision of the Zoning Board of Appeals may appeal such decision to the Superior Court of DeKalb County, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
- (d) Variances may be issued for the repair or rehabilitation of Historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an

Historic structure, and the variance issued shall be the minimum necessary to preserve the historic character and design of the structure.

- (e) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this Section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (f) Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- (g) In reviewing such requests, the City of Tucker and Zoning Board of Appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this ordinance.
- (h) Conditions for Variances:
 - (1) A variance shall be issued only when there is:
 - (i) a finding of good and sufficient cause;
 - (ii) a determination that failure to grant the variance would result in exceptional hardship; and,
 - (iii) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, or the creation of a nuisance.
 - (2) The provisions of this ordinance are minimum standards for flood loss reduction; therefore, any deviation from the standards must be weighed carefully. Variances shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and, in the instance of a Historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
 - (3) Any person to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
 - (4) The Director shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.
- (i) Any person requesting a variance shall, from the time of the request until the time the request is acted upon, submit such information and documentation as the City of Tucker and Zoning Board of Appeals shall deem necessary to the consideration of the request.
- (j) Upon consideration of the factors listed above and the purposes of this ordinance, the City of Tucker and the Zoning Board of Appeals may attach such conditions to the granting of variances as they deem necessary or appropriate, consistent with the purposes of this ordinance.
- (k) Variances shall not be issued "after the fact."

Sec. 14-447. - Appeal Board.

- (a) In passing upon requests for variances, the zoning board of appeals shall consider all technical evaluations, all relevant factors, standards specified in other sections of this article including all of the following:
 - (1) Danger that materials may be swept onto other lands to the injury of others;
 - (2) Danger of life and property due to flooding or erosion damage;

- (3) Susceptibility of the proposed facility and its contents to flood damage and the effects of such damage on the existing individual owner and future owners of the property;
 - (4) Importance of the services provided by the proposed facility to the community;
 - (5) Necessity of the facility to a waterfront location, where applicable;
 - (6) Availability of alternative locations for the proposed use that are not subject to flooding or erosion damage;
 - (7) Compatibility of the proposed use with existing and anticipated development;
 - (8) Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
 - (9) Safety of access to the property in time of flood for ordinary and emergency vehicles;
 - (10) Expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters expected at the site; and
 - (11) Costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges.
- (b) Any owner to whom a variance is granted shall be given written notice from the zoning board of appeals that:
- (1) The issuance of a variance to construct a structure below the base flood level may result in increased premium rates for flood insurance; and
 - (2) Such construction below the base flood level increases risks to life and property. A copy of the notice shall be recorded by the floodplain coordinator in the office of the clerk of superior court of the city in a manner so that it appears in the chain of title of the affected parcel of land.

Sec. 14-448. - Conditions for Variances.

- (a) Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as an historic structure and the variance is the minimum necessary to preserve the historic character and design of the structure.
- (b) Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this article are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- (c) Variances shall not be issued within any designated or mapped regulatory floodway if any increase in flood levels during the base flood discharge would result.
- (d) Variances shall only be issued upon a determination that the variance is the minimum necessary considering the flood hazard, to afford relief.

Sec. 14-449. - Variance Procedure.

- (a) The zoning board of appeals, as established by the city, shall hear and decide requests for appeals or requests for variances from the requirements of this article.

- (b) The zoning board of appeals shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the floodplain coordinator in the enforcement or administration of this article. No action will be taken under the terms of this division unless such relief can be granted without substantial detriment to the public good and without substantial impairment of the intent and purpose of this chapter.
- (c) In reviewing such requests, the zoning board of appeals shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this article.
- (d) Applications for variances must be submitted in writing to the director within thirty (30) days of discovery of the condition(s) requiring such a variance. Applications are complete when they contain:
 - (1) All those materials and documents required by the director that are necessary to demonstrate the necessity for the variance;
 - (2) Compliance with all other requirements of this Code;
 - (3) A full explanation of the reasons for the variance; and
 - (4) An explanation of how the variance will satisfy the variance conditions set forth in this section.
- (e) When the variance application is first considered by the zoning board of appeals, the director shall provide the zoning board of appeals with written findings of fact and a recommendation for approval or disapproval of the variance.
- (f) Applications for variance shall be heard at a public hearing by the zoning board of appeals at the next meeting of the zoning board of appeals held after the filing of a complete application for variance.
 - (1) Notice of the variance shall be mailed via first class mail by the director to all property owners within two hundred fifty (250) feet of the boundaries of the subject property, as such property owners are listed on the tax records of DeKalb County, at least fifteen (15) days before the public hearing before the zoning board of appeals.
 - (2) Signs shall be posted by the applicant within the public right-of-way in front of or on the subject property at least fifteen (15) days before the hearing before the zoning board of appeals.
 - (3) At least one (1) sign shall be posted on each street on which the subject property has frontage. One (1) additional sign shall be posted for each additional five hundred (500) feet of frontage or fraction thereof in excess of five hundred (500) feet of frontage on each street on which the subject property has frontage. Signs shall be double-faced and posted so that the face of the sign is at a right angle to the street to allow the signs to be read by the traveling public in both directions. All signs shall be provided by the city and will be no smaller than six (6) square feet with lettering on the signs at least two (2) inches in size. The sign shall state the nature of proposed variance and the date, time and place of the public hearing before the zoning board of appeals.
 - (4) The director shall sign an affidavit attesting to the posting of signs in accordance with the requirements herein, and shall photograph each sign as evidence of its proper posting.
- (g) A variance shall only be issued when all of the following conditions are present:
 - (1) A finding of good and sufficient cause;
 - (2) A determination that failure to grant the variance would result in undue and exceptional hardship;
 - (3) A determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, or cause fraud or victimize the public;

- (4) The requested variance does not go beyond the minimum necessary to afford relief, and does not constitute with the limitations upon other properties;
 - (5) The grant of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements; and
 - (6) The strict application of the requirements of this chapter would deprive the property owner of rights and privileges enjoyed by other property owners.
- (h) Upon consideration of the factors of subsection 14-445(a) and the purposes of this article, the zoning board of appeals may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.
- (I) ANY PERSON AGGRIEVED BY THE DECISION OF THE ZONING BOARD OF APPEALS MAY APPEAL SUCH DECISION BY WRIT OF CERTIORARI. A PERSON SHALL BE CONSIDERED AGGRIEVED FOR THE PURPOSE OF THIS SUBSECTION ONLY IF: SAID PERSON OR SAID PERSON'S PROPERTY WAS THE SUBJECT OF THE ACTION APPEALED FROM; OR SAID PERSON HAS A SUBSTANTIAL INTEREST IN THE ACTION APPEALED FROM THAT IS IN DANGER OF SUFFERING SPECIAL DAMAGE OR INJURY NOT COMMON TO ALL PROPERTY OWNERS SIMILARLY SITUATED.

Sec. 14-450. - Violations, Enforcement and Penalties

Any action or inaction which violates the provisions of this ordinance or the requirements of an approved stormwater management plan or permit, may be subject to the enforcement actions outlined in this Section. Any such action or inaction which is continuous with respect to time is deemed to be a public nuisance and may be abated by injunctive or other equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief. The imposition of any of the penalties described below shall not prevent such equitable relief.

Sec. 14-451. - Notice of Violation

If the City of Tucker determines that an applicant or other responsible person has failed to comply with the terms and conditions of a permit, an approved stormwater management plan or the provisions of this ordinance, it shall issue a written notice of violation to such applicant or other responsible person. Where a person is engaged in activity covered by this ordinance without having first secured a permit therefor, the notice of violation shall be served on the owner or the responsible person in charge of the activity being conducted on the site.

The notice of violation shall contain:

- (1) The name and address of the owner or the applicant or the responsible person;
- (2) The address or other description of the site upon which the violation is occurring;
- (3) A statement specifying the nature of the violation;
- (4) A description of the remedial measures necessary to bring the action or inaction into compliance with the permit, the stormwater management plan or this ordinance and the date for the completion of such remedial action;
- (5) A statement of the penalty or penalties that may be assessed against the person to whom the notice of violation is directed; and,
- (6) A statement that the determination of violation may be appealed to the City of Tucker by filing a written notice of appeal within thirty (30) days after the notice of violation (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient).

Sec. 14-452. - Penalties

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation, any one or more of the following actions or penalties may be taken or assessed against the person to whom the notice of violation was directed. Before taking any of the following actions or imposing any of the following penalties, the City of Tucker shall first notify the applicant or other responsible person in writing of its intended action, and shall provide a reasonable opportunity, of not less than ten (10) days (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) to cure such violation. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the City of Tucker may take any one or more of the following actions or impose any one or more of the following penalties.

- (a) *Stop Work Order* - The City of Tucker may issue a stop work order which shall be served on the applicant or other responsible person. The stop work order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the stop work order may be withdrawn or modified to enable the applicant or other responsible person to take the necessary remedial measures to cure such violation or violations.
- (b) *Withhold Certificate of Occupancy* - The City of Tucker may refuse to issue a certificate of occupancy for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (c) *Suspension, Revocation or Modification of Permit* - The City of Tucker may suspend, revoke or modify the permit authorizing the development project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the City of Tucker may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.
- (d) *Civil Penalties* - In the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described therein within ten (10) days, or such greater period as the City of Tucker shall deem appropriate (except, that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient) after the City of Tucker has taken one or more of the actions described above, the City of Tucker may impose a penalty not to exceed \$1,000 (depending on the severity of the violation) for each day the violation remains un-remedied after receipt of the notice of violation.
- (e) *Criminal Penalties* - For intentional and flagrant violations of this ordinance, the City of Tucker may issue a citation to the applicant or other responsible person, requiring such person to appear in Municipal court to answer charges for such violation. Upon conviction, such person shall be punished by a fine not to exceed \$1,000 or imprisonment for 60 days or both. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.