

**Commissioners:**

Don Bergwall - Chairman
Phillip Jackson - Vice
Chairman
Lacey Ragus
Rebecca Patterson
Trey Bodenhamer
Todd Vande Zande
Carolyn Greenall

**Planning Commission
Meeting Agenda
June 14, 2023 6:30 PM
Council Chambers**

1. Call to Order / Roll Call**2. Announcements**

- A. This public meeting is being conducted via the use of real-time telephonic technology allowing the public simultaneous access to the public meeting. The meeting may be accessed using Facebook Live via the following link [www.Facebook.com/City of Kennesaw/](https://www.facebook.com/CityofKennesaw/), however, comments made on Facebook Live will not be visible by City staff. If you will like to provide public comment on a specific agenda item, you can email kennesawcouncil@kennesaw-ga.gov no later than 6:00 p.m. the night of the regular meeting. Your comment will be read aloud or grouped into categories for the record. All interested parties may attend the meeting in person with limited seating available at the City Hall Council Chambers and the Ben Robertson Community Center, if needed. Please note that the Planning Commission serves as an advisory board that makes recommendations to Mayor and Council unless otherwise noted.
- B. Pending zoning applications may be viewed on an interactive map via the Planning & Zoning webpage or using the following link: <https://arcg.is/1q1ubX0>
- C. New business items on this agenda will be heard by Mayor and Council on June 19, 2023.

3. New Business

- A. Approval of ORDINANCE to amend the Unified Development Code, Appendix A, Chapter 1, Section 1.06.01, Section 1.06.03 and Chapter 10. Said amendments are regarding changes to zoning procedure law as submitted by the City of

Kennesaw. Case #MISC2023-05.

4. Staff Comment

5. Adjourn



Item Report

TO: The Planning Commission

FROM:

DATE: June 14, 2023

TITLE: Approval of ORDINANCE to amend the Unified Development Code, Appendix A, Chapter 1, Section 1.06.01, Section 1.06.03 and Chapter 10. Said amendments are regarding changes to zoning procedure law as submitted by the City of Kennesaw. Case #MISC2023-05.

Summary:

Consideration to amend the Unified Development Code, Appendix A, Chapter 1, Section 1.06.01, Section 1.06.03 and Chapter 10. Said amendments are regarding changes to zoning procedure law. This public hearing was advertised in the Marietta Daily Journal on May 26, 2023 and June 2, 2023.

Recommendation:

The Zoning Administrator recommends approval of the text amendment to the Unified Development Code.

Fiscal Impact:

Attachments:

1. Zoning Procedures Ordinance Amendment - Draft
2. 05-26-2023 Chapter 1 and 10 Amendments-Legal Ads

CITY OF KENNESAW, GEORGIA

ORDINANCE NO. 2023-____, 2023

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF KENNESAW, GEORGIA, APPENDIX A, UNIFIED DEVELOPMENT CODE, SECTION 1.06.01 “BUILDING OFFICIAL”; SECTION 1.06.03 “ZONING ADMINISTRATION”; AND CHAPTER 10, “ADMINISTRATIVE PROCEDURES”;

BE IT ORDAINED BY THE MAYOR AND COUNCIL OF THE CITY OF KENNESAW, COBB COUNTY, GEORGIA, AS FOLLOWS:

WHEREAS, the Georgia Legislature enacted House Bill 1405 which amended Chapter ~~366~~, Title ~~5~~Title 36, of the Official Code of Georgia Annotated, which takes effect on July 1, 2023; and

WHEREAS, the Mayor and City Council has determined it is in the best interests of the citizens of Kennesaw to amend the appellate procedures set forth in the Kennesaw Code of Ordinances to comply with the amendment to Chapter ~~366~~, Title ~~5~~36, of the Official Code of Georgia Annotated; and

WHEREAS, public hearings were duly advertised in the Marietta Daily Journal

WHEREAS, the Code of Ordinances of the City of Kennesaw shall be amended as follows:

Section 1.

That section 1.06.01 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

1.06.01 - Building Official

Shall be the individual who serves as Director of the Construction and Development Division as designated by the Mayor and City Council in accordance with Section 101.4 of the Standard Building Code, 1991 Ed., and as may be amended from time to time. As used herein, the Building Official shall also be known as the Building Services Director.

Section 2.

That section 1.06.03 of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

1.06.03 - Zoning Administrator

City of Kennesaw staff person as designated by the Mayor and City Council who serves to administer the Unified Development Code and who is authorized to interpret the terms and provisions of the Unified Development Code, including the Zoning Ordinance, Historic

Preservation Design Guidelines, and Architectural Standards and to ensure consistent application and adherence to the adopted Comprehensive Plan, all adopted Master Plans and Studies for the City of Kennesaw and all other duties assigned by the City Manager. As used herein, Zoning Administrator shall also be known as the Planning and Zoning Administrator.

Section 3.

This Appendix A, Unified Development Code, Chapter 10, “Administrative Procedures” of the Code of Ordinances, Kennesaw, Georgia, is hereby amended to read as follows:

10.00.01 Purpose

This Chapter sets forth the procedures for receiving, reviewing, and rendering decisions on applications for permits, rezoning, subdivisions, multi-family and nonresidential development, mixed use development, and planned developments. This Chapter also sets forth the requirements for appealing decisions and for enforcement. It is the City's intent that the procedures and requirements set forth in this Chapter shall be followed in order to seek approval for any development.

10.00.02 Approvals Required

- A. *Building Permit Required.* No building, sign, except "for sale" or "for rent" signs or other structure shall be erected, moved, extended or enlarged, or structurally altered; nor shall any excavation or filling of any lot for the construction of any building be commenced until the ~~building official~~Building Services Director has issued a building permit for such work in conformity with the provisions of this ordinance.
1. Application. Each application to the ~~building official~~Building Services Director for a building permit shall be accompanied by plot plans in duplicate drawn to a scale showing: the actual dimensions of the lot to be built upon; the size, height and use of the building to be erected; the location of the building on the lot; the location of the existing structures on the lot, if any; the number of the dwelling units the building is designed to accommodate; the approximate setback lines of buildings on adjoining lots; and such other information as may be essential for determining whether the provisions of this ordinance are being observed. One (1) copy of said plot plan shall remain on file in the office of the ~~building official~~Building Services Director.
 2. Duration of Validity. Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within six (6) months of its date of issue, or if the work authorized by it is suspended or abandoned for a period of six (6) months after work is commenced.
 3. Conditions and Intent of the Permit.
 - a. A permit issued shall be construed to be a license to proceed with the work and not as authority to violate, cancel, alter, or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the ~~building official~~Building Services Director from thereafter requiring a correction of errors in plans, construction, or violations of this ordinance.

- b. Every permit issued shall become invalid unless the work authorized by such permit is commenced within six (6) months after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of six (6) months after the time the work is commenced.
- c. One (1) or more extensions of time, for periods not more than ninety (90) days each, may be allowed for the permit.
- d. The extension shall be requested in writing and justifiable cause demonstrated.
- e. Extensions shall be in writing by the ~~building official~~ Building Services Director.

B. *Certificate of Occupancy Required.*

- 1. A Certificate of Occupancy issued by the ~~building inspector~~ Building Services Director is required in advance of occupancy or use of:
 - a. Any lot change or extension in the use thereof;
 - b. A building or structure hereafter erected or a change in the use of an existing building or structure; or
 - c. Any nonconforming use that is existing at the time of the enactment of this ordinance or an amendment thereto or that is changed, extended, altered or rebuilt thereafter, the Certificate of Occupancy shall state specifically wherein the nonconforming use fails to meet the provisions of this ordinance.
- 2. A Certificate of Occupancy, either for the whole or part of a building, shall be applied for, coincident with the application for a building permit and shall be issued within ten days after the erection or structural alterations of such building, or part, shall have been completed in conformity with the provisions of this ordinance.
- 3. A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance.
- 4. If the Certificate of Occupancy is denied, the ~~building inspector~~ Building Services Director shall state in writing the reason for refusal and the applicant shall be notified of the refusal.
- 5. A record of all certificates shall be kept on file in the office of the ~~building inspector~~ Building Services Director and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

10.00.03 Expiration of Approvals

- A. Any permit shall become void if the work authorized by the permit has not begun within six (6) months after the date of issuance of the permit.
- B. The time period for which a permit is valid may be extended for one (1) or more periods of not more than ninety (90) days each where an application for such extension is filed and such extension has been granted in writing by the Planning and Zoning Administrator or ~~Building Official~~ Building Services Director.
- C. The expiration of a Certificate of Appropriateness shall conform to Items A, B and C of this section.

10.00.04 Fees Required

- A. All applications shall be accompanied by payment of application fees, as set forth in the City of Kennesaw Fee Schedule adopted by the Mayor and Council and as may be amended from time to time. An application shall not be complete until all required fees are paid. Such fees shall include the filing fee, and where notice is required, shall include an additional fee to defray the expense of preparing and mailing such notices.
- B. For land clearing permits, a fee in addition to local permitting fees will be assessed pursuant to Georgia statutes. All applicable fees shall be paid prior to issuance of the land disturbance permit.

10.00.05 Public Notice Requirements

- A. All applications pertaining to zoning decisions as defined in O.C.G.A. 36-66-3(4) Before making a recommendation concerning a proposed rezoning, variance or application shall require a public hearing before ~~est to the Mayor and Council or the Planning Commission shall hold a public hearing thereon.~~
- B. At least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing, the Mayor and Council or Planning Commission shall cause to be published in a newspaper (Marietta Daily Journal) of general circulation within the County notice of the hearing.
 - 1. Such notice shall be published once ~~a week for two (2) consecutive weeks~~ in such newspaper.
 - 2. The notice shall state:
 - a. The time, place, and purpose of the hearing.
 - b. Location of the property.
 - c. Present zoning classification of the property.
 - d. Proposed zoning classification of the property.
- C. The City of Kennesaw shall be required to post and maintain signs supplied by the zoning division on or near the right-of-way of the nearest public street, so as to be visible from the street, for at least fifteen (15) days immediately preceding the date for any public hearings on the application, which shall remain posted until a final decision by the Mayor and Council.
 - 1. It is the responsibility of the City of Kennesaw to post the signs. Acts of vandalism or natural occurrences which may diminish the effectiveness of the public notice provided shall not void any proceedings or actions taken by the Planning Commission or Mayor and Council and to maintain the signs during the posting period. Failure to post and maintain the signs continuously may prohibit consideration of the application at any schedule public hearing.
 - 2. The Planning Commission or Mayor and Council may also, in its sole discretion, continue, hold, approve, or dismiss the application.

3. Any dismissal under the provisions of this subsection shall be with prejudice unless specifically noted as being without prejudice by the Planning Commission or Mayor and Council.
- D. In addition to the requirements herein stated in subsection (A) above, it shall be the duty of the applicant for zoning to notify in writing all surrounding property owners within a 200-foot radius of the boundary lines of the property as shown on the most current tax records.
1. Such notice shall be satisfied by the applicants mailing of a copy of the proposed site plan and copy of application to the surrounding property owners by both first class mail and certified mail, return receipt requested.
 2. Return receipt addressee for all notifications mailed will be the community development department.
 3. The notice shall be mailed no later than fifteen (15) days before the first public hearing.
 4. The cost of the notices shall be borne by the applicant.
- E. When a proposed zoning decision relates to or will allow the location of a halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency, a public hearing shall be held on the proposed action. Such public hearing shall be held at least six months and not more than nine months prior to the date of final action on the zoning decision. The hearing required by this paragraph shall be in addition to any hearing required under paragraph A. of Section 10.00.05 of the UDC. The City shall give notice of such hearing by:
- (1) posting notice on the affected premises in the manner prescribed by O.C.G.A. § 36-66-4(b); and
 - (2) publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of the hearing at least 15 days and not more than 45 days prior to the date of the hearing.
- Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will allow the location or relocation of a halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency. The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper.
- F. The provisions of subsections (A) and (B) above shall apply to "other business" items as well except that the zoning division staff shall cause notice to be mailed no later than fifteen (15) days before the action is to be heard.
- G. For a hearing before the Planning Commission, notice of such hearing shall be provided at least 30 days prior to the quasi-judicial hearing, with such notice being made as provided for herein and with additional notice being mailed to the owner of the property that is the subject of the proposed action.
- H.
- (1) Notwithstanding any other provisions of section 10.00.05 to the contrary, when a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more

zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, such zoning decision must be adopted in the following manner:

(A) The zoning decision shall be adopted at two regular meetings of the Mayor and Council or Planning Commission making the zoning decision, during a period of not less than 21 days apart; and

(B) Prior to the first meeting provided for in subparagraph (A) of this paragraph, at least two public hearings shall be held on the proposed action. Such public hearings shall be held at least three months and not more than nine months prior to the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by this paragraph shall be in addition to any hearing required under subsection (A) of section 10.00.05. The Mayor and Council or Planning Commission shall give notice of such hearing by:

(i) Posting notice on each affected premises in the manner prescribed by subsection (C) of this Code section; provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area; and

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

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

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

(3) This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property.

(Ord. No. 2021-07 , § 14(Exh. G), 6-21-21)

10.00.06 Procedures for Conducting Public Hearings

The following rules of procedure shall govern public hearings pertaining to development subject to the provisions of this UDC:

A. Hearings before the Planning Commission.

1. All persons who wish to address the Planning Commission at a hearing on the proposed zoning application under consideration by the Planning Commission shall first sign up on a form to be provided by the ~~Zoning Administrator~~Planning and Zoning Administrator prior to the commencement of the hearing.
2. The Chairman of the Planning Commission will read the proposed zoning application under consideration and any departmental reviews pertaining thereto prior to receiving public input on the proposed zoning decision. Proposed zoning applications shall be called in the order in which they were filed.
3. The Chairman shall then call each person who has signed up to speak on the zoning application before the Planning Commission in the order in which the persons have signed up to speak.
 - a. The applicant will always speak first.
 - b. Prior to speaking, the speaker will identify himself or herself and state his/her current address.
4. Each speaker shall be allowed sufficient time to address the Planning Commission concerning the zoning application then under consideration.
 - a. It shall be the responsibility of the Chairman of the Planning Commission to allocate sufficient time according to the complexity of the pending issue.
 - b. One (1) member of the Planning Commission shall be designated as the time keeper to record the time expended by each speaker.
 - c. Pursuant to O.C.G.A. § 36-66-5, and as amended from time to time, both proponents and opponents of any proposed zoning decision shall be given a minimum of ten (10) minutes per side for their presentation.
5. Each speaker shall:
 - a. Speak only to the merits of the proposed zoning application under consideration and shall address his/her remarks only to the members of the Planning Commission.
 - b. Refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning application under consideration.
 - c. The chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.

6. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure the public hearing on a proposed zoning application is conducted in a fair and orderly manner.

B. Hearings before the Mayor and Council

1. All persons who wish to address the Mayor and Council at a hearing concerning a proposed zoning decision or application under consideration by the Mayor and Council shall first sign up on a form to be provided by The ~~Zoning Administrator~~ Planning and Zoning Administrator/City Clerk prior to the commencement of the hearing.
2. The Mayor and Council or their designee will read the proposed zoning decision or application under consideration and any department reviews pertaining thereto prior to receiving public input on such proposed zoning decision or application. Proposed zoning decisions or applications shall be called in the order in which they were filed.
3. The Mayor or his designee shall then call each person who has signed up to speak on the zoning decision or application in the order in which the persons have signed up to speak.
 - a. The applicant will always speak first.
 - b. Prior to speaking, the speaker will identify himself or herself and state his/her current address.
 - c. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak.
4. Each speaker shall be allowed sufficient time to address the Mayor and Council concerning the zoning decision or application then under consideration.
 - a. The City Clerk shall be designated as the time keeper to record the time expended by each speaker.
 - b. Pursuant to O.C.G.A. § 36-66-5, and as amended from time to time, both proponents and opponents of any proposed zoning decision shall be given a minimum of ten (10) minutes per side for their presentation.
5. Each speaker shall:
 - a. Speak only to the merits of the proposed zoning decision or application under consideration and shall address his/her remarks only to the Mayor and Council.
 - b. Refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision or application under consideration.
 - c. The Mayor and Council may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.

6. Nothing contained herein shall be construed as prohibiting the Mayor and Council from conducting the hearing in an orderly and decorous manner to assure the public hearing on a proposed zoning decision or application is conducted in a fair and orderly manner.

10.00.07 Requirements for Developments of Regional Impact (DRI)

- A. The Georgia Department of Community Affairs (DCA), pursuant to the Georgia Planning Act, as it is amended from time to time, has established thresholds and criteria for the identification of certain large-scale developments, which have the potential to cause land use impacts beyond the boundaries of the respective local government where a project might be proposed. These developments, known as Developments of Regional Impact (DRIs), shall be submitted, based on established DCA thresholds, standards, procedures, and format, to the Atlanta Regional Commission for review and recommendation prior to issuance of any local building or development permit, utility tap, or rezoning, whichever occurs first. The City will recommend for DRI review any development that meets or could potentially meet the DCA thresholds, as those thresholds are amended from time to time.
- B. The City shall delay its final decision with respect to the issuance of a building or development permit, issuance of a utility tap, or the grant or denial of zoning until such time as the ARC has submitted its final recommendations and findings with respect to the proposed development. The City will consider any such recommendations and findings in making its final decision.

(Ord. No. 2021-07 , § 14(Exh. G), 6-21-21)

10.00.08 Procedures for Annexation of Property

- A. *Authority.* The City of Kennesaw is authorized to annex real property into the City limits as granted under O.C.G.A., Title 36, Chapter 36 and all supplemental State of Georgia enabling legislation.
- B. *Initiation of Proposals for Annexation.* Annexations may be accomplished by:~~petition to amend the City limits and ordinance may be initiated by~~
 1. ~~The City of Kennesaw Mayor and Council~~Local Act of the General Assembly as set forth in O.C.G.A. § 36-36-15 et seq.;
 2. Application by 100 percent of the landowners as set forth in O.C.G.A. § 36-36-20 et seq.;
 3. Application by owners of 60 percent of the land and 60 percent of electors as set forth in O.C.G.A. § 36-36-30 et seq.;or
 4. Pursuant to Resolution and Referendum as set forth in O.C.G.A. § 36-36-50 et seq.
 25. ~~Any person, firm, corporation or agency, provided said individual, firm, corporation or agency is the owner of the property involved in petition for annexation and further provided that Tthe application by owners shall be~~ petition is accompanied by a payment payable to the eCity of Kennesaw as specified by the adopted master fee schedule adopted by the City of Kennesaw.

C. *Processing of Application by Planning and Zoning Department Staff.*

1. The annexation application will follow the same procedures as the rezoning process under Section 10.01.02 and the procedures set forth in O.C.G.A., Title 36, Chapter 36.
2. The City of Kennesaw ~~must will~~ will comply with the procedures set forth in O.C.G.A., Title 36, Chapter 36, ~~written legislation HB 489~~ which requires intergovernmental agreement coordination with Cobb County regarding the processing of annexation applications.
3. The City of Kennesaw will comply with all State laws and procedures regarding the annexation and all potential land use dispute processes and regulation required under State law.
4. All annexation of property ~~will~~ must also follow the rezoning process in order to designate the subject property for annexation with a city zoning designation.
5. The Staff Report, as required under Section 10.01.02, must also incorporate a report that demonstrates service delivery capability from the City of Kennesaw.

10.01.00 PROCEDURES FOR AMENDING OFFICIAL DOCUMENTS

10.01.01 Procedures for Amending the Unified Development Code

10.01.02 Rezoning Procedures for Amending the Official Zoning Map

- A. *Authority to Amend.* The Kennesaw City Council may from time to time amend the number, shape, boundary, or area of any district, or may amend any regulation pertaining to any district; or may amend any article or section of this ordinance. The procedure for amending the ordinance shall be as provided in this article.
- B. *Initiation of Proposals for Zoning Amendment.* A petition to amend this ordinance or map may be initiated by:
1. The Kennesaw City Council;
 2. Any person, firm, corporation, or agency, provided said individual, firm, corporation or agency is the owner of the property involved in petition for amendment, and further provided that the petition is accompanied by fees as per the City Master Fee Schedule payable to the City of Kennesaw to defray the normal cost of processing.
 3. If a petition to amend this ordinance requires a special meeting of the Planning Commission, an additional payment to the City of Kennesaw shall be required as per the City Master Fee Schedule.
- C. *Limitation of Amendment Initiations.* A review of any petition to amend the zoning ordinance or map shall be conducted by the ~~Zoning administrator~~ Planning and Zoning Administrator to ensure compliance with all applicable provisions of the ordinance. If a petition to amend this ordinance or map does not comply with all provisions of the ordinance, the ~~Zoning Administrator~~ Planning and Zoning Administrator may hold the petition from action until such time as the petition is amended to comply with all applicable provisions of the ordinance. ~~being taken by the City Council by holding the zoning~~

~~amendment from public hearing before the Mayor and City Council~~ Upon a finding by the ~~Zoning Administrator~~ Planning and Zoning Administrator that the application complies with the requirements of this ordinance, the petition shall be initiated for public hearing before the Mayor and City Council in the following manner:

1. The application shall be marked received and approved for initiation of public hearing and the date of such action shall be affixed to the application and;
 2. The petition shall be assigned a number ~~in numerical sequence beginning with the number one with the first day of each calendar year and the further, that the petition shall be assigned numbers in sequence based~~ on a chronological basis at the time of finding by the ~~Zoning Administrator~~ Planning and Zoning Administrator that the petition meets the requirements established for a petition to amend this ordinance.
- D. *Processing of Applications by Staff.* After the filing of a proper application, the zoning department shall make a written recommendation and zoning analysis ("~~s~~Staff ~~R~~Report") relating to the application~~at~~.
- E. *Planning Commission.*
1. The Planning Commission shall hold a public hearing on each application for ~~rezoning and use permit, special land use permit~~. The ~~s~~Staff ~~R~~Report on each application shall be submitted to and considered by the Planning Commission at the public hearing. The Planning Commission shall investigate and consider each of the matters listed in Section (G) below.
 2. As to each application, the Planning Commission shall make a recommendation to the Mayor and City Council for approval, denial, deferral, continuance, hold, withdrawal without prejudice, or no recommendation. Written minutes of the Planning Commission's recommendation to the Mayor and City Council shall be prepared and maintained. Additionally, the ~~s~~Staff ~~R~~Report and application shall be submitted to the Mayor and City Council. All documents shall thereafter become public record.
- F. *Mayor and City Council Rezoning.*
1. Before taking action on an application for rezoning, and after receipt of the Staff Report, Planning Commission's recommendations, and the application where required, the Mayor and Council shall conduct a public hearing on the application.
 2. So that the purpose of this section will be served and the health, public safety, and general welfare secured, the Mayor and City Council may: approve or deny the application; reduce the land area for which the application is made; change the zoning classification, district or category requested; add or delete conditions of the application, including but not limited to, site specific conditions; or allow an application to be withdrawn without prejudice with respect to the twelve (12) month limitation of this article. An action by the Mayor and City Council to defer, hold, or continue the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application and no further notice except posting is required.
 3. Unless applicant requests or consents to additional time, within sixty (60) days following public hearing, the Mayor and City Council shall issue a decision on the

zoning application. Such decision shall be issued to the applicant in writing with the reasons stated therein. In the event changes are made to the application, then the time period for decision as set forth hereunder shall be extended for an additional sixty (60) days.

G. *Standards for Decision.* The decision by the Mayor and City Council or Planning Commission to approve in whole or part, reject, condition, or delete application for rezoning shall be based on, but not limited to, a consideration of the following criteria:

1. Would the proposed amendment be consistent and compatible with the city's land use and development plans, goals, and objectives?
2. Would the proposed amendment tend to increase, decrease, or have no impact on traffic safety and congestion in the streets?
3. Would the proposed amendment tend to increase, decrease, or have no relationship to safety from fire and other dangers?
4. Would the proposed amendment tend to promote, diminish, or have no influence on the public health and general welfare of the city?
5. Would the proposed amendment tend to increase, decrease, or have no influence on the adequate [provision] of light and air?
6. Would the proposed amendment tend to cause, prevent, or have no influence on the overcrowding of land?
7. Would the proposed amendment tend to cause, prevent, or have no relationship on the population distribution within the city, thus creating any area so dense in population as to adversely affect the health, safety, and general welfare of the city?
8. Would the proposed amendment tend to impede, facilitate, or have no impact on the adequate provision of transportation, water, sewerage, other public services, utilities or facilities?
9. Would the proposed amendment tend to be compatible with environmental conditions in light of surrounding developments? If compatible, what factors, if any, would diminish the value, use and enjoyment of surrounding properties?
10. Would the proposed amendment tend to require only reasonable expenditures of public funds, or would the amendment tend to require an excessive or premature expenditure of public funds?
11. Would the proposed amendment tend to promote, diminish, or have no influence upon the aesthetic effect of existing and future uses of the property and the surrounding area?
12. Would the proposed amendment have measurable adverse economic effect on the value of surrounding or adjacent property?
13. Would the proposed amendment create an isolated district unrelated to adjacent and nearby districts?
14. In conducting a hearing, the Mayor and Council and the Planning Commission shall follow the lines of inquiry as hereinafter set out:

- a. Existing uses and zoning of the subject and nearby property;
 - b. The extent to which property values are diminished by the existing zoning restrictions;
 - c. The adverse economic effect of existing zoning in relation to the promotion of the health, safety, morals or general welfare of the public;
 - d. The relative gain to the public, as compared to the hardship, if any, imposed upon the individual property owner;
 - e. The suitability of the subject property for zoned purposes;
 - f. The length of time the property, if vacant, has been vacant as zoned, considered in the context of land development in the area and vicinity of the subject property.
15. The existing zoning classification shall be considered presumptively valid and it shall be the responsibility of the applicant to present evidence in rebuttal of this presumption. The Planning Commission and the Mayor and Council may determine from the evidence presented that the existing zoning classification is unduly burdensome to the petitioner and is not offset by the considerations of the public's health, safety, and general welfare, and may impose upon the property any appropriate zoning classification, including conditions which might be consistent with the considerations hereinabove set forth.
- H. *Zoning Approval does not Ensure Utilities, ~~or~~ Infrastructure, or Business License Approval.* Approval of an application for rezoning does not ensure the availability of utilities or other infrastructure in connection with development of the site, or ensure the issuance of a business license.
- I. *Site Plan/Stipulation Amendments.* On any rezoning which is conditioned upon a site plan, proposed minor modifications which do not alter or conflict with the basic intent of the plan may be approved by the ~~Zoning Administrator~~ Planning and Zoning Administrator after presentation and approval by the Mayor and City Council at any regularly scheduled meeting or hearing. All other modifications must be advertised and rezoned in accordance with the provisions set forth above.
- J. *Sale, Refinancing, and Leasing.* The sale, refinancing or leasing of any portion of commercially, office, or industrially zoned properties shall not be considered to constitute a subdivision of such property as long as all other applicable zoning, site specific, ~~site~~ development guidelines, approved site plans, and other imposed conditions are met and maintained. This provision shall not be applicable to grandfathered or nonconforming uses as defined herein. This provision is limited only to those portions of the property which are actually developed and shall not be construed as to allow expansions of modifications ~~or~~ existing sites.
- K. *Dedication of Property to City.*
1. The Zoning Administrator or the Planning Commission may, in all zoning and/or rezoning actions if deemed such to be necessary and proper and in the best interest of the City of Kennesaw, include in a recommendation to the City Council a condition that part of the property being zoned or rezoned be dedicated to the City of Kennesaw,

County of Cobb or the State of Georgia for road, street, alley, highway, or other purpose(s).

2. The Mayor and City Council may in all zoning and/or rezoning actions, if deemed necessary and proper and in the best interest of the City of Kennesaw, include as a condition of the zoning amendment that part of the property being zoned or rezoned be dedicated to the City of Kennesaw, County of Cobb or the State of Georgia for road, street, alley, highway, or other purpose(s).
 3. Any such dedication will be by warranty deed. Any condition imposed by the Mayor and City Council requiring that part of the property being zoned or rezoned be dedicated to the City of Kennesaw, County of Cobb or the State of Georgia for road, street, alley, highway, or other purpose(s), and said condition is the only requirement imposed by the City of Kennesaw, such dedication shall not constitute by its application to categorize the zoning use district as "conditional."
- L. *Attendance Requirement.* The applicant or representative of the applicant shall be required to attend all public hearings on the application. The failure to attend may result in dismissal with prejudice, rejection of the application, or continuance of the hearing at the Planning Commission or City Council's sole discretion. Failure of the applicant or ~~his/her or its~~ applicant's representative to appear at the next regularly scheduled hearing shall result in automatic dismissal with prejudice. ~~The Zoning Administrator~~ Planning and Zoning Administrator may waive the attendance requirement for land use permits based upon medical hardship.
- M. *Withdrawal of Application.*
1. An application may only be withdrawn upon a joint written request of the record titleholder and applicant. All requests to withdraw must be given at the zoning office at least seven days prior to the hearing. In no event shall an application be withdrawn more than once without prejudicing the right of the application or owner to apply for a land use or rezoning within twelve (12) months of the first application.
 2. Applications which have been publicly heard by either the Planning Commission or the City Council which have been withdrawn without permission of a majority of the applicable ~~Council~~ members shall be deemed a rejected application with prejudice.
- N. *Rejected applications; time for resubmission.*
1. If an application for rezoning is rejected or deleted to another zoning classification, then any portion of the same property may not again be considered for rezoning for a period of twelve (12) months from the date of the original City Council's hearing. An applicant may reapply for rezoning to a more restrictive classification than the application previously denied, or denied without prejudice, following the expiration of six (6) months in accordance with O.C.G.A. § 36-66-~~45~~, and as may be amended from time to time.
 2. The Council may only consider property for rezoning within the six (6) month time period in connection with settlement of litigation or pursuant to an order by a court of competent jurisdiction. However, the Council, if time permits, shall advertise, post the property, and notify the applicant and owner in writing prior to taking such action.

10.01.03 Procedures for Amending the Future Development Maps

The Future Development Maps are composed of two, individual maps:

- A) The Character Area Map, and
- B) The Future Land Use Map.

The Future Development Maps were developed over the course of two separate planning processes. The Character Area Map shows the character areas as identified for Kennesaw during the 2007 update to the Comprehensive Plan. The character areas function as broad, high level categories for planning and development concept formation. The Character Area Map was created in response to a requirement by the Department of Community Affairs and may be revised with each update to the Comprehensive Plan or as needed by staff and adopted by Mayor and Council.

The Future Land Use Map presents the types of land uses allowed at the individual parcel level. The current Future Land Use Map was adopted in 2007 along with Future Land Use Category descriptions. The Future Land Use Map may be revised from time to time as recommended by city staff and adopted by Mayor and Council.

The character areas correspond closely with the Future Land Use Map, but there are minor differences. In the event of a land use conflict, the most current Future Land Use Map will function as the controlling Future Development Map.

10.01.04 Procedures for Amending the Historic District Boundaries

- A. Any amendment to the boundary of historic properties or the "Official Historic Properties Map of the City of Kennesaw" shall be recommended by the Historic Preservation Commission and adopted by the Mayor and City Council. The City Council and the Historic Preservation Commission shall hold a public hearing before taking action of any such proposed amendment.
- B. Notice of the public hearing held by the Mayor and City Council and the public hearing held by the Historic Preservation Commission shall be advertised as follows:
 - (1) An advertisement providing notice of the hearing shall be published at least two times in the principal newspaper of general circulation within the municipality.
 - (2) The Historic Preservation Commission shall cause written notice of the hearing to be mailed to all owners and occupants of the property(ies) proposed to be designated.
 - (3) All written notices to property owners or occupants of property(ies) shall be mailed not less than ten nor more than 20 days prior to the date set for the public hearing before the Historic Preservation Commission and again for the public hearing before the Mayor and City Council.
 - (4) At least one published notice shall appear in the principal newspaper of general circulation within the municipality not less than 15 days nor more than 20 days prior to

the date set for the public hearing before the Historic Preservation Commission and again for the public hearing before the Mayor and City Council.

The Historic Preservation Commission shall make or cause to be made an investigation and shall report on the historic, cultural, architectural, or aesthetic significance of each place, district, site, building, structure, or work of art proposed for designation or acquisition. This report shall be submitted to the historic preservation section of the Department of Natural Resources or its successor at least 30 days prior to any public hearing held to designate any property or any amendment thereto as a historic property.

10.02.00 APPLICATION REQUIREMENTS

10.02.01 General

- A. *Jurisdiction of Chapter.* This chapter shall govern the use of all land and developments thereof within the corporate limits of the city.
- B. *Purpose of Chapter.* The purpose of this chapter shall be to promote the public health, safety, morals and general welfare and to require the harmonious, orderly and progressive development of land within the jurisdiction of the city. Further, the purpose of the regulation of the subdivision of land are to, among others:
 - 1. Encourage the development of economically sound and stable communities;
 - 2. Assure the provision of required streets, utilities and other facilities and services to new land developments;
 - 3. Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments;
 - 4. Assure the provision of needed open spaces and building sites in new land developments through the dedication or reservation of public land for recreational, educational and other public purposes; and
 - 5. Assure, in general, the wise development of new areas in harmony with the comprehensive plan of the city.
- C. *Conformance with Zoning Regulations.* No subdivision shall be accepted for review which does not conform with the zoning regulations applicable to the land for which it is proposed.
- D. *Conformance with Chapter.* Any sub-divider of land within the corporate limits of the city shall submit to the Planning Commission plats of the subdivision which shall conform to all requirements set forth in this chapter.
- E. *Approval Required Prior to Construction.* No sub-divider shall proceed with any construction work on the proposed subdivision, including grading, before obtaining preliminary plat approval from the Planning Commission, as certified thereon, and approval of plans and profiles by the city engineer.
- F. *Installation of Improvements.* Improvements may be made in a subdivision as are depicted on the preliminary plat previously approved by the Planning Commission, with final plat approval to be obtained in accordance with the requirements of Chapter 10 of the UDC.

- G. *Final Approval Prior to Subdividing.* No land dedicated as a public street or other public purpose shall be opened, extended, or accepted as a public street or for any other purpose, and no subdivision of land shall be made, or subdivision plat, or part thereof, shall be recorded before obtaining final approval from the Mayor and Council; and such approval shall be entered on the final plat.
- H. *Issuance of Building Permits.*
1. No building permit shall be issued for and no building or other structure shall be erected on any lot within the incorporated area of the city unless the street giving access to the lot upon which such building is proposed to be placed shall be accepted or opened as, or shall have otherwise received the legal status of, a public street prior to that time. Provided, however, the Mayor and Council, meeting in regular session, may, in their discretion, issue building permits for the purpose of model homes, up to five percent of the total number of lots in the phase unit of the subdivision approved by the Mayor and Council in the preliminary plat, after the bonds specified in this chapter have been posted by the owner or sub-divider and after all final engineering plans have been completed and before the actual installation of curbs, gutters and base and binder of the streets therein, where such street corresponds in its location and lines with a street shown on the preliminary subdivision plat as approved by the Mayor and Council or on a street located and accepted by the city. However, if the percentage is equal to less than two building permits, then two permits may be issued. Provided, however, that private streets and other private access ways may be approved under the terms of those rules and regulations in group development plans, condominium projects, apartment projects, townhouses, commercial developments, shopping centers or other development.
 2. If permits are issued prior to street acceptance, it shall be the sole responsibility of the sub-divider/developer to ensure that all setback requirements as well as all other requirements as specified in this Code are upheld.
- I. *Approval by Individual Agencies.* No subdivision plat shall be recorded with the clerk of superior court of the county without the plat having first been submitted to and approved by the Mayor and Council. The Mayor and Council shall not approve any subdivision plat without such plat having first been reviewed and approved by the city engineer and the health department to the extent that each has jurisdiction.
- J. *Fees.*
1. Fees are hereby established to cover the cost of administration expenses. All required fees and charges are specified by other ordinances and resolutions by the Mayor and Council. The schedule of fees shall be posted in the office of the city clerk and may be altered or amended only by the Mayor and Council.
 2. Upon the submission of any preliminary plat, final plat or other regulatory plan or plat required to be reviewed or approved under this chapter, any person who submits such plan shall deposit and pay to the city the fee as noted in the City Wide Master Fee Schedule. After the approval of any plat or plan required to be approved under this chapter, the actual cost of engineering and approval of the plan shall be determined, and any person submitting such plat or plan shall pay the fee as noted in the City Wide

Master Fee Schedule of the actual cost of the engineering services for the approval of such plat or plan. The initial deposit shall be credited against the total cost determined in this subsection. This section shall also apply to plans for all commercial and industrial developments and shall be in addition to all other charges required by this Code.

- K. *Administration of Chapter.* This chapter shall be administered by the Planning Commission. The Planning Commission may from time to time issue instructions and operating procedures to be followed in the administration of this chapter to inform the public and expedite plat approvals.
- L. *Amendments, Hearings, and Variances.*
 - 1. The Mayor and Council shall have the authority to amend this chapter after a public hearing thereon.
 - 2. Notice of the time and place of such public hearing shall be published in a newspaper of general circulation at least three days prior to such meeting.
 - 3. In cases of undue hardship under this chapter, any property owner may petition the Planning Commission for relief. The Planning Commission shall prepare and forward to the Mayor and Council any recommended amendments for the Mayor and Council's consideration. In cases where the Planning Commission fails to recommend amendments due to individual hardships, the property owner may then appeal to the Mayor and Council for relief.
- M. *Violation of Chapter; Penalty.*
 - 1. Any person violating any of the provisions of this UDC chapter shall be deemed guilty of an offense and upon conviction thereof shall be punished as provided in the City of Kennesaw Code of Ordinance, Section 1-11. Each day's continuance of a violation shall be considered a separate offense. The owner of any lands or parts thereof, where anything in violation of this chapter shall be placed or shall exist, and any person who may have assisted in the Commission of any such violation, shall be guilty of a separate offense.
 - 2. In any case in which any land is or is proposed to be used in violation of this chapter or amendment thereto adopted by the Mayor and Council, the legal counsel of the city or any owner of real estate within the district in which such land is situated, may, in addition to other remedies provided by law, institute injunction, abatement, or any appropriate action or proceeding to prevent, enjoin or abate the unlawful use.

10.02.02 Pre-Application Conference Required

- A. A pre-application conference is a meeting between an applicant and the City's Economic Development Director, the Planning and Zoning Administrator, or the Building Services Director for the purposes of:
 - 1. Discussing the development/redevelopment goals and objectives of the City;
 - 2. Exchanging information on the potential development of a site;
 - 3. Providing information on permissible uses of the site proposed for development;

4. Providing information to an applicant regarding the design standards set forth in this UDC that are applicable to a potential application;
 5. Providing information to an applicant regarding standards of regional, state, or federal agencies that may be applicable to a potential application;
 6. Determining the need and requirements for supporting plans, documents, and studies;
 7. Providing information to an applicant regarding infrastructure requirements and the construction of required improvements; and
 8. Providing information to an applicant regarding the appropriate procedures and schedules for receiving and reviewing applications and rendering decisions regarding a potential application.
- B. Prior to the submission of an application for a subdivision plat, development plan, or improvements plan, an applicant shall submit a written request for a pre-application conference.
 - C. A pre-application conference shall be held not more than two (2) weeks following the date of submission of the written request for such conference.
 - D. A pre-application conference shall be held not more than six (6) months prior to submission of an application.
 - E. It is the intent of the Mayor and Council that all requirements be identified during the pre-application conference. However, no person may rely upon any comment concerning a proposed development, or any expression of any nature about the proposal, made by a participant at the pre-application conference, as a representation or implication the proposal will be ultimately approved or rejected in any form.
 - F. A prospective applicant may bring members of his project team, such as, but not limited to, the project engineer, land planner, architect, surveyor, or other person who will assist in the preparation of an application. A prospective applicant may provide an informal sketch plan to aid in the discussion. However, such an informal sketch plan shall not be reviewed in any way for compliance with the standards and requirements of this UDC, and shall be used only as an aid to the conduct of the pre-application conference. A proposed subdivision plat, improvement plan, development plan, or other such plan shall not be considered or discussed during a pre-application conference.
 - G. Property owners or their agents introducing projects that involve modifications, removals or additions to existing property or structures that will not cause a change in zoning categories and land use classification or will not require a special land use permit, should contact the Planning and Zoning Administration, directly, for instructions.

10.02.03 Application for Preliminary Approval

- A. *Generally.* Following the pre-application review of a proposed subdivision, the sub-divider shall submit to the ~~Zoning Administrator~~ Planning and Zoning Administrator no later than five days prior to the next Planning Commission meeting, an application for review and approval of a preliminary plat, which shall consist of:

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1. A letter requesting review and approval of a preliminary plan and giving the name and address of a person to whom the notice of the hearing by the Planning Commission on the preliminary plat shall be sent.
 2. Three copies of the preliminary plat and other documents as specified in Section 10.02.04 of this chapter.
 3. Preliminary plat filing fees as specified by the city.
- B. *Purpose.* The purpose of the preliminary plat is to safeguard the sub-divider from unnecessary loss of time and expense in preparation of a subdivision plat which does not conform to the specifications of this chapter. The preliminary plat only requires approximate accuracy of scale and dimension. Public agencies having jurisdiction will review the preliminary plat regarding matters within their jurisdiction. During the review process the sub-divider or his agent may be called upon for consultation.
- C. *Future Tract Plan.* The sub-divider shall submit to the Planning Commission a reasonably accurate plat in sketch form of the entire tract which will show the tentative future street system for the entire tract.

10.02.04 Preliminary Approval

- A. An application for preliminary plat approval shall be studied by the Planning Commission for compliance with this chapter and with other relevant governmental and public utility company regulations.
- B. No preliminary plat shall be acted upon by the Planning Commission without review at a scheduled Planning Commission meeting.
- C. The Planning Commission shall indicate on the plat, or by written memorandum attached thereto, comments and any suggested changes that are necessary to meet the intent of this chapter or to serve the best interests of the city.
- D. Not more than 30 days after the submission of an application for preliminary plat approval, the Planning Commission shall provide recommendation to the applicant. The Planning Commission shall:
1. Issue a certificate of preliminary plat approval;
 2. Issue a certificate of conditional preliminary plat approval, subject to any necessary modifications, the nature of which shall be indicated on the preliminary plat or attached to it in writing; or
 3. Disapprove the preliminary plat or any portion thereof, in which case the ~~Zoning Administrator~~ Planning and Zoning Administrator shall so notify the sub-divider in writing, stating the reasons therefore.
- E. Action of the Planning Commission shall be noted on three copies of the preliminary plat. One copy shall be returned to the applicant, one made a part of the Planning Commission's records and the other zoning records.

- F. Failure of the Planning Commission to take action on the preliminary plat within 30 days shall be deemed approval of the plat, and the plat shall be transmitted to the applicant, provided:
 - 1. The plat is submitted for preliminary approval not later than five days prior to the next regularly scheduled meeting of the Planning Commission; and
 - 2. The sub-divider does not agree upon an extension of time, if requested in writing by the Planning Commission to further study the preliminary plat.
- G. Approval of all preliminary plats shall be governed by the following qualifications:
 - 1. Approval of a preliminary plat is only tentative pending submission of the final plat.
 - 2. Approval of the preliminary plat shall be effective and binding upon the city for a period not to exceed one year, and shall thereafter expire and be null and void except to the extent that work on the subdivision has progressed, unless a request for an extension of the time has been submitted to and is subsequently approved by the city.
 - 3. No improvements, including clearing or grading, shall be undertaken until final engineering plans based on runoff calculations and three-line profiles for the subdivision, or unit division thereof, have been submitted to and approved by the city engineer.
- H. Tentative approval of the preliminary plat does not constitute approval of a final plat. It indicates only approval of the layout as a guide to the preparation of a final plat.

10.02.05 Improvements Authorized

- A. Approval of preliminary plat and the final engineering plans is authorization to proceed with installation of any improvements as required in the UDC, subject to the approval of agencies having proper authority, and the preparation of the final plat or unit division thereof as specified. Provided, however, no installation of improvements shall be made, and no work shall be commenced, in connection with such preliminary plat, or unit division thereof, until a contractor's performance bond, in an amount equal to the acquisition and developmental loan, shall be filed by the sub-divider in the office of the city clerk, which performance bond shall:
 - 1. Be conditioned upon the faithful performance by the sub-divider or developer of all work required to complete all improvements and installation for the subdivision, or unit division thereof, in compliance with this chapter within a specified time.
 - 2. Be payable to and for the indemnification of the city.
 - 3. Be with surety by a company entered and licensed to do business in the state.
 - 4. Contain a provision for the maintenance of installations and improvements required by this chapter in the subdivision for a period of two years following the date of final acceptance of streets by the Mayor and Council.
 - 5. Be approved by the city engineer in writing on the preliminary plat and the city attorney.

10.02.06 Application for Final Approval

- A. *Generally.* Whenever the provisions of this chapter have been complied with and while the certificate of preliminary plat approval is in effect, the sub-divider may submit to the Mayor and Council an application for review and approval of the final plat, which shall consist of:
1. An application requesting review and approval of a final plat.
 2. Five copies of the final plat one digital/electronic version and other documents as specified in the UDC. The original shall be drawn in permanent ink on cloth or be plastic reproducible material.
 3. Final plat filing fees as specified in the adopted City Master Fee Schedule.
- B. *Conformance.* The final plat shall conform with the approved preliminary plat. If desired by the sub-divider, the final plat may constitute only that portion of the preliminary plat he proposes to record and develop at that time, provided that such portion conforms with all requirements of this chapter.

10.02.07 Final Approval

- A. The final plat and other supplementary material required shall be transmitted to the Mayor and Council for final action. No final plat shall be considered by the Mayor and Council until all requirements of this Chapter have been met and the Plan Review Committee has certified by endorsement by an approval letter document.
1. All improvements and installations to the subdivision required for its approval under the terms of this UDC have been completed in accordance with the appropriate specifications; or
 2. A performance bond or cash deposit or escrow account has been provided by the sub-divider or developer to satisfy the requirements of UDC Section 10.02.05
- B. Whenever a final plat has been submitted to the Mayor and Council and is in conformance with an approved preliminary plat and the provisions of UDC Section 10.03.08 the Mayor and Council shall consider and take action on the plat.
- C. If action on a final plat is not taken by the Mayor and Council within 30 days of the date of the final plat submittal, the final plat shall be considered approved and a certificate of approval shall be issued on demand, provided:
1. The plat is submitted for final plat approval not later than 15 days prior to the next regularly scheduled meeting of the Mayor and Council.
 2. The sub-divider does not agree upon an extension of time if requested in writing by the Mayor and Council to further study the final plat.
- D. The approval of the final plat shall not be deemed to constitute an acceptance by the city of any street or other public areas so designated on the plat.
- E. Approval by the Mayor and Council shall appear on the original tracing.

10.02.08 Recording of Final Plat

- A. Upon final approval by the Mayor and Council, the approved final plat with all endorsements shall be recorded in the office of the clerk of superior court of the county.
- B. The sub-divider shall be responsible for the payment of the recording fee.
- C. Upon recording of the approved final plat, documents and copies of the final plat as specified in the UDC shall be provided by the sub-divider.
- D. The map book, volume and page numbers where the plat is recorded shall be indicated on all copies.
- E. If, however, the sub-divider requests the Mayor and Council to delay having the plat recorded, the sub-divider shall authorize the Council, in writing, to have the approved final plat recorded within 12 months from the date of the final plat approval; otherwise, the approved final plat shall be deemed to have been withdrawn.

10.02.09 Revisions to a Recorded Plat

Proposed revisions which change the street and/or utility layout in any way shall be submitted as a preliminary plat in accordance with the UDC. Proposed revisions which do not change in any way the street and/or utility layout shall be submitted as a final plat in accordance with UDC Section 10.03.08. In addition, a revision to a recorded plat shall show the name, phase (if any), date of the recorded subdivision plat being revised and the exact citation with regard to the county land records and the book and page number wherein such plat is recorded.

10.02.10 Subdivision Completion

Upon completion of the installation of the improvements required by this chapter, the sub-divider shall present to the Community Development office three complete sets of the construction plans and drawings showing the subdivision and its improvements. This set of plans and drawings shall include:

- 1. "As-built" plans of all streets and alleys showing the planned and actual location of all utility lines.
- 2. "As-built" centerline profiles of all streets.
- 3. Profiles and invert elevations of all storm and sanitary sewer lines as such improvements shall have actually been installed by the sub-divider.
- 4. A letter submitted by a registered professional engineer and/or registered surveyor certifying that all sewers, storm drains, curbing and paving have been placed according to grade stakes set by him or his representatives to conform with construction plans submitted to and approved by the city engineer.

10.02.11 Public Acceptance of Improvements

Streets and other public land as shown upon the final plat shall be accepted by the Mayor and Council on behalf of the public, when and only when the conditions as specified in the UDC are fulfilled.

10.02.12 Sale, Refinancing or Leasing of Portion of Property

The sale, refinancing or leasing of any portion of a commercial, office or industrial zoned property shall not be considered to constitute a subdivision of such property as long as all other applicable zoning guidelines, site-specific guidelines, site development guidelines, approved site plans and other imposed conditions are met and maintained. This section shall not be applicable to grandfathered or nonconforming uses as defined in this chapter. This section is limited only to those portions of the property which are actually developed and shall not be construed as to allow expansions or modifications of existing sites.

(Ord. No. 2018-05, 1-16-18)

10.03.00 APPLICATION SUBMITTAL REQUIREMENTS

10.03.01 Submittal Requirements for All Applications

Prior to processing any application for rezoning, special land use permit or land use permit, the applicant shall be required to file documentation and follow certain procedures as set forth below:

- A. The applicant shall be required to file an application with the Planning and Zoning Department containing the following:
 - 1. A completed application on forms provided by the Planning and Zoning Department.
 - 2. The notarized signatures of the applicant and record titleholder upon the application.
 - 3. The application fee which has been established from time to time by resolution of the Mayor and City Council. A copy of the fee schedule shall be maintained for public inspection in the Planning and Zoning office.
 - a. Any special called meeting shall require an additional fee as adopted under the City Wide Master Fee Schedule.
 - 4. A current boundary survey and plot plan, to scale, that bears the signature and seal of a registered surveyor, engineer, architect or landscape architect. Such plans shall also include such other information thereon as may be required by the zoning department, including preliminary plans for development, building locations, parking areas, access points, adjacent streets, land lot lines, buffer areas, future right-of-way, wetlands, floodplains, utilities, and retention.

5. Private sewage disposal must be approved by the Cobb County Health Department, and written approval from the health department must be filed with the application.
6. Any other information required by the zoning staff or other departments which they deem necessary or desirable in processing the application which is related to the present or proposed use of the property.
7. Disclosure forms as required by O.C.G.A. § 36-67A-1 et seq., and as may be required from time to time.

10.03.02 Determination of Application Completeness (Reserved)

10.03.03 Submittal Requirements for a Preliminary Subdivision Plat

A. Preliminary specifications.

1. The submittal to the Planning Commission shall consist of three black or blue-line prints on white background, and such other documents in three copies as are necessary to meet the requirements of this section.
2. The preliminary plats shall be clearly and legibly drawn at a scale of not less than 100 feet to one (1) inch. The Planning Commission may approve other scales as deemed appropriate.
3. The proposed name of the subdivision and proposed street names shall not duplicate or too closely approximate, phonetically, the name of any other subdivision or street in the county. If shown to the contrary, the Planning Commission may refuse to accept such subdivision and street names. The subdivision may use letter designations in place of street names on the preliminary plat.
4. The preliminary plat shall contain the following:
 - a. Proposed name of subdivision.
 - b. Name and address of the owner of record.
 - c. Name, address and telephone number of the sub-divider.
 - d. Date of survey, north point and graphic scale, source of data, date of plat drawing and space for revision dates.
 - e. Preliminary certificates and statements specified.
 - f. Location (land district and land lot), acreage and lots.
 - g. A sketch locating the subdivision in relation to the surrounding area with regard to well known landmarks such as major thoroughfares, railroads or others. Sketches may be drawn in freehand and at a scale sufficient to show clearly the information required, but not less than one inch to 2,000 feet. U.S. Geological Survey maps may be used as a reference guide for the location sketch.
 - h. Name of former subdivision, if any or all of the preliminary plat for land which had been previously subdivided.

- i. Exact boundary lines of the tract indicated by a heavy line giving length and bearings. The boundary lines shall include the entire tract to be subdivided eventually and data as required in this section shall apply to the entire tract.
- j. Contour lines based on sea level data. These shall be drawn at intervals of not more than five feet. Contour lines shall be based on field surveys or photogrammetric methods from aerial photographs. The basis for the topographic contour shown shall be specified.
- k. Natural features within the proposed subdivision, including drainage channels, bodies of water, wooded areas and other significant features. On all watercourses leaving the tract the direction of flow shall be indicated, and for all watercourses entering the tract the direction and acreage of the drainage area above the point of entry shall be noted. Floodplains shall be outlined.
- l. Cultural features within the proposed subdivision, including right-of-way and pavement widths and names of existing and platted streets, bridges, culverts, utility lines such as gas, electric, water and sewer lines, and structures, all easements, buildings, city and county lines, land lot lines, zoning districts and lines, and other significant information.
- m. Proposed layout including lot lines with rough dimensions, lot numbers, block letters, street and alley lines with letter designations for proposed street names, right-of-way widths, sites reserved through covenants, easements, dedication or otherwise for public uses, for nonpublic or community uses exclusive of single-family dwellings, for nonresidential uses and for multifamily dwellings. Provided that nothing in this section shall be construed to mean that the city has accepted the above dedications for public use.
- n. Proposed unit division or stage development, if any, as proposed by the subdivider.
- o. Location and results of percolation tests for lots which will not be served by a public or community sanitary sewage system, as required by the health department.
- p. Location, site plan and other information as may be required by the health department for all community sewage disposal plants.

10.03.04 Submittal Requirements for a Condominium or Multifamily Residential Preliminary Plat

- A. *General.* The preliminary plat shall be clearly and legibly drawn on Mylar or vellum at a scale no smaller than 1" = 100'. The plat shall not exceed 24" X 36". In no case shall sheet size be less than 8-1/2" X 11". The final plat shall contain the following information:
 - 1. Name of the project and street names.
 - 2. Property address numbers (furnished by the Community Development Department).
 - 3. Reference to record subdivision plats of adjoining land by record name.
 - 4. Date of plat drawing, graphic scale, and north point.

5. Location of tract (land lot and district).
6. Location sketch at a scale of 1" = 2,000'. See note below.
7. Index map on each sheet when more than one sheet is required.
8. Courses and distances to the nearest existing street, intersections, or other recognized permanent monuments or benchmarks.
9. Exact boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest 1/10 foot and angles to the nearest minute shall be balanced and closed. The error of closure shall be stated, and further, the error of closure shall not exceed 1 to 10,000. The error of closure shall be stated. Tract boundaries shall be determined by accurate survey in the field.

NOTE: Unit plats shall provide a location sketch for location within the master plat.

10. Land lot lines shall be accurately tied to boundary lines of the subdivision by angles and distances when such lines traverse the subdivision; when the subdivision does not intersect a land lot line, then the lines of a major controlling street shall be projected and tied to a land lot line by angles and distances. In both cases, the measured distance from land lot tie to a respective land lot corner shall be shown with the magnetic bearing of the land lot line. No approximate land lot lines shall be shown on the subdivision plat.
 11. Exact locations, widths, and names of all streets and alleys within and immediately adjoining the plat, and the exact locations and widths of all crosswalks.
 12. Street centerlines showing angles of deflection and standard curb data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.
 13. Lot lines with dimensions to the nearest 1/10-foot, necessary internal angles, arcs, and chords and tangent or radii or rounded corners.
 14. Building setback lines with dimension.
- B. *Requirements for Legal Descriptions.* The legal description of individual condominium units shall be as follows:
1. The individual condominium unit shall be referenced as a lot by numeric data only (limited to 999 units).
 2. Each building shall be referenced as Unit by numeric data only (limited to 99 units).
 3. Each development phase shall be referenced as a block by alpha data.
 4. Parcel numbers shall be assigned by the tax office.
 5. Plats of the development shall be separated into different development phases when individual units or buildings reach the limits set forth above.
 6. Locations, dimensions, drainage areas, and purpose of all drainage structures and of any easements (including slope easements), flood hazard areas, public service utility right-of-way lines, and any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners.

7. Accurate locations, materials, and descriptions of monuments and markers.
 8. A statement referencing the protective covenants by record book and page number.
 9. Registered land surveyor's certification and stamp required for master plat.
 10. Registered professional engineer certification and stamp accepted for "as built" condition on unit plats only.
 11. Registered architect certification and stamp may be used to certify the acceptability of the structural work.
 12. Variances (if any) and date approved by the City Council.
 13. Recording of plats and plans; contents; completion of structural improvements; certification by registered architect or engineer.
- C. *Requirements for Conveyance.* The following sections reflect the requirements for the recording of plats and plans, contents, the completion of structural requirements, and certification by registered architects or engineers as described in O.C.G.A § 44-3-83. Because State regulations may be modified from time to time, all parties interested in developing condominiums in the City of Kennesaw should be knowledgeable of the most current regulations described in Title 44, Chapter 3, Article 3 of the Official Code of Georgia Annotated. The following regulations are accurate as of December 31, 2008.
1. Recording of plats and certification
 - a. Prior to the first conveyance of a condominium unit, there shall be recorded one or more plats of survey showing the location and dimensions of:
 - i. the submitted property;
 - ii. the location and dimensions of all structural improvements located on any portion of the submitted property;
 - iii. the intended location and dimensions of all contemplated structural improvements committed to be provided by the declaration on any portion of the submitted property; and,
 - iv. to the extent feasible, the location and dimensions of all easements appurtenant to the submitted property or otherwise submitted to this article as part of the common elements.
 - b. With respect to all such structural improvements, the plats shall indicate which, if any, have not begun by use of the phrase "NOT YET BEGUN." No structural improvement which contains or constitutes all or part of any unit or units and which is located on any portion of the submitted property shall be commenced on any portion of the submitted property after the recording of the plats.
 - i. The declarant shall complete all structural improvements depicted on the plats, subject only to such limitations, if any, as may be expressly stated in the declaration with respect to those labeled "NOT YET BEGUN" on the plats, provided that, within six months after written notice from the association, the declarant shall be obligated to complete within a reasonable time every structural improvement actually commenced on the submitted

property, notwithstanding any provision of the declaration, unless the declarant removes within a reasonable time all portions of any such structural improvement and restores the surface of the land affected thereby to substantially the same condition as that which existed prior to commencement of any such structural improvement; and provided, further, that nothing contained in this sentence shall exempt the declarant from any contractual liability to complete any such structural improvement.

- ii. If the submitted property consists of noncontiguous parcels, the plats shall indicate the approximate distances between such parcels unless such information is disclosed in the declaration. If, with respect to any portion or portions, but less than all, of the submitted property, the unit owners are to own only a leasehold or estate for three years, the plats shall show the location and dimensions of any such portion or portions and shall label each such portion by use of the phrase "LEASED LAND."
 - iii. To the extent feasible, the plats shall show all easements to which the submitted property or any portion thereof is subject.
 - iv. The plats shall also show all encroachments by or on any operation of the submitted property. In the case of any units which have vertical boundaries lying wholly or partially outside of structures for which plans pursuant to subsection C.2 of this UDC section are recorded, the plats shall show the location and dimensions of the vertical boundaries to the extent that they are not shown on the plans; and the units or portions thereof thus depicted shall bear their identifying numbers.
 - v. Each plat shall be certified as to its accuracy and compliance with this subsection by a registered land surveyor. The specification within this subsection of items that shall be shown on the plats shall not be construed to mean that the plats shall not also show all other items customarily shown or required by law to be shown for land title surveys.
2. Recording of Plans and Certification. The following items shall be recorded prior to the first conveyance of a condominium unit:
- a. Plans which have been prepared, signed, and sealed by a registered architect or registered engineer of every structure which contains or constitutes all or part of any unit or units located on or within any portion of the submitted property, which plans shall show:
 - i. The location and dimensions of the exterior walls and roof of such structures;
 - ii. The walls, partitions, floors, and ceilings as constitute the horizontal boundaries, if any, and the vertical boundaries of each unit, including convertible space, to the extent that such boundaries lie within or coincide with the boundaries of such structures; and
 - iii. The identifying numbers of all units or portions thereof depicted on the plans; and

- iv. A certification by such architect or engineer to the effect that (s)he has visited the site and viewed the property and that, to the best of his/her knowledge, information, and belief:
 - a. The exterior walls and roof of each structure are in place as shown on the plans; and
 - b. Such walls, partitions, floors, and ceilings, to the extent shown on said plans, as constitute the horizontal boundaries, if any, and the vertical boundaries of each unit, including convertible space, have been sufficiently constructed so as to establish clearly the physical boundaries of such unit.
 - c. Each convertible space depicted in the plans shall be labeled as such by use of the phrase "CONVERTIBLE SPACE." Unless the condominium instruments expressly provide otherwise, it shall be presumed that, in the case of any unit not wholly contained within or constituting one or more of the structures, the horizontal boundaries extend, in the case of each unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception:
 - i. In the case of any unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of the structures.
 - ii. This subsection shall apply to any condominium created on or after July 1, 1980, or to the expansion of any such condominium.
- 3. Completion of Structural Improvements and Certification. The following items shall be recorded prior to the first conveyance of a condominium unit:
 - a. Plans of every structure which contains or constitutes all or part of any unit or units located on or within any portion of the submitted property and a certification by a registered architect or registered engineer to the effect that (s)he has visited the site and viewed the property and that, to the best of his/her knowledge, information, and belief:
 - b. The foundation, structural members, exterior walls, and roof of each such structure are complete and in place as shown on the plans;
 - c. The walls, partitions, floors, and ceilings, to the extent shown on the plans, as constituting or coinciding with the vertical and horizontal boundaries of each unit, including convertible space, within each such structure, are sufficiently complete and in place to establish clearly the physical boundaries of such unit and that such physical boundaries are as shown on the plans; and

- d. Each such structure, to the extent of its stage of completion at that time, is constructed substantially in accordance with such plans.

The plans shall show the location and dimensions of the horizontal boundaries, if any, and the vertical boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such structures, and the units, or portions thereof, thus depicted shall bear their identifying numbers. In addition, each convertible space depicted in the plans shall be labeled as such by use of the phrase "CONVERTIBLE SPACE." Unless the condominium instruments expressly provide otherwise, it shall be presumed that, in the case of any unit not wholly contained within or constituting one or more of the structures, the horizontal boundaries extend, in the case of each unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception: in the case of any unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of the structures. This subsection shall apply to any condominium created prior to July 1, 1980, or to the expansion of any such condominium.

- e. Prior to the first conveyance of a condominium unit located on any portion of any additional property being or having been added to an expandable condominium, there shall be recorded new plats of survey conforming to the requirements of subsection C.1 of this UDC section and, with regard to any structures on the property being or having been added, plans conforming to the requirements of subsection C.2 of this UDC section or certifications, conforming to the certification requirements of subsection C.2 of this UDC section, of plans previously recorded pursuant to O.C.G.A. § 44-3-84.
- f. When converting all or any portion of any convertible space into one or more units or limited common elements, the declarant shall record, with regard to the structure or portion thereof constituting that convertible space, plans showing the location and dimensions of the horizontal boundaries, if any, and the vertical boundaries of each unit formed out of such space. The plans shall be certified by a registered architect or registered engineer in accordance with the certification requirements of subsection C.2 of this UDC section.
- g. When any portion of the submitted property is withdrawn, there shall be recorded a plat or plats showing the portion of the submitted property withdrawn and the remaining submitted property, which plat or plats shall be certified as provided in subsection C.2 of this UDC section.

10.03.05 Submittal Requirements for a Non-Residential Preliminary Plat

- A. *General.* The preliminary plat shall be clearly and legibly drawn at a scale no larger than 1" = 100'. The plat shall not exceed 24" X 36". In no case shall sheet size be less than 8-1/2" X 11". Subject to state law requirements, the preliminary or overall development plat shall be

prepared by a registered landscape architect, land surveyor, or civil engineer and shall show the following:

1. Proposed name of the non-residential subdivision.
2. Name, address, and telephone number of owner of record.
3. Name, address, and telephone number of the developer.
4. Date of survey, north point with magnetic north shown and graphic scale, source of data, date of plat drawing, and space for revision dates.
5. Location (land lot and district) and gross acreage of tract.
6. Original vicinity map locating the subdivision in relation to the surrounding area with regards to well known landmarks such as major thoroughfares, railroads, or others. Sketches may be drawn in freehand and at a scale sufficient to clearly show the information required, but not less than 1" = 2,000'. Photocopies of a local atlas are not acceptable. Previously developed non-residential properties must be reflected on the plat.
7. Exact boundary lines of the tract indicated by a heavy line giving the lengths and bearing. The boundary lines shall include the entire tract to be eventually subdivided and data as required herein shall apply to the entire tract.
8. Ground elevations on the tract based on field surveys or photogrammetric methods from aerial photographs. The basis for the topographic information shall be shown. Contour lines shall be drawn at intervals of 2 feet.
9. Natural features within the proposed non-residential development, including drainage channels, tributaries or state mandated buffers or corridors, bodies of water, wooded areas, and other significant features. On all water courses leaving the tract, the directional flow and acreage of the drainage area above the point of entry into the site shall be noted. Floodplains shall be outlined and elevations and total area of floodplain noted. Wetland areas should also be located on the plat and total area specified. Local benchmarks shall be established and properly described and the mean sea level elevation noted.
10. Cultural features, including cemeteries or other historic features, around and within the proposed non-residential subdivision, right-of-way, pavement widths, and names of existing and platted streets; all easements, city and county boundaries, and other significant information. Locations and dimensions of bridges, proposed and existing utility lines and structures, existing or proposed easements, street culverts, and other features are to be indicated.
11. Proposed layout including lot lines with rough dimensions, lot numbers, street and alley lines with proposed street names, right-of-way widths, buffers, open space, and easements dedicated for public use shall be noted.
12. Proposed outparcels, supported by internal utilities and interparcel access points, must be clearly shown.
13. Proposed unit division or stage development, if any, as proposed by the owner or developer including but not limited to outparcel development.

14. Present zoning of the proposed development and the present zoning of abutting lands.
15. Zoning and variance conditions placed on the project by the City Council.
16. Each preliminary plat submitted shall carry the following certifications printed or stamped thereon substantially as set forth in UDC Section 10.03.06.
17. Development agreement recording information.
18. Show adjoining roadways, with names, pavement widths, lengths of streets, access locations, and right-of-way widths. Also include dimensions from the centerline of the existing street to the required right-of-way width.

10.03.06 Preliminary Plat Certificates

Each preliminary plat submitted to the Planning Commission shall carry the following certificates printed or stamped thereon substantially as follows:

A. Engineer and owner certificate:

"I certify that all measurements are correct and were prepared from an actual survey of the property made under my supervision, that monument locations are correctly shown and that the property will drain as shown. Monuments are shown by _____.

Signed (Seal) _____ Date _____

_____ Engineer, (Surveyor), (Architect), Georgia Regis. No. _____

We, the undersigned, owner(s) and/or mortgagee(s) of the _____ subdivision, hereby offer to dedicate and/or reserve for public use the rights-of-way, easements and other ground so shown on this plat."

Owner	Date	Mortgagee	Date

"The offer contained herein shall not constitute acceptance of the dedicated public rights-of-way, easement and other ground by the City of Kennesaw."

B. Certificate of preliminary plat approval. "All requirements of the Kennesaw UDC relative to the posting of a performance bond having been fulfilled, approval of the bond is hereby granted."

Date of Execution	City Engineer

"All requirements of the Kennesaw UDC relative to the preparation and submittal of a preliminary plat having been fulfilled, approval of this plat is hereby granted, subject to further provisions of said regulation and to such additional requirements as listed and attached hereto. This certificate shall expire _____ (date)" _____.

Date of Execution	Chairman, Planning Commission

"Preliminary Plat—Not to be recorded."

The preliminary plat shall be accompanied by the following information when same is not shown in, or evident from, the preliminary plat:

1. A written summary of the proposal giving information as to the overall development plan, giving type of structures, number of housing units, types of business and industry, so the effects of the development can be determined by the Planning Commission.
2. Existing and proposed covenants and restrictions.
3. Source of water supply.
4. Provisions for sewage disposal, drainage, and flood control, as specified in UDC Chapter 4.06.02.
5. The sub-divider shall obtain letters or certificates of approval or disapproval from city, county or state agencies, as well as from the utility companies, as applicable.

10.03.07 Street Improvement Data

An application for street improvements for the subdivision or for a unit division thereof shall be supported by the following, submitted to the Community Development Department:

- A. A plat drawn to the preliminary plat specifications, prescribed in UDC Section 10.03.00, showing the following information:
 1. Location and size of all proposed drainage structures, including catch basins, grates, headwalls and any extensions thereof.
 2. Acreage of drainage area and constant used in determining size of structures by use of a formula approved by the city engineer.
 3. Location of land subject to flooding, indicated by flood crest contour as provided by the city, county or other sources.
 4. Location of all proposed sewer lines, and of any easements required therefore, together with sufficient dimensions to locate same on ground.
- B. Engineering data as listed below:
 1. Three-line profile as proposed streets, showing centerline elevations and elevations along right-of-way lines on either side of street, exposed rock to be indicated, drawn on

standard plan and profile sheets with plan section showing street, layout, width, curvature and drainage required.

2. Where sanitary or storm sewers are to be installed, the grate, size of pipe and location of manholes shall be indicated on the road profile.
3. Profiles covering roadways that are extensions of existing roadways shall include elevations of fifty (50) feet intervals for a minimum distance of 300 feet back of beginning point and forward of ending point, or such additional distances as may be required by the city engineer.
4. All elevations shall be coordinated and tied into U.S. Coastal and Geological Survey benchmarks, where feasible.
5. The submittals listed in this subsection shall be drawn to a scale no less than as follows:
 - i. Horizontal scale of one (1) inch to 100 feet.
 - ii. Vertical scale of one (1) inch to ten (10) feet.

When a proposed road abuts the plat boundary, a properly executed slope easement shall be submitted. A slope easement shall also be submitted under such other conditions as may be required by the city engineer.

10.03.08 Submittal Requirements for Final Subdivision Plat

A. Final Specifications

1. The submittal shall consist of the original Mylar or vellum reproducible material and twelve (12) prints.
2. The final plat shall be clearly and legibly drawn in black ink on suitable permanent reproducible material. The scale of the final plat shall be 100 feet to one (1) inch (one inch equals 100 feet). Sheet size shall not exceed forty-eight (48) inches by thirty-six (36) inches. If the complete plat cannot be shown on one sheet of this size, such plat shall be shown on several sheets with an index map indicated on each sheet. In no case shall sheet size be less than 8-1/2" x 11"; provided, however, that space is thereby available for statements, approvals and certificates as required in this section.
3. The final plat shall conform to the preliminary plat and it may constitute only that portion of the approved preliminary plat which the sub-divider proposed to record and develop at any one time, provided that such portion conforms to the staging established in preliminary plat procedure and to the requirements of this chapter.
4. The final plat shall contain the following information:
 - i. Name of subdivision and street names.
 - ii. Name and address of owner of record.
 - iii. Name and address of sub-divider.

- iv. Date of plat drawing, graphic scale, north point, notation as to the reference of bearings to magnetic, true north or grid north, and indication whether bearings shown are calculated from angles turned or taken from compass readings.
- v. Location of tract, acres, number of lots.
- vi. Name of former subdivision, if any or all of the final plat for any land which had been previously subdivided.
- vii. Location sketch as provided for in UDC Section 10.03.05.
- viii. Courses and distances to the nearest existing street intersections or benchmarks or other recognized permanent monuments. Not less than three (3) shall be accurately described on the plat.
- ix. Exact boundary lines of the tract, to be indicated by the heavy line, giving distances to the nearest one-tenth foot and angles to the nearest minute, which shall be balanced and closed with an error of closure not to exceed one 1: 5,000. The error of closure shall be stated. Tract boundaries shall be determined by accurate survey in the field. Surveys shall be coordinated and tied into U.S. Geological Survey maps where same are available.
- x. Municipal, county or land lot lines accurately tied to the lines of the subdivision by distance and angles when such lines traverse the subdivision.
- xi. Exact locations, widths and names of all streets and alleys within and immediately adjoining the plat and the exact location and widths of all crosswalks.
- xii. Street centerlines showing angles of deflection, angles of intersection, radii, length of tangents and arcs and degree of curvature with basis of curve data.
- xiii. Lot lines with dimensions to the nearest one-tenth foot, necessary internal angles, arcs and chords and tangent or radii of rounded corners.
- xiv. Building setback lines with dimensions.
- xv. When lots are located on a curve or when side lot lines are at angles other than ninety (90) degrees, the lot width at the building line shall be shown.
- xvi. Lots or sites numbered in numerical order and blocks lettered alphabetically.
- xvii. Location, dimensions and purpose of all drainage structures and of any easements, including slope easements, if required, and public service utility right-of-way lines, and any areas to be reserved, donated or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners.
- xviii. A statement of the private covenants, if they are brief enough to be put directly on the plat; otherwise, a statement as follows:

"This plat is subject to the covenants set forth in the separate document(s) attached hereto dated _____, which hereby become(s) a part of this plat," recorded on _____ (date) and signed by the owner.

- xix. Accurate location, material, and description of monuments and markers. Monuments to be placed after final street improvement shall be designated as "future."
- xx. Place for certificates and statements specified in subsection (Final Plat Certificates) of this UDC chapter.
- xxi. Signature lines for the following departments:

Mayor and City Council, Public Works, Planning and Zoning, City Engineer, Building Services, Cobb County Department of Transportation (if applicable)

10.03.09 Submittal Requirements for Final Condominium/Multi-Family Residential Plats

- A. *General.* The final plat shall be clearly and legibly drawn on Mylar, vellum or paper at a scale no smaller than 1" = 100'. The plat shall not exceed 36" X 48". In no case shall sheet size be less than 8-1/2" X 11". The final plat shall contain the following information:
 - 1. Name of the project and street names.
 - 2. Property address numbers (furnished by the Plan Review Section of Development and Inspections).
 - 3. Reference to record subdivision plats of adjoining land by record name.
 - 4. Date of plat drawing, graphic scale, and north point.
 - 5. Location of tract (land lot and district).
 - 6. Location sketch at a scale of 1" = 2,000'. See note below.
 - 7. Index map on each sheet when more than one sheet is required.
 - 8. Courses and distances to the nearest existing street, intersections, or other recognized permanent monuments or benchmarks.
 - 9. Exact boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest 1/10 foot and angles to the nearest minute shall be balanced and closed. The error of closure shall be stated, and further, the error of closure shall not exceed 1:10,000. Tract boundaries shall be determined by accurate survey in the field.

NOTE: Unit plats shall provide a location sketch for location within the master plat.

 - 10. Land lot lines shall be accurately tied to boundary lines of the subdivision by angles and distances when such lines traverse the subdivision; when the subdivision does not intersect a land lot line, then the lines of a major controlling street shall be projected and tied to a land lot line by angles and distances. In both cases, the measured distance from land lot tie to a respective land lot corner shall be shown with the magnetic bearing of the land lot line. No approximate land lot lines shall be shown on the subdivision plat.
 - 11. Exact locations, widths, and names of all streets and alleys within and immediately adjoining the plat, and the exact locations and widths of all crosswalks.
 - 12. Street centerlines showing angles of deflection and standard curb data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data.

13. Lot lines with dimensions to the nearest 1/10-foot, necessary internal angles, arcs, and chords and tangent or radii or rounded corners.
 14. Building setback lines with dimension.
 15. Signature lines for all applicable departments.
- B. *Requirements for Legal Descriptions.* The legal description of individual condominium units shall be as follows:
1. The individual condominium unit shall be referenced as a lot by numeric data only (limited to 999 units).
 2. Each building shall be referenced as Unit by numeric data only (limited to 99 units).
 3. Each development phase shall be referenced as a block by alpha data.
 4. Parcel numbers shall be assigned by the tax office.
 5. Plats of the development shall be separated into different development phases when individual units or buildings reach the limits set forth above.
 6. Locations, dimensions, drainage areas, and purpose of all drainage structures and of any easements (including slope easements), flood hazard areas, public service utility right-of-way lines, and any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners.
 7. Accurate locations, materials, and descriptions of monuments and markers.
 8. A statement referencing the protective covenants by record book and page number.
 9. Registered land surveyor's certification and stamp required for master plat.
 10. Registered professional engineer certification and stamp accepted for "as built" condition on unit plats only.
 11. Registered architect certification and stamp may be used to certify the acceptability of the structural work.
 12. Variances (if any) and date approved by the City Council.
 13. Recording of plats and plans; contents; completion of structural improvements; certification by registered architect or engineer.
- C. *Requirements for Conveyance.* The following sections reflect the requirements for the recording of plats and plans, contents, the completion of structural requirements, and certification by registered architects or engineers as described in O.C.G.A § 44-3-83. Because State regulations may be modified from time to time, all parties interested in developing condominiums in the City of Kennesaw should be knowledgeable of the most current regulations described in Title 44, Chapter 3, Article 3 of the Official Code of Georgia Annotated. The following regulations are accurate as of December 31, 2008.
1. Recording of Plats and Certification
 - a. Prior to the first conveyance of a condominium unit, there shall be recorded one or more plats of survey showing the location and dimensions of:

- i. the submitted property;
 - ii. the location and dimensions of all structural improvements located on any portion of the submitted property;
 - iii. the intended location and dimensions of all contemplated structural improvements committed to be provided by the declaration on any portion of the submitted property; and,
 - iv. to the extent feasible, the location and dimensions of all easements appurtenant to the submitted property or otherwise submitted to this article as part of the common elements.
- b. With respect to all such structural improvements, the plats shall indicate which, if any, have not been begun by use of the phrase "NOT YET BEGUN." No structural improvement which contains or constitutes all or part of any unit or units and which is located on any portion of the submitted property shall be commenced on any portion of the submitted property after the recording of the plats.
 - i. The declarant shall complete all structural improvements depicted on the plats, subject only to such limitations, if any, as may be expressly stated in the declaration with respect to those labeled "NOT YET BEGUN" on the plats, provided that, within six months after written notice from the association, the declarant shall be obligated to complete within a reasonable time every structural improvement actually commenced on the submitted property, notwithstanding any provision of the declaration, unless the declarant removes within a reasonable time all portions of any such structural improvement and restores the surface of the land affected thereby to substantially the same condition as that which existed prior to commencement of any such structural improvement; and provided, further, that nothing contained in this sentence shall exempt the declarant from any contractual liability to complete any such structural improvement.
 - ii. If the submitted property consists of noncontiguous parcels, the plats shall indicate the approximate distances between such parcels unless such information is disclosed in the declaration. If, with respect to any portion or portions, but less than all, of the submitted property, the unit owners are to own only a leasehold or estate for years, the plats shall show the location and dimensions of any such portion or portions and shall label each such portion by use of the phrase "LEASED LAND."
 - iii. To the extent feasible, the plats shall show all easements to which the submitted property or any portion thereof is subject.
 - iv. The plats shall also show all encroachments by or on any operation of the submitted property. In the case of any units which have vertical boundaries lying wholly or partially outside of structures for which plans pursuant to subsection C.2 of this UDC section are recorded, the plats shall show the location and dimensions of the vertical boundaries to the extent that they are

not shown on the plans; and the units or portions thereof thus depicted shall bear their identifying numbers.

- v. Each plat shall be certified as to its accuracy and compliance with this subsection by a registered land surveyor. The specification within this subsection of items that shall be shown on the plats shall not be construed to mean that the plats shall not also show all other items customarily shown or required by law to be shown for land title surveys.
2. Recording of Plans and Certification. The following items shall be recorded prior to the first conveyance of a condominium unit:
- a. Plans which have been prepared, signed, and sealed by a registered architect or registered engineer of every structure which contains or constitutes all or part of any unit or units located on or within any portion of the submitted property, which plans shall show:
 - i. The location and dimensions of the exterior walls and roof of such structures;
 - ii. The walls, partitions, floors, and ceilings as constitute the horizontal boundaries, if any, and the vertical boundaries of each unit, including convertible space, to the extent that such boundaries lie within or coincide with the boundaries of such structures;
 - iii. The identifying numbers of all units or portions thereof depicted on the plans;
 - iv. A certification by such architect or engineer to the effect that (s)he has visited the site and viewed the property and that, to the best of his/her knowledge, information, and belief:
 - a) The exterior walls and roof of each structure are in place as shown on the plans; and
 - b) Such walls, partitions, floors, and ceilings, to the extent shown on said plans, as constitute the horizontal boundaries, if any, and the vertical boundaries of each unit, including convertible space, have been sufficiently constructed so as to establish clearly the physical boundaries of such unit.
 - b. Each convertible space depicted in the plans shall be labeled as such by use of the phrase "CONVERTIBLE SPACE." Unless the condominium instruments expressly provide otherwise, it shall be presumed that, in the case of any unit not wholly contained within or constituting one or more of the structures, the horizontal boundaries extend, in the case of each unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception:
 - i. In the case of any unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of the structures.

- ii. This subsection shall apply to any condominium created on or after July 1, 1980, or to the expansion of any such condominium.
- 3. Completion of Structural Improvements and Certification. The following items shall be recorded prior to the first conveyance of a condominium unit:
 - a. Plans of every structure which contains or constitutes all or part of any unit or units located on or within any portion of the submitted property and a certification by a registered architect or registered engineer to the effect that he has visited the site and viewed the property and that, to the best of his knowledge, information, and belief:
 - b. The foundation, structural members, exterior walls, and roof of each such structure are complete and in place as shown on the plans;
 - c. The walls, partitions, floors, and ceilings, to the extent shown on the plans, as constituting or coinciding with the vertical and horizontal boundaries of each unit, including convertible space, within each such structure, are sufficiently complete and in place to establish clearly the physical boundaries of such unit and that such physical boundaries are as shown on the plans; and
 - d. Each such structure, to the extent of its stage of completion at that time, is constructed substantially in accordance with such plans. The plans shall show the location and dimensions of the horizontal boundaries, if any, and the vertical boundaries of each unit to the extent that such boundaries lie within or coincide with the boundaries of such structures, and the units, or portions thereof, thus depicted shall bear their identifying numbers. In addition, each convertible space depicted in the plans shall be labeled as such by use of the phrase "CONVERTIBLE SPACE." Unless the condominium instruments expressly provide otherwise, it shall be presumed that, in the case of any unit not wholly contained within or constituting one or more of the structures, the horizontal boundaries extend, in the case of each unit, at the same elevation with regard to any part of such unit lying outside of such structures, subject to the following exception: in the case of any unit which does not lie over any other unit other than basement units, it shall be presumed that the lower horizontal boundary, if any, of that unit lies at the level of the ground with regard to any part of that unit lying outside of the structures. This subsection shall apply to any condominium created prior to July 1, 1980, or to the expansion of any such condominium.
 - e. Prior to the first conveyance of a condominium unit located on any portion of any additional property being or having been added to an expandable condominium, there shall be recorded new plats of survey conforming to the requirements of subsection C.1 of this UDC section and, with regard to any structures on the property being or having been added, plans conforming to the requirements of subsection C.2 of this UDC section or certifications, conforming to the certification requirements of subsection C.2 of this UDC section, of plans previously recorded pursuant to O.C.G.A. § 44-3-84.
 - f. When converting all or any portion of any convertible space into one or more units or limited common elements, the declarant shall record, with regard to the

structure or portion thereof constituting that convertible space, plans showing the location and dimensions of the horizontal boundaries, if any, and the vertical boundaries of each unit formed out of such space. The plans shall be certified by a registered architect or registered engineer in accordance with the certification requirements of subsection C.2 of this UDC section.

- g. When any portion of the submitted property is withdrawn, there shall be recorded a plat or plats showing the portion of the submitted property withdrawn and the remaining submitted property, which plat or plats shall be certified as provided in subsection C.2 of this UDC section.

10.03.10 Submittal Requirements for Final Non-Residential Plats

- A. *General.* The final plat shall be clearly and legibly drawn on Mylar, vellum or paper sheets. The scale of the final plat shall not exceed 1 in. = 100 ft. The plat shall not exceed 36 in. X 48 in. If the complete plat cannot be shown on one sheet, several sheets with an index map indicated on each sheet shall be used. In no case shall sheet size be less than 8-1/2 in. X 11 in.

The final plat shall conform to the preliminary plat and it may constitute only that portion of the approved preliminary plat which the sub-divider proposes to record and develop at any time, provided that such portion conforms to the staging established on the preliminary plat procedure and to the requirements of these rules and regulations.

The final plat shall contain the following information:

1. Names of the subdivision and streets.
2. Property address numbers furnished by City of Kennesaw Community Development Department
3. Reference to recorded subdivision plats of adjoining land by record name.
4. Date of plat drawing, graphic scale, and magnetic north point.
5. Gross acreage of tract, square footage of out parcel.
6. Location of tract (land lot and district).
7. Former name of subdivision, if any or all of the final plat has been previously subdivided.
8. Vicinity map at a scale of 1" = 2000'.
9. Index map on each sheet when more than one sheet is required.
10. Courses and distances to the nearest existing street, intersections, or other recognized permanent monuments or benchmarks.
11. Exact boundary lines of the tract, to be indicated by a heavy line, giving distances to the nearest 1/10-foot and angles to the nearest second, which shall be balanced and closed. The error of closure shall not exceed 1:10,000. The error of closure shall be stated. The tract boundaries shall be determined by accurate survey in the field.

12. Land Lot lines shall be accurately tied to lines of the subdivision by angles and distances when such lines traverse the subdivision; when the subdivision does not intersect a land lot line, the lines of a major controlling street shall be projected and tied to a land lot line by angles and distance. In both cases, the measured distance from land lot tie to a respective land lot corner shall be shown with the magnetic bearing of the land lot line. No approximate land lot lines shall be shown on the subdivision plat.
13. Exact locations, widths, and names of all streets, alleys, and sidewalks within and immediately adjoining the plat and the exact locations and widths of all sidewalks.
14. Street centerlines showing angles of deflection and standard curve data of intersection, radii, length of tangents and arcs, and degree of curvature with basis of curve data, design speeds, horizontal and vertical site distances.
15. Lot lines with dimensions to the nearest 1/10-foot, necessary internal angles, arcs and chords and tangent or radii of rounded corners.
16. Building setback lines with dimension.
17. Lots or sites numbered in numerical and clockwise order. Blocks shall be identified alphabetically.
18. Cultural features, including cemeteries and historic features.
19. Property/lease lines clearly delineated.
20. References to recorded and unrecorded access/cross parking, easements, utilities, and off-site stormwater management facility.
21. Location, dimensions, drainage areas, and purposes of all drainage structures, stormwater management structures, access easements, and any other easements, including slope easements, tributary and state mandated buffers and corridors, flood hazard areas and elevations, new or existing water and sewer easements with setback requirements that are or shall be maintained by the Water System, and any areas to be reserved, donated, or dedicated to public use or sites for other than residential use with notes stating their purpose and limitations; and of any areas to be reserved by deed covenant for common uses of all property owners. Delineation of protected wetlands with total acreage noted.
22. For purposes of dedication of stormwater management easements and facilities, reference should be made to the Cobb County Comprehensive Stormwater Management Quantity and Quality Ordinance.
23. Accurate locations, materials, and descriptions of monuments and markers. Monuments to be placed after final street improvements shall be designated as "future".
24. Seal of appropriate design professional.
25. Zoning stipulations and variances (if any) and the date approved by the City Council.
26. State law prohibits the private construction, planting, or otherwise making improvements on the dedicated public right-of-way. The sole responsibility for repairing of any damage of any such improvement shall be the property owners.

27. Tabular chart which specifies the length of each public street or right-of-way.
28. Signature line for approvals from all applicable departments and Mayor and City Council.

10.03.11 Final Plat Certificates

Each final plat submitted to the Mayor and Council for approval shall carry the following certificates printed or stamped thereon substantially as follows:

- A. Engineer and Land Surveyor Acknowledgement. "It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist or are marked as "future," and their location, size, type and material are correctly shown; and that all engineering requirements of the Kennesaw Subdivision Regulations have been fully complied with."

(Print Name)	(Print Name)
(Print Name)	Registered C.E. No.
	_____ Date

- B. Owner's acknowledgement: "The owner of the land shown on this plat and whose name is subscribed thereto, and in person or through duly authorized agents, acknowledges that this plat was made from an actual survey and dedicates to the use of the public forever all streets, parks, drains, easements and public grounds thereon shown, which comprises a total of _____ acres, for the purposes therein expressed."

Subdivider (Print Name)	Owner (Print Name)
Signature	Signature
_____ Date	_____ Date

"Provided, however, that nothing herein nor acceptance shall create liability on the part of the City of Kennesaw, its officers, agents or employees for flooding or erosion from storm drains or from flooding from high water of natural creeks or rivers, and the City of Kennesaw is hereby specifically released from any such liability or from liability for the negligent construction or maintenance of all drainage structures, roads, sediment control facilities and all other work performed by the owner or developer of the property, their agent, servants, employees or contractors."

C. Place for approval by the City Engineer or authorized agent:

Date	Signed
------	--------

D. Place for statement of slope easement.

E. Place for approval of the Mayor and Council as follows: "Pursuant to the Land Subdivision sections of this UDC of the City of Kennesaw, Georgia, all the requirements of approval having been fulfilled, this final plat was given final approval by the Mayor and Council of Kennesaw, Georgia on _____ (Date).

Mayor, Kennesaw, Georgia

F. Place for approval by the following Departments:

- Planning and Zoning
- Building and Construction
- Public Works
- City Engineer
- Mayor and City Council

"Nothing herein shall be construed to mean that the City of Kennesaw has accepted the dedication of any rights-of-way, easements or other area as being dedicated to public use."

G. Place for certificate of recording.

H. Final plat distribution:

1. City records: Original Mylar, vellum or paper reproducible material and one (1) print.
2. City Engineer: Three (3) prints; two (2) to be filed and one (1) to the ~~building inspector~~ Building Services Director.
3. Cobb County Tax Assessor: One (1) print.
4. Cobb County Fire Department offering service to the proposed subdivision: One (1) print.
5. Total: One (1) original Mylar, vellum or paper reproducible material and twelve (12) prints.

I. Suitability of land. Land subject to flooding or erosion, and any land deemed to be unsuitable for development by the city engineer or health department, shall not be platted for any uses as may continue such conditions or increase danger to health, safety, life or property unless the hazards can be and are corrected.

10.03.12 Submittal Requirements for Amendments to Approved Development Plans and Zoning Conditions

- A. Submittal requirements as established by the Plan Review Committee and the building services department.

10.03.13 Submittal Requirements for Certificate of Appropriateness through the Historic Preservation Commission

- A. All applications to comply with submittal requirements of Kennesaw Design Review application process under Chapter One of the adopted Design Standards for the Historic District.
- B. All applications to be submitted through the Planning and Zoning Department at least two weeks prior to the scheduled Historic Preservation Commission meeting. The ~~Zoning Administrator~~ Planning and Zoning Administrator will confirm completeness of the application.
- C. All fees to accompany the completed application will be as per adopted master fee schedule adopted by the City of Kennesaw.
- D. After confirmation that applications are deemed complete the ~~Zoning Administrator~~ Planning and Zoning Administrator and Planning and Zoning staff will post property referenced in application as part of the public notification process for any exterior changes to historic properties.
- E. All applications require at least one consultation with Planning and Zoning staff to be conducted prior to submittal of applications.
- F. All applications for demolition of structures within the historic district will require a public hearing before the Historic Preservation Commission. The Public hearing will be advertised in the local newspaper and adjoining property owners will be notified by mail by City of Kennesaw Planning and Zoning Department. A sign will be posted as part of this process.
- G. The ~~Zoning Administrator~~ Planning and Zoning Administrator shall ask for any additional data as deemed necessary to add clarification to the request of all applications.
- H. If project is located in the Central Business District but not located in the Historic District then a conceptual project approval by the Historic Preservation Commission will be required.
- I. CBD (Central Business District) conceptual project approval will follow the same COA (Certificate of Appropriateness) application information submittal process to the City of Kennesaw.

10.03.14 Subdivision Construction Plan

10.03.15 Subdivision Record Plat

10.04.00 PENALTIES AND REMEDIES

10.04.01 Penalties for Violation

- A. Any person, firm or corporation violating any provisions of this Chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than \$50.00 nor more than the maximum amount as defined by O.C.G.A. § 36-32-5, as amended from time to time, for each offense.
- B. Each day such violation continues shall constitute a separate offense.

10.04.02 Remedies

- A. In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of any provision of this UDC, the ~~Zoning Administrator~~ Planning and Zoning Administrator or any other appropriate authority of the city may, in addition to other remedies, and after due notice of at least ten (10) days to the owner of the violation, issue a citation for violation of the City Code requiring the presence of the violator in the recorder's [municipal] court; institute injunction, or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to correct or abate such violation or to prevent the occupancy of such building, structure or land.
- B. Where a violation of these regulations exist with respect to a structure or land, the ~~Zoning Administrator~~ Planning and Zoning Administrator may, in addition to other remedies, notify the ~~building inspector~~ Building Services Director of such violation and require that public utility service be withheld there from until such time as the structure or premises is no longer in violation of these regulations.
- C. In any case in which any sign shall be installed, erected, or constructed in violation of any of the terms of this ordinance, the ~~building inspector~~ Building Services Director shall notify by personal notice or registered mail the owner or lessee thereof to alter such sign so as to comply with this ordinance and to secure the necessary permit therefore or to remove the sign.
- D. If such an order is not complied with within ten days, the City shall remove the sign at the expense of the owner or lessee thereof.
- E. In the event that such a sign or wall bulletin should become insecure, or in danger of falling, the person maintaining the same shall, upon written notice from the ~~building inspector~~ Building Services Director, forthwith in case of immediate danger, and in any case, within ten (10) days secure it in a manner approved by the ~~building inspector~~ Building Services Director.

10.05.00 APPEALS AND PROCEDURE FOR APPEALS

10.05.01 Applicability

- A. Any person or entity aggrieved by a decision made by the ~~Zoning Administrator~~ Planning and Zoning Administrator, the Public Works Director, or the ~~Building Official~~ Building Services Director ("Department Head") that involves the administration or enforcement of the UDC or the City Code of Ordinances is entitled to an appeal to the Mayor and City Council. That person or entity may appeal to the Mayor and City Council by filing a notice of appeal with the Department Head; however, such appeal must be filed within ten days from the date of the decision being appealed. Upon failure to file such appeal within ten days, the decision shall be binding and final upon all parties.
- B. The Department Head shall review the timely notice of appeal provided for in this section and transmit to the Mayor and City Council a written report of its findings and recommendations, which shall become a part of the official record. The City Clerk shall certify the official record for any such appeal.
- C. The Mayor and City Council, having received the report of the Department Head under this section, making it a part of the official certified record, and having considered the written and oral statements of the appellant and any other evidence, is authorized to hear and shall hear and decide appeals where it is alleged that there is an error in any decision made by the Department Head in the administration or enforcement of the UDC or the City Code of Ordinances. The decision of the Mayor and City Council shall not result in a violation or circumvention of any applicable condition of zoning, provision of city zoning laws, subdivision regulations, or any other regulation or ordinance.
- D. A written copy of the findings and decision of the Mayor and City Council on an appeal under this section shall be transmitted to the appellant and to the Department Head.
- E. Provided sovereign immunity has been waived to allow for an appeal, any person or entity aggrieved by the decision of the Mayor and City Council on an appeal under this section shall have a right to appeal such decision within thirty days from the date of the actual vote of the Mayor and Council that formulates the basis for the decision in the manner provided by law under O.C.G.A. § 36-66-5.1. ~~to a court of competent jurisdiction as provided by law. The basis for such an appeal and the standard of review for such appeal shall be as provided by law.~~
- F. Legal Action stayed. The filing of an appeal authorized under this Section shall operate as a stay of any administrative or enforcement proceedings by the City of Kennesaw until final adjudication or settlement of the appeal. No Mayor and City Council or administrative action shall be taken on any property which is the subject of any litigation pending in state or federal court where the City of Kennesaw or its agents or officials (individually or collectively) are parties.

(Ord. No. 2021-07 , § 14(Exh. G), 6-21-21)

Section 4:

The effective date of this ordinance shall be July 1. 2023

PASSED AND ADOPTED by the Kennesaw City Council on this ____ day of _____, 2023.

ATTEST:

CITY OF KENNESAW:

Lea Alvarez, City Clerk

Derek Easterling, Mayor

5:19,26-2023

**MDJ-4602
GPN-16
CITY OF KENNESAW
PUBLIC NOTICE**

Notice is hereby given that the City of Kennesaw shall hold public hearings to amend the Unified Development Code. The proposed amendment is to amend APPENDIX A "UNIFIED DEVELOPMENT CODE", CHAPTER 1, SECTION 1.06.01, SECTION 1.06.03 AND CHAPTER 10.

A copy of the amendment to the Unified Development Code is on file in the Office of Planning and Zoning during normal business hours, Monday-Friday from 8 a.m. to 5 p.m. for public viewing. The Planning Commission shall hold a special call meeting on June 14, 2023 at 6:30 p.m. with a final scheduled hearing and adoption by the Mayor and Council to be considered on June 19, 2023 at 6:30 p.m. Meetings will be held in the Kennesaw City Council Chambers, 2529 J.O. Stephenson Avenue, Kennesaw, GA. All interested persons may attend and be heard relative there to.

Mayor and Council will be conducting their meeting in person and you can access the meeting via the following link: <https://www.facebook.com/City-ofKennesaw/>

Any interested citizens are invited to email

kennesawcouncil@kennesaw-ga.gov.

5:26;6:2-2023

R0004

Public Sales/Auctions