

## TITLE 1. - ADMINISTRATION<sup>2</sup>

### Footnotes:

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**Editor's note**— Ord. No. [743](#), adopted Dec. 19, 2017, amended title 1 in its entirety to read as herein set out. Former title 1, §§ 100-1—120-10 pertained to similar subject matter and derived from: Ord. No. [682](#) of 6-16-15; Ord. No. [683](#) of 8-18-15; Ord. No. [687](#) of 9-15-15; Ord. No. [704](#) of 6-21-16; Ord. No. [711](#) of 7-19-16; Ord. No. [712](#) of 7-19-16; Ord. No. [725](#) of 10-18-16; Ord. No. [728](#) of 12-20-16; and Ord. No. [730](#) of 1-17-17.

## CHAPTER 100. - GENERAL PROVISIONS

### Section 100-1. - Title.

These regulations shall be known and may be cited as the "Chamblee Unified Development Ordinance" or UDO. It consists of three Titles: Title 1, Administration; Title 2, Land Use and Zoning; and Title 3, Development and Permitting.

Title 1 is intended to implement regulations generally applicable to the City of Chamblee and to specifically address administrative regulations including definitions, enforcement and penalties applicable to Titles 2 and 3. Title 2 will serve as the City of Chamblee Zoning Ordinance and is intended to constitute a zoning ordinance within the meaning of O.C.G.A. § 36-66-1 et seq. Changes to the text of Titles 1 and 2, as well as Official Zoning Map amendments and other zoning actions addressed therein, shall comply with the public notice and hearing procedures provided therein and in said state statute. Title 3 is intended to regulate development and permitting activities in the City of Chamblee. Title 3 is not intended to constitute a zoning ordinance or zoning regulations.

(Ord. No. [743](#), 12-19-17)

### Section 100-2. - Purpose.

The purpose of the UDO shall be to:

- (1) Promote the health, safety, order, prosperity, aesthetics, and the general welfare of the present and future residents of the City;
- (2) Protect the environmental integrity of the City;
- (3) Encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations;
- (4) Encourage economic development activities that provide desirable employment and enlarge the tax base;
- (5) Protect the public welfare by protecting approach slopes and other safety areas of licensed airports;
- (6) Improve the City's appearance;
- (7) Further traffic safety and a multi-modal transportation network;
- (8) Protect property against blight and depreciation;
- (9) Encourage the most appropriate use of land, buildings, and other structures throughout the City;
- (10) Facilitate the adequate provision of transportation, water, sewerage, flood protection, schools, parks and other public requirements;

- (11) Provide for protection of the constitutional rights and obligations of all citizens within the City; and
- (12) Implement relevant elements of the City's adopted comprehensive plan and other adopted plans and policies.

(Ord. No. [743](#), 12-19-17)

Section 100-3. - Authority.

The UDO is enacted pursuant to the authority conferred by Article 9, Section II, Paragraph IV of the Constitution of the State of Georgia, 1983, the Charter of the City, and O.C.G.A. §§ 36-66-15 et seq., "The Zoning Procedures Law," and other federal, state and local authority applicable hereto.

(Ord. No. [743](#), 12-19-17)

Section 100-4. - Applicability.

- (a) The provisions of this UDO shall apply throughout the City of Chamblee. The City may enter into agreements with the County or other regulatory agencies to carry out the purpose of this UDO. These agreements may include, but are not limited to, enforcement of provisions, resolution of disputes, and cooperative monitoring and management of the separate storm sewer system and management programs, except as hereinafter provided, as of the date of adoption of this UDO.
- (b) The regulations of this ordinance shall apply to all buildings, structures, land, and uses within the City.
- (c) In interpreting and applying the provisions of this UDO, they shall be considered as the minimum requirements for the promotion of the public safety, health, morals and general welfare.
- (d) All buildings and structures erected, all uses of land, water, buildings, or structures established, all structural alterations or relocations of existing buildings, all enlargements of, additions to, changes in and relocations of existing uses, and all land development is subject to all regulations of this ordinance:
  - (1) *Development activity.* Any person proposing to rezone property, secure permits, undertake land disturbance activities, construct, demolish, expand, or modify a structure or a building for occupancy, develop or subdivide land within incorporated areas of Chamblee, Georgia, or undertake any other development permission or activity shall comply with all regulations set forth in this UDO, and, where required, shall make application to the City of Chamblee Planning and Development Department and pay a fee pursuant to the established fee schedule.
  - (2) *Use.* No building, structure, premises or land shall be used or occupied and no building or part thereof shall be erected, remodeled, extended, enlarged, constructed, or altered in a manner except in conformity with the regulations herein specified for the district in which it is or is to be located.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

Section 100-5. - Transitional provisions.

- (a) The UDO shall take effect and shall be in force upon its adoption by the City Council of Chamblee, Georgia.
- (b) Any development or building activity for which a valid and complete application for a Land Disturbance Permit or Building Permit has been received prior to the adoption of this UDO may, at the developer's option, proceed to completion, and building permits, occupational tax certificates,

and business licenses may be issued as though this UDO had not been adopted, provided that the Land Disturbance Permit or Building Permit is or can be issued within 180 calendar days of the date of adoption. Any future change in occupancy shall conform with the most recent version of this UDO and shall be subject to Section 270-5 (Nonconforming Uses).

- (c) Any development or building activity for which a Land Disturbance Permit or Building Permit has been issued prior to the adoption of this UDO may, at the developer's option, proceed to completion and building permits may be issued as though the UDO had not been adopted.

(d) Any permitted use proposed within a valid and complete building permit application received prior to the adoption of this UDO shall be considered vested, provided that the building permit is or can be issued within 180 days of the date the application is received. Future changes in occupancy shall conform with the most recent version of this UDO and shall be subject to Section 270-5 (Nonconforming Uses).

(e) Any development or building activity for which a Development of Community Impact (DCI) has been approved prior to the adoption of this UDO may, at the developer's option, proceed to completion and permits may be issued as though the UDO had not been adopted, until the expiration of DCI approval pursuant to Section 280-26 (Expiration of approval).

- (d) The adoption of this UDO shall not be construed to affect the validity of any building permit lawfully issued prior to the adoption of this UDO.
- (e) The provisions of this section only apply when:
  - (1) Such permit has not by its own terms expired prior to such effective date;
  - (2) Actual building construction is commenced prior to the expiration of such permit; and
  - (3) Actual building construction is carried on pursuant to said permit and limited to and in strict accordance with said permit.
- (f) No extensions of said permit shall be authorized following the effective date of this UDO.

(Ord. No. [743](#), 12-19-17; Ord. No. [748](#), 3-20-18; Ord. No. [757](#), 12-18-18)

Section 100-6. - Severability clause.

Should any section or provision of this ordinance be declared by the courts to be unconstitutional or invalid, such decision shall not affect the validity of the ordinance as a whole, or any part thereof other than the part so declared unconstitutional or invalid. The Mayor and City Council hereby declares that it would have adopted the remaining parts of the ordinance if it had known that such part or parts thereof would be declared or adjudged invalid or unconstitutional.

(Ord. No. [743](#), 12-19-17)

Section 100-7. - Amendments.

- (a) This UDO may be amended by the Chamblee City Council. Such amendments shall be effective as of their date of adoption, unless otherwise stated.
- (b) No amendment to this UDO shall be construed to affect the validity of any unexpired building or development permits or subdivision approval lawfully issued prior to the adoption of said amendment, pursuant to Section 100-5.

(Ord. No. [743](#), 12-19-17)

Section 100-8. - Duties to administer, interpret and enforce this UDO.

- (a) Unless otherwise specified in any article, chapter, or section of this UDO, it shall be the duty of the Planning and Development Director of the City of Chamblee, GA to administer, interpret, and enforce this UDO.
- (b) It shall be the duty of the county fire marshal to enforce all State, County, and City fire codes. The county fire marshal shall also enforce all adopted codes relating to ADA Compliance, as adopted by the State.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

Section 100-9. - Fees.

- (a) Fees for permits and other approvals required under this UDO shall be established from time to time by resolution of the Mayor and Council.
- (b) Application and plan review fees shall be submitted with the application, and upon acceptance of said submission for review and consideration, shall not be refundable. Failure to pay a required application fee shall cause the application to be returned to the applicant without acceptance for review or consideration by the City.
- (c) Permit fees, if any, shall be submitted as a prerequisite to issuance of the permit.
- (d) Prior to approval of a Final Plat or Certificate of Occupancy, the developer shall pay to the City such fees and performance and/or maintenance bonds as shall be required by this UDO or established by the City Council.

(Ord. No. [743](#), 12-19-17)

Section 100-10. - Adoption of certain codes.

- (a) *Adoption of technical building and construction codes.* It is the intent of the City to enforce the latest editions of the following minimum standard codes, as adopted and amended by the Georgia State Department of Community Affairs:
  - (1) International Building Code;
  - (2) International Residential Code for One- and Two-Family Dwellings;
  - (3) International Fire Code;
  - (4) International Plumbing Code;
  - (5) International Mechanical Code;
  - (6) International Fuel Gas Code;
  - (7) National Electrical Code;
  - (8) International Energy Conservation Code;
  - (9) International Swimming Pool and Spa Code; and
  - (10) International Existing Building Code (2012 version).
- (b) *Georgia Accessibility Code Compliance.* In addition to the regulations of the UDO, the Georgia Accessibility Code for buildings and facilities shall also apply.

- (c) *LEED BD+C, Leadership in energy and environmental design (LEED)*. The City of Chamblee hereby adopts the Green Building Council's (USGBC) Leadership in Energy and Environmental Design (LEED BD+C) Rating System, Version 4. The LEED BD+C system (for new construction) establishes several levels of environmental achievement from the certified rating to a platinum rating. Alternatively, compliance with the requirements of this section may be achieved for new construction as set forth herein by certification from Green Globes as promulgated by the Green Building Initiative (GBI) or any other certification program approved pursuant to Section 230-9, Sustainable Certification.
- (d) Copies of all of the above codes are available for public inspection in the Planning and Development Department.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

Section 100-11. - Incorporation of UDO Addenda.

- (a) The UDO Addenda shall provide additional guidance on the intent of UDO regulations.
- (b) Addenda to the UDO shall be maintained by the Planning and Development Director, pending subsequent revisions of the UDO.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

Section 100-12. - Rules of interpretation.

- (a) For the purpose of this Unified Development Ordinance (UDO), the following interpretations shall apply:
  - (1) All words used in the present tense include the future tense.
  - (2) All words in the plural number include the singular number, and all words in the singular number, include the plural number, unless the natural construction of the wording indicates otherwise.
  - (3) The word "shall" is mandatory and not discretionary.
  - (4) The word "building" includes the word "structure."
  - (5) The word "constructed" includes the words "erected," "built," "altered," "rebuilt," and "repaired."
  - (6) The word "lot" shall mean "lot of record."
  - (7) The word "parcel" shall mean "lot."
  - (8) The words "zoning map" shall refer to the official zoning map of the City of Chamblee, Georgia.
  - (9) The word "district" in Chapter 310 means GSWCC District.
  - (10) The phrase "used for" as applied to any land or building shall include the phrases "arranged for," "designed for," "intended for," "maintained for" or "occupied for."
  - (11) The word "person" shall include the words "individual," "firm," "partnership," "corporation," "association," "organization," "trust," "company," or any other legal entity.
  - (12) The terms "**architectural** design review board" and "DRB" shall be interchangeable.
  - (13) The term "City Manager" shall mean "City Manager or designee."
  - (14) The term "Director" shall mean "**Planning and** Development Director or designee."
  - (15) The term "UDO" shall mean "UDO and amendments."
  - (16) The term "GDOT" shall mean "Georgia Department of Transportation."

- (17) For the purpose of interpreting this UDO, certain words or terms are herein defined. Except as defined herein, all other words used in this UDO shall be defined in accordance with the American Planning Association (APA) *A Planners Dictionary*, published April 1, 2004, as interpreted by the Planning and Development Director. For terms not found in *A Planners Dictionary*, words used shall be defined in accordance with *Merriam-Webster's Collegiate Dictionary, 11<sup>th</sup> Edition*, as interpreted by the Planning and Development Director.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18; Ord. No. [765](#), 5-21-19)

Section 100-13. - Relationship to other ordinances, statutes and resolutions.

- (a) In their interpretation and application, the provisions of this UDO shall be held to be minimum requirements, adopted for the promotion of the public health, safety, morals or general welfare. Whenever the provisions of any other ordinance or statute require more restrictive standards than those of this UDO, the provisions of such standards shall govern, unless provided otherwise.
- (b) Whenever the provisions of this UDO impose standards that are more restrictive than are required in or under any other statute, ordinance or resolution, these standards shall prevail, unless otherwise specified in this UDO.

(Ord. No. [743](#), 12-19-17)

#### CHAPTER 110. - DEFINITIONS

Section 110-1. - Definitions.

For the purpose of interpreting this UDO, certain words and terms used herein shall be defined as follows and may be referenced in other titles of this UDO:

*Accessory building or structure:* A building or structure which is clearly subordinate and incidental to and is customarily found in connection with a principal building and located on the same lot therewith.

*Acupuncture clinic:* A practice that provides a form of therapy, as regulated by the Acupuncture Act of Georgia O.C.G.A. § 43-34-60 et seq., developed from traditional and modern Oriental concepts for health care that employs Oriental medicine techniques, treatment, and adjunctive therapies for the promotion, maintenance and restoration of health and the prevention of disease.

*Adult entertainment establishment:* A commercial enterprise that offers 15 percent or more of its trade consisting of sexually oriented material, devices, or paraphernalia or specified sexual activities or any combination or form thereof, whether printed, filmed, recorded or live and which restricts or purports to restrict admission to adults or to any class of adults; or a business establishment advertising and offering for sale and/or rental adult clothing, lingerie, toys, or novelty items. "Adult entertainment establishment" includes, but is not limited to:

*Adult movie theatre:* A business establishment open to the public, or to members, that maintains display devices for viewing on the premises films, videos or other viewable material, if a substantial portion of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to sexual activities.

*Adult store:* A business establishment open to the public, or to members, that offers for sale or rental any printed, recorded, photographed, filmed or otherwise viewable material, or any sexually oriented paraphernalia or aid, if a substantial portion of the stock or trade is characterized by an emphasis on matters depicting, describing or relating to sexual activities.

*Adult Massage Establishment:* Any establishment where a massage technician administers a massage to another person for compensation but does not require licensing as a qualified massage

therapist as required by the Georgia Massage Therapy Act, O.C.G.A. title 24A or fails to operate within the parameters of that Act.

*Aggrieved party:* An individual or party who is directly affected by a judgement or interpretation of this UDO and is entitled to commence an appeal challenging the decision.

*Airfield:* The DeKalb-Peachtree Airport (PDK).

*Alley:* A public or private street, which provides access to abutting property and is not intended for general traffic circulation.

*Appeal of Administrative Decision:* A request for a review by Mayor and City Council of a decision by an official of the city by an aggrieved party.

*Approach-departure clearance surface:* This surface is symmetrical about the runway centerline extended. It begins as an inclined plane (glide angle) 200 feet beyond the end of the runway at the same elevation as the runway end, and extends for 50,000 feet. The slope of this surface is 40:1 (glide angle).

*Automated teller machine:* An automated device that performs banking or financial functions at a location remote from the controlling financial institution.

*Awning:* A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, or window from the elements.

*Basement:* The part of a building that is wholly or partly below ground.

*Bed and Breakfast:* A commercial place of lodging located in a current or former residential structure in which breakfast is served to guests.

*Block:* Land surrounded on all sides by streets or other transportation or utility rights-of-way, or by physical barriers such as bodies of water or public open spaces.

*Block face:* The portion of a block abutting the same street and lying between the closest intersecting streets.

*Boarding house:* A building other than a hotel or motel, where for compensation and by pre-arrangement for definite periods of time, lodging or meals and lodging are provided in at least two but no more than six rooms.

*Brew pub:* Any eating establishment which meets revenue requirements of the Alcohol Ordinance from the sale of prepared meals and food and in which beer or malt beverages are manufactured or brewed subject to the barrel production limits and regulations under state law.

*Buffer:* Any area required to screen adjacent properties or to provide protection to a stream bank or body of water.

*Building:* Any roofed structure attached to the ground and enclosed and isolated by exterior walls and constructed, intended for any use or occupancy.

*Building facade:* Any exterior wall of any building.

*Building footprint:* The land area on which a proposed building is located.

*Building inspector:* The building inspector of the City or his/her designated representative.

*Bus station:* Any location where patrons of a for-pay motor carrier may purchase tickets for passage, board, or disembark such motor carrier.

*Candela (cd):* Unit of luminous intensity considered an illumination standard, formerly known as the candle. One candela is one lumen per steradian.

*Canopy:* A permanent roof-like structure projecting from a building and open on at least one side for shielding a vehicular drive or pedestrian walkway from the elements, or a freestanding roof-like structure intended to shield a vehicular driveway or service area from the elements.

*Cemetery:* A burial ground or columbarium for earth interments.

*Channel:* A natural or artificial open watercourse with a definite bed and banks that conducts continuously or periodically flowing water.

*Child and personal care uses:* The provision of child and personal care services as regulated by the Georgia Department of Early Care and Learning, including "family day care homes," "group day care homes," and "child care learning centers," see those terms for further definition.

*Child care learning centers:* A program operated by a person, society, agency, corporation, institution, or group that receives pay for group care. The childcare learning center cares for 19 or more children under the age of 18 for less than 24 hours per day (see *Child and personal care uses*).

*Collection Container:* Any container, storage unit or structure, other than an accessory building or shed, that can or is used for the holding of charitable donated items, associated with nonprofit organizations, by the general public, including but not limited to, clothing, toys, books, and newspapers, with the collection of those donated items made at a later date or time and which is located for such purposes outside an enclosed building.

*Commercial solid waste:* All types of solid waste generated by stores, offices, restaurants, warehouses and other nonmanufacturing activities, excluding residential and industrial wastes.

*Commercial vehicle:* Limousine, flatbed truck, dump truck, tow truck, bus, school bus, transport wrecker, cab-on-chassis truck, tractor trailer, wheeled attachment, earth-moving machinery, semi-trailer, and any vehicle over 20 feet in length, eight feet in height, or seven feet in width.

*Composting:* All controlled biological decomposition of organic matter into a stable, odor-free humus.

*Comprehensive Plan:* Unless otherwise stated, the City of Chamblee Comprehensive Plan approved by the Mayor and City Council pursuant to the Minimum Standards for Local Comprehensive Planning, as prepared by Georgia Department of Community Affairs.

*Conservation easement:* An agreement between a land owner and the city or other government agency or land trust that permanently protects open space or greenspace on the owner's land by limiting the amount and type of development that can take place, but continues to leave the remainder of the fee interest in private ownership.

*Construction:* Any site or building preparation, assembly, erection, repair, alteration or similar action, or demolition of buildings or structures.

*Convenient cash business:* Any business engaged in check cashing, currency exchange, money lending in exchange for personal property as collateral, excluding a state or federally chartered bank, savings and loan association, or credit union.

*Convertible space:* Space in the ground floor of a multifamily residential building that is designed to readily convert from initial use as dwelling units to one or more nonresidential uses(s) at a later time in a development that is intended to be mixed-use.

*Conveyor car wash:* A commercial car wash where the car moves on a conveyor belt during the wash. The driver of the vehicle can remain in the vehicle or wait outside of the vehicle.

*Corner commercial:* Commercial retail and service use intended for convenience of an adjacent neighborhood.

*Craft brewery:* A building or group of buildings where beer is brewed, bottled, packaged and distributed for wholesale and/or retail distribution.

*Craft distillery:* A building or group of buildings where distilled spirits are manufactured (distilled, rectified, or blended), bottled, packaged, and distributed for wholesale and/or retail distribution.

*Curb cut:* Any interruption or break in the line of a street curb for the purpose of connecting a driveway to a street, or otherwise to provide vehicular access to abutting property.

*Decibel (dB):* The unit of measurement for sound pressure level at a specified location.

dBA is the A-weighted unit of sound pressure level. See *A-weighting*.



dBC is the C-weighted unit of sound pressure level. See *C-weighting*.

*Dedication*: An intention by the owner, of a right to use land for a specified purpose(s) that is carried out by written document.

*Developed property*: Property upon which a building, structure, pavement, or other improvements have been placed.

*Developer*: A person who undertakes land development activities.

*Development*: Any manmade change to improved or unimproved real estate, including but not limited to, buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

*Development of Community Impact*: Any development or building project with an aggregate of 20,000 square feet or more of new buildings or a site consisting of two acres or more and requires a greater amount of scrutiny based on its potential impacts. ~~In addition, DCIs include any development or building project with an aggregate of 20,000 square feet of renovations, interior finish, or other similar work requiring a building permit over the past 24 months. These requirements shall also apply to common plans of development including multiple, separate and distinct development activities that take place on different parcels, at different times or on different schedules.~~

*Drive-through establishment*: A business establishment so developed that its retail or service character includes providing a driveway approach and service window for motor vehicles so as to serve patrons as they are seated in the motor vehicle and passing by the service window rather than serving them from within a building.

*Driveway*: A vehicular connection between the right-of-way of a street and to a vehicle parking, loading, or maneuvering facility, lots, building sites, uses, or other divisions of land and not intended to be public ingress and egress. A driveway is not considered a street.

*Dry cleaning and laundry establishments*: A business establishment open to the general public for laundry/dry cleaning purposes. For purposes of this ordinance, a dry cleaner/laundry excludes a dry cleaning plant, which serves solely to dry clean clothing processed for other dry cleaners and not open to the public.

*Dry cleaning plant*: A building used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort with chemical solvents having little or no water, and which serves solely to dry clean clothing processed for other dry cleaners and not open to the general public.

*Dwelling, accessory*: An ancillary or secondary living unit that has a separate kitchen, bathroom, and sleeping area, existing either within the same structure or on the same lot as the primary dwelling unit. Accessory dwelling units are also known as accessory apartments, garage apartment, granny flats, or mother-in-law flats.

*Dwelling, multifamily*: A non-single-family attached building designed for and containing two or more dwelling units.

*Dwelling, single-family attached*: A dwelling unit which is horizontally attached to another dwelling unit or any adjoining lot by a common wall.

*Dwelling, single-family detached*: A single-family dwelling that is not attached to another non-accessory dwelling unit.

*Dwelling unit*: A building or portion thereof, providing complete, independent living facilities for one or more persons, including provision for living, sleeping, eating, cooking, and sanitation, but not including units in hotels or other structures designed for transient residence.

*Dwelling unit, occupied*: A dwelling unit which is continuously used and occupied by human beings for human habitation. For purposes of this Ordinance, a dwelling unit which is not occupied by human beings for human habitation shall be considered an unoccupied dwelling unit.

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*Dwelling, zero lot line:* A dwelling unit built with one side adjacent to the side property line.

*Easement:* A grant by the property owner of a strip of land for specified purposes and use by the public, a corporation, or persons.

*Encroachment:* Any portion of a structure, appurtenance, or other item or activity extending beyond a designated point or limit.

*Event center:* A multi-purpose facility generally used for meetings, parties, banquets, weddings, and other social gatherings, conventions, and the display of merchandise by a wide variety of industrial groups, professional groups, social groups and trade organizations.

*Existing manufactured home park or subdivision:* A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before July 1, 2006.

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

*Extended-stay motel/hotel:* Any building containing six or more guest rooms intended or designed to be used, or which are used, rented or hired out to be occupied or which are occupied for sleeping purposes for guests and contain kitchen facilities for food preparation, including but not limited to, such facilities as refrigerators, stoves, and ovens. May also be known as "apartment hotels."

*Family:* A group of individuals related by blood, marriage, adoption, guardianship or other custodial relationship, or not more than four persons not so related, living together in a dwelling unit as a single housekeeping unit under a common housekeeping management plan. The term "family" does not include any organization or institutional group.

*Family day care home:* A program that operates in a private residential home less than 24 hours per day. It provides care for three children, but no more than 6, under the age of 18 for pay.

*Farmers market:* A sales venue, most often outdoors and seasonal in nature, at which producers or their representatives follow state regulations for the offering of locally grown produce, value-added agricultural products, and/or fresh baked goods, produced by the seller, for sale directly to the public. Also sometimes called green market.

*Fence :* A structure designed to provide separation and security, constructed of materials including chain link, wire, metal, artistic wrought iron, vinyl, plastic and other such materials.

*Fenestration:* An opening in the exterior surface of a structure or building, primarily achieved with glass.

*Fill:* A portion of land surface to which soil or other solid material has been added; the depth above the original ground surface or an excavation.

*Financial institution (also includes institutions under GA Industrialized Loan Act):* An establishment that focuses with financial transactions, such as investments, loans, and deposits.

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

*Flight hazard:* Any structure or natural growth or use of land, which obstructs or restricts the airspace required for the safe operation of aircraft in landing, takeoff, or maneuvering areas at or near the airfield.

*Flight school:* A space or facility that is located on, or adjacent to an airport and used exclusively as a school for training students to fly airplanes.

*Floor area:* The gross horizontal areas of a building, including mezzanines and lofts, exclusive of garages, parking structures, basements, open balconies and porches, and equipment and service areas, measured from the exterior face of the exterior walls of a building.

*Floor area ratio (FAR):* The total floor area of a building divided by the total area of the lot the building is located on, expressed as a ratio.

*Frontage:* The width in linear feet of each lot where it abuts the right-of-way of any public street, or along the curb where it adjoins a private street.

*Frontage, building:* The width in linear feet of the front exterior wall of a particular establishment.

*Future development map:* The map located in the City of Chamblee Comprehensive Plan that designates the future land uses for the City of Chamblee.

*Governing authority/body:* The Mayor and Council of the City of Chamblee.

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

*Grasscrete or grasspave:* Paving systems primarily used for parking that utilize porous elements, which facilitate the drainage of stormwater runoff.

*Greenway:* A linear park and alternative transportation route approved by the City that provides passive recreational opportunities, pedestrian and/or bicycle paths, and conservation of open spaces or natural areas.

*Gross floor area (GFA):* The total covered floor area inside the building envelope, including exterior walls, and excluding the roof.

*Group day care home:* A program operated by a person, society, agency, corporation, institution, or group that receives pay for group care. The group day care home cares for 7 to 18 children under the age of 18 for less than 24 hours per day (See *Child and personal care uses* ).

*Group residential facility:* A residential structure that is licensed to provide room, board, and supervised care for adults, but not continuous nursing care, personal care or halfway house.

*Growler:* A professionally sanitized and sealed bottle meeting the requirements of state law filled by a licensee or an employee of a licensee with beer from a keg procured or produced by the licensee in accordance with applicable laws.

*Growler Store:* A facility which beer and other malt beverages are distributed for tasting, wholesale, and/or retail distribution in growlers.

*Guest room:* An accommodation combining living, sleeping, sanitary, and storage facilities within a hotel, motel, boarding house or extended stay.

*Halfway house:* A licensed home where persons are aided in adjusting to society following a period of imprisonment, hospitalization or institutionalized treatment, wherein supervision, rehabilitation and counseling are provided.

*Height of building:* The average height of all sides of a building which is the vertical distance from the average grade on each side of a building to the coping of a flat roof; to the deck lines of a mansard roof; or to the mid-point of a pitched roof.

*Highest adjacent grade:* The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

*Holiday:* An official day of festivity or recreation when the offices of the city government are closed for business (other than a Saturday or Sunday).

*Home occupation:* An accessory use of a dwelling unit for limited commercial purposes.

*Horizon year:* For a traffic impact study, unless otherwise specified or approved by Planning and Development Department staff, the horizon year shall be 20 years into the future from the year during which a traffic impact study is being prepared.

*Hotel:* A building in which lodging or boarding and lodging facilities are provided for transient guests, and offered to the public for compensation and in which ingress and egress to and from all rooms are through an inside lobby or office supervised by a person in charge at all hours.

*Impervious surface:* Any paved, hardened or structural surfaces, including but not limited to, buildings, dams, decks, driveways, parking areas, patios, streets, swimming pools, tennis courts, walkways or other structures which substantially prevent or impede the infiltration of stormwater into the soil.

*Impervious surface, maximum:* The maximum impervious surface allowed on a given property.

*Impulsive sound:* A sound having a duration of less than one second with an abrupt onset and rapid decay.

*In-bay automatic car wash:* A commercial car wash where the driver pulls into the bay and parks the car. The vehicle remains stationary while a machine moves back and forth over the vehicle to clean it, instead of the vehicle moving through the tunnel.

*Industrial or manufacturing property category:* Any property, which is used primarily for manufacturing or processing.

*Industrialized building:* Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site and has been manufactured in such a manner that not all parts or processes can be inspected at the installation site without disassembly, damage to, or destruction thereof. Industrialized buildings are constructed and regulated in accordance with the Industrialized Buildings Act, Georgia Law 1982 pp 1637—1643 (O.C.G.A. title 8, chapter 2, article 2, part 1).

*Innovator space:* Space in an existing or new building that is designed to support innovative design, fabrication and wholesale or retail sales of small articles that are unique in design and employ methods of low volume, high value-added production that employ innovative technology and/or artistic skill that are not hazardous or noxious.

*Institutional property category:* Any property which is used for institutional purposes.

*Institutional uses:* A nonprofit or quasi-public use, such as a religious institution, library, public or private school, hospital, or government owned or government operated structure or land used for public purpose.

*Invasive species:* Any species, including its seeds, spores or other biological material capable of propagating that species, that is not native to the Piedmont physiographic region and its related ecosystems; and whose introduction does or is likely to cause environmental harm.

*Junkyard:* A site where discarded products and materials are stored.

*Land development:* Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, clearing, grubbing, grading, paving, any other installation of impervious cover, excavation or drilling operations or storage of equipment or materials.

*Land development activities:* Those actions or activities, which comprise, facilitate or result in land development.

*Land disturbance:* Any land or vegetation change, including, but not limited to, clearing, grubbing, stripping, removal of vegetation, dredging, grading, excavating, transporting and filling of land.

*Land-disturbing activity:* Those actions or activities, which comprise, facilitate or result in land disturbance.

*Landfill:* A location that accepts solid waste for land disposal.

*Landing area:* That part of the airfield that is used or intended to be used for landing and takeoff of aircraft.

*Landscape plan:* A plan indicating the location, size, quantity and species of replacement trees and shrubbery.

*Landscape zone:* Area reserved for the growing and maintenance of landscape materials, including approved street trees and ground cover.

*Late night establishment:* Any establishment licensed to dispense alcoholic beverages for consumption on the premises where such establishment is open for use by patrons beyond 12:30 a.m.

*Level of service (LOS):* A quantitative and qualitative measure of how well traffic flows on a given street or highway. Level of service relates to such factors as highway width, number of lanes, percentage of trucks, total traffic volume, turning movements, lateral clearances, grades, sight distance, capacity in relation to volume, travel speed and other factors which affect the quality of flow. Level of service is typically summarized by letter grades described as follows:

- (1) Level "A" is a condition with low traffic volumes, high speeds and free-flow conditions.
- (2) Level "B" is a condition with light traffic volumes, minor speed restrictions and stable flow.
- (3) Level "C" is a condition with moderate traffic volumes, where speed and maneuvering are restricted to a limited degree by the amount of traffic.
- (4) Level "D" is a condition with heavy traffic operating at tolerable speeds, although temporary slowdowns in flow may occur.
- (5) Level "E" is a condition of very heavy flow and relatively low speeds. Under level "E" the traffic is unstable and short stoppage may occur.
- (6) Level "F" is a condition of extremely heavy flow, with frequent stoppage and very slow speeds. It is an unstable traffic condition under which traffic often comes to a complete halt.

*Litter:* Any organic or inorganic waste material, rubbish, refuse, garbage, trash, hulls, peelings, debris, grass, weeds, ashes, sand, gravel, slag, brickbats, metal, plastic, and glass containers, broken glass, dead animals or intentionally or unintentionally discarded materials of every kind and description which are not "waste" as such term is defined in O.C.G.A. § 16-7-51(6).

*Live-work unit:* A structure consisting of a commercial/office component and residential component that is occupied by the business owner or proprietor.

*Lot:* Land for which boundaries have been established by some legal instrument such as a recorded deed or a recorded map and which is recognized as a separate legal entity for purposes of transfer of title.

*Lot, corner:* A lot located at the intersection of two or more streets, provided that the interior angle formed by the intersection is less than 135 degrees.

*Lot depth:* The mean horizontal distance between front and rear lot lines.

*Lot, interior :* A lot with only one frontage on a street.

*Lot of record:* A lot, which is part of an approved subdivision, a plat of which has been recorded in the office of the clerk of the superior court of the county.

*Lot, through :* A lot that abuts two parallel streets or that abuts two streets that do not intersect at the boundaries of the lot.

*Lot width:* The distance between side lot lines measured at the minimum building setback line.

*Lowest floor:* The lowest floor of the lowest enclosed area, including basement. An unfinished or flood-resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor; provided that, such enclosure is not built so as to render the structure in violation of other provisions of this chapter.

*Mansard:* A steeply sloped, roof-like facade architecturally similar to a building wall.

*Manufactured home:* A building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term includes any structure commonly referred to as a "mobile home" regardless of the date of manufacture. The term also includes parked trailers, travel trailers and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

*Marquee:* A permanent roof-like structure or canopy of rigid materials supported by and extending from the facade of a building, designed and constructed to provide protection from the weather.

*Massage establishment:* See City of Chamblee Code of Ordinances, Chapter 22, "Business", Article VIII, "Massage and Spa Establishments", Section 22-301 "Definitions."

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

*Mezzanine:* One or more intermediate levels between the floor and ceiling of a story. A mezzanine is usually just above the ground or main floor and extending over only part of the main floor.

*Mixed-use development:* A tract of land or building or structure developed with two or more different uses.

*Mobile food unit:* Any motor vehicle or non-motorized cart used for the vending of food or beverage items to the public.

*Motel:* One or more buildings in which lodging or board and lodging are provided for transient guests for compensation. Ingress and egress to and from all rooms are made primarily directly from an exterior walkway rather than from an inside lobby.

*Muffler:* A sound-dissipative device or system for attenuating the sound of escaping gases of an internal combustion engine, where such a device is part of the normal configuration of the equipment.

*Multifamily building:* A building containing two or more dwelling units for rent, lease, or ownership.

*Multifamily development:* One or more buildings each of which contains two or more multifamily units.

*Multi-use path:* A path physically separated from motor vehicle traffic by a landscaped area or barrier within the street right-of-way or an independent easement. A multi-use path is used by several transportation modes, including bicyclists, pedestrians, joggers, skaters and other non-motorized travelers. Multi-use paths accommodate two-way travel.

*Municipality:* Any incorporated city within the State of Georgia.

*Nonconforming characteristics:* Characteristics of use, including but not limited to, off-street parking and loading, lighting, sidewalks, building design requirements, and similar matters pertaining to the use of land, structures, or combinations thereof, that lawfully existed prior to the adoption or amendment of the zoning ordinance and that are not in compliance, as adopted or amended, with the zoning ordinance.

*Nonconforming lot of record:* A lot that does not comply with the minimum size and dimensional requirements of the UDO but was lawfully established in accordance with former regulations of the City of Chamblee and DeKalb County prior to the adoption or amendment of the UDO making such lot noncompliant.

*Nonconforming situation:* A nonconforming lot of record, nonconforming use of land, nonconforming structure, nonconforming characteristic of use, or any combination thereof.

*Nonconforming structure:* A structure, including buildings, that lawfully existed prior to adoption or amendment of the zoning ordinance that could not be built under the current terms of the zoning ordinance by reason of restriction on size, lot coverage, height, yards, location on the lot, or other requirements of the zoning ordinance applicable to said structure.

*Nonconforming use:* A use of land, including unenclosed or partially enclosed uses, where such use was lawfully established but is no longer authorized in the zoning district in which it is located under the zoning ordinance or future amendments thereto.

*Nonresidential space:* Space that is not intended for residential occupancy, and not including uses that are accessory to residential uses located in the same building or development, such as a parking, storage, leasing office, or fitness room intended principally for use by such residential occupants.

*Nonresidential use:* A principal use other than a residential use, and not including uses that are accessory to residential uses. Nonresidential uses do not include space used for leasing offices, fitness centers, storage and similar uses when such space is within the same development with the residential units to which they are accessory.

*Nursing home:* Any building in which aged, chronically ill or incurable persons are housed and furnished with meals and nursing care for compensation.

*Open space:* Area set aside, designated or reserved for outdoor enjoyment preserved as natural areas, designed as a park or recreational area, or designed as a plaza, square, or similar open space type.

*Outdoor storage:* The keeping of personal or business property, bulk materials, and motorized equipment outdoors or in a required parking lot for a period exceeding 72 hours. The term "outdoor storage" does not apply to outdoor dining, seasonal sales and other vending that is otherwise authorized by city ordinances.

*Overlay district:* A zoning district that encompasses one or more underlying zoning districts and that varies certain restrictions required by the underlying zoning district to a greater or lesser degree.

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

*Parcel:* See Lot.

*Park:* All publicly maintained and accessible recreational areas.

*Parking lot or garage:* An area or building designated and designed for the temporary storage of motor vehicles.

*Parking space:* A marked or striped usable hard-surfaced area enclosed within a main or accessory building, or unenclosed, permanently reserved for the temporary storage of one vehicle.

*Pawn shop:* Any business that loans money on deposit of personal property or deals in the purchase or possession of personal property on condition of selling the same back again to the pledger or depositor, or loans or advances money on personal property by taking chattel mortgage security thereon, and takes or receives such personal property.

*Permit:* The permit issued by the city to the applicant, which is required prior to undertaking any development or building activity.

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

*Personal care home:* A building(s) in which housing, meals, and twenty-four-hour continuous watchful oversight for adults are provided and which facility is licensed or permitted as a personal care home by the State of Georgia. The term "personal care home" shall not include a "child caring institution," "transitional housing," a "rehabilitation housing facility," a "rooming house" or a "boardinghouse." "Personal care home" includes a "community living arrangement," which is an establishment licensed by the state and providing a residence for adults receiving care for mental health, development disabilities and/or addictive diseases.

*Personal care home, community:* A personal care home that offers care to seven (7) or more persons.

*Personal care home, group:* A personal care home that offers care to four (4) to six (6) persons.

*Pervious:* Any surface or element which substantially allows water to infiltrate directly into the ground.

*Pervious paving:* Any paving surface that presents a substantial opportunity for precipitation to infiltrate or percolate directly into the ground.

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

*Place of worship:* A building where persons regularly assemble for religious purposes and related social events and which is maintained and controlled by a religious body organized to sustain religious ceremonies and purposes.

*Planned center:* A building or group of buildings occupied by two or more retail stores, service establishments, offices, industries or any other businesses that do not share common space, which is located on a property that is in common ownership or condominium ownership. Buildings that are occupied by one or more businesses that share internal common space, such as, but not limited to, a branch bank in a grocery store, a fast-food restaurant in a merchandise store, or booths in a flea market, are not considered planned centers.

*Planned unit development:* A parcel of land or combination of parcels under control by a single, corporation, firm, partnership, or association, planned and developed as an integral unit, in a single development operation, or a definitively programmed series of development operations and according to a development plan approved by a zoning amendment.

*Plat:* A map or plan of a parcel of land which is to be, or has been, subdivided.

*Premises:* Any building, lot, parcel of land, or portion of land whether improved, or unimproved including adjacent sidewalks and parking strips.

*Principal building:* A building in which is conducted the principal permitted use(s) of the lot on which said building is situated.

*Private:* Property or stormwater conveyances owned by individuals, corporations, and other organizations and not by city, county, state or federal governments.

*Private deed restrictions or covenants:* Private deed restrictions or covenants are imposed on land by private landowners. They bind and restrict the land in the hands of the present owners and subsequent purchasers. They are enforced only by the landowners involved and not by any city or other public agency.

*Private street:* An undedicated, paved roadway that provides access to abutting properties within a development and is not owned, leased, or controlled by a governmental entity.

*Produce:* Agricultural products especially fruits, vegetables, herbs and flowers that have been grown, raised, foraged or otherwise produced. Home-processed meat and poultry or custom-processed meat and poultry, including wild game are expressly excluded from this definition.

*Project:* The entire proposed development project.

*Public:* The term "public," when used as a modifier for such words as building, park, right-of-way, and similar words, shall mean "government-owned" or "government-operated."

*Public authority:* Any member of a governing authority, any housing authority officer, or any officer who is in charge of any department or branch of the government of the municipality, county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county or municipality.

*Public officer:* The officer who is authorized by O.C.G.A. § 41-2-7, this Code section, and O.C.G.A. §§ 41-2-9—41-2-17 and by ordinances adopted under O.C.G.A. § 41-2-7, this Code section, and O.C.G.A. §§ 41-2-9—41-2-17, to exercise the powers prescribed by such ordinances or any agent of such officer or officers.



*Qualified professional:* For purposes of conducting traffic impact studies as may be required by this article, a qualified professional shall mean a registered professional engineer with experience in traffic engineering. For purposes of conducting peak hour trip generation studies, a qualified professional shall mean a registered professional engineer with experience in traffic engineering, or another professional approved by Planning and Development Department staff based on education and experience to conduct such trip generation studies.

*Recreation area or park:* An area of land or combination of land and water resources for public use that is developed for active and/or passive recreational pursuits with various manmade features that accommodate such activities. Such areas shall be designed in the form of playgrounds, parks, squares, greenbelts and parkways. They shall be designed to serve the immediate neighborhood in which they are located, or can be regional in scope, serving several neighborhoods (see "Open space").

*Recreational vehicle:* A vehicle, which is:

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

*Recycled water system:* A water system that captures and reuses water previously used in wash or rinse cycles of a car wash.

*Regulation:* Any regulation, rule, development standard, or other requirement prepared by the department and adopted by the governing body pursuant to the requirements of this UDO.

*Remodel:* Altering or improving a dwelling, building or structure and the cleaning or removal of debris, trash, and other materials present and accumulated which create a health or safety hazard in or about any dwelling, building or structure.

*Residential property:* All property used for single-family detached, single-family attached, or multifamily residences, or mixed-use development that contains one or more dwelling units.

*Residential zoning district:* Those zoning districts that have residential uses as the primary use (NR-1, NR-2, NR-3 and VR zoning districts).

*Restaurant, drive-through:* Any eating establishment where the primary activity is oriented toward use by the motoring public by providing curbside, carryout, pick-up and other related services.

*Retaining wall:* A structure constructed and erected between lands of different elevations to protect structures and/or to prevent erosion.

*Rooming house:* See *Boarding house*.

*Seasonal activity:* Seasonal activities generally refer to private or nonprofit events of community interest including carnivals, health fairs and holiday fairs.

*Self-service car wash:* A commercial car wash where the customers wash their cars themselves with spray wands and brushes.

*Self-storage, climate-controlled:* A development of one or more enclosed structures providing individually accessible compartments each of which is leased to the general public for the purpose of storing non-hazardous personal property and not used for residential occupancy, business operation, storage of commercial or industrial inventory or operation of machinery in a climate-controlled building.

*Self-storage facility:* A development of one or more enclosed structures providing individually accessible compartments each of which is leased to the general public for the purpose of storing non-hazardous personal property and not used for residential occupancy, business operation, storage of commercial or industrial inventory or operation of machinery.

*Setback:* The distance in feet, that development must remain away from property lines.

*Shopping center:* A group of commercial establishments having a building composition that is an architectural unit and is not a miscellaneous assemblage of stores; planned, developed, analyzed as a unit, related in location, and providing on-site parking in definite relationship to the types and sizes of stores.

*Short-term rental:* A dwelling unit or portion thereof offered for rent for a period of no more than 30 consecutive days to any person other than a member of the owner's family, not including hotels, motels, boarding house, or bed and breakfasts.

*Sign:* Any structure, display, or device that is used to advertise, identify, direct, or attract attention to a business, institution, organization, person, idea, product, service, event, or location by any means, including words, letters, figures, design characteristics, symbols, logos, fixtures, colors, movement or illumination. All sign definitions predominantly used in Chapter 260 are included in Chapter 260.

*Solar energy system (SES):* The components and subsystems required to convert solar energy into electric or thermal energy suitable for use on-site or off-site. The term applies to, but is not limited to, solar photovoltaic (PV) systems, solar thermal systems, and solar hot water systems. The term includes the related transformers, substations, and other equipment, buildings and equipment on the same site that are needed to operate the system and deliver power to the intended use or user.

*Solar energy system, accessory:* Any of the following components present on the same parcel with a principal use such as a residence, business, industry or public building:

- (1) Roof-mounted on any code-compliant building, including a parking structure;
- (2) Solar energy system integrated into the form or materials of a code-compliant building (shingle, hanging solar, canopy, etc.); or
- (3) Ground-mounted on an area of up to 50 percent of the footprint of the primary structure on the parcel but no more than one acre, including SES covering some or all of a surface parking lot or other hardscape area.

*Solar energy systems, principal:* A ground-mounted system that is the principal use on the site and not considered an accessory solar energy system.

*Sport shooting range:* An area designated and operated by a person or persons for the sport shooting of firearms and not available for such use by the general public without payment of a fee, dues, membership contribution or by invitation of an authorized person, or any area so designated and operated by a unit of government, regardless of the terms of admission thereto.

*Story:* A part of a building included between the surface of one floor and the surface of the floor above or, if there is no floor above, that part of the building, which is between the surface of the floor and the ceiling next above.

*Street, public:* An accepted right-of-way or public access easement, which affords access to abutting property.

*Street right-of-way line:* The dividing line between a lot, tract, or parcel of land and a street.

*Streetscape:* The appearance or view of a street, made up of the combination of the adjacent land uses, public and semi-public space along a street, and design element that make the street a dynamic and inviting space to the user. Design elements include how the paved area is laid out and treated, landscaping, and the fixtures that facilitate its use, such as sidewalks, street trees, lighting, benches and bus shelters.

*Structure:* Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on the ground.

*Structure, as used in Section 220-1 Runway Protection Zone Overlay District:* An object constructed or installed above the ground.

*Subdivision:* The division of a tract or parcel of land resulting in one or more new lots or building sites.

*Tasting room:* A use associated with and on the same premises as a brewery or distillery, at which guests may sample the manufacturer's products.

*Tattoo parlor:* Establishments that provide services, which create an indelible mark or figure, fixed upon the body by insertion of pigment under the skin or by production of scars.

*Temporary outdoor sales:* Non-permanent outdoor retail sales and services such as markets or sidewalk sales.

*Temporary storage container:* A portable structure for the temporary storage of household goods and materials.

*Temporary structure:* A structure without any foundation or footing that is removed when the designated time period, activity, or use for which the temporary structure was erected has ceased.

*Tenant:* A natural person, business or other entity that occupies land or buildings by ownership, under a lease, or through payment of rent; an occupant, inhabitant or dweller of a place.

*Tenant frontage:* The horizontal distance in feet between sidewalks or building end wall of a tenant space fronting on a street.

*Tent:* A structure, enclosure or shelter constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.

*Tobacco products shop:* A retail establishment that derives more than 90 percent of its gross revenue from the sale of loose tobacco, plants, or herbs and cigars, cigarettes, pipes, and other smoking devices for burning tobacco and related smoking accessories and in which the sale of other products is merely incidental. Tobacco products shops shall include sales received from use of hookah pipes and sales of electronic cigarettes (e-cigarettes).

*Tourist home:* See *Bed and breakfast*.

*Townhouse:* See *Dwelling, single-family attached*.

*Traffic impact study:* An analysis and assessment, conducted by a qualified professional, that assesses the effects that a discretionary development proposal's traffic will have on the transportation network in a community or portion thereof. Traffic impact studies vary in their range of detail and complexity depending on the type, size and location of the proposed development.

*Use:* The purpose, for which land, premises or a building thereon is designated, arranged or intended, or for which it is or may be occupied, used or maintained.

- (1) *Accessory use:* A use of land or building or structure or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use.
- (2) *Permitted use:* A use which is lawfully established in a particular zoning district or zoning districts and which conforms to all requirements, regulations and performance standards of such district. A permitted use may be a principal use or an accessory use.
- (3) *Principal use:* A primary or predominant use of the subject lot.
- (4) *Supplemental use:* Permitted use that has additional requirements.

*Value-added agricultural products:* Raw agricultural product to which value has been added by taking such product to, at least, the next state of production. This includes, but is not limited to, packaging, processing, cooking, churning, culturing, grinding, hulling, extracting, drying, smoking, handcrafting, spinning and weaving. Examples include honey, jams, jellies, baskets, wreaths and soaps.

*Variance:* A modification of the specific provisions of Title 1 or Title 2 of this UDO granted when strict enforcement of the title would cause undue hardship owing to circumstances unique to the individual property on which the variance is granted.

*Waiver:* A modification of the specific provisions of Title 3 of this UDO granted when strict enforcement of the title would cause undue hardship owing to circumstances unique to the individual property on which the waiver is granted.

*Yard:* That area of a lot between the principal building and adjoining lot lines, open, unoccupied and unobstructed by any portion of a structure from the ground upward, except where encroachments and accessory buildings are expressly permitted herein.

- (1) *Front yard:* An open, unoccupied space on the same lot with a principal building, extending across the full width of the lot between side lot lines and being that area situated between the front lot line and the line established by the front wall or walls of the principal structure projected to intersect the side lot lines. Through lots shall provide front yards for each lot line with street frontage.
- (2) *Rear yard:* An open, unoccupied space on the same lot with a principal building, extending across lots between side lot lines and between the rear wall or walls of the principal structure and the rear lot line. On corner lots, the space that is between the side of the house and the street side lot line is not considered to be part of the rear yard. On a pie shaped lot, the rear yard extends in an arc equal to the required rear yard setback from a point where the two side lot lines meet.
- (3) *Side yard:* An open, unoccupied space on the same lot with a principal building, extending between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.
- (4) *Street side yard:* On corner lots, the street side yard shall extend from the rear line of the front yard to the rear lot line along the street.

(Ord. No. [743](#), 12-19-17; Ord. No. [748](#), 3-20-18; Ord. No. [757](#), 12-18-18)

#### CHAPTER 120. - ENFORCEMENT AND PENALTIES

##### Section 120-1. - Violations of this Unified Development Ordinance.

- (a) All uses of land, buildings or structures shall be completed in accordance with approved zoning, development plans and permits, including any conditions attached thereto. The building inspector shall make periodic field inspections as required. When a violation is found to exist while an existing development plan or permit is in effect, the building inspector shall proceed with notice as prescribed in section 120-4. No certificate of occupancy or completion shall be issued unless all on-site improvements, landscaping, and exterior building facades are completed in accordance with the approved development plans and permits, unless a performance bond in accordance with Section 300-27 is submitted and approved. Once development has been completed, action taken to secure compliance with the UDO shall proceed under section 120-2.
- (b) The Planning and Development Director shall order discontinuance of illegal use of land, buildings or structures or of illegal additions, alterations or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this Unified Development Ordinance (UDO) to ensure compliance with or to prevent violation of its provisions. If it is found that any of the provisions of this UDO are being violated, the Planning and Development Director shall notify in writing the person responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it.
- (c) Any person, firm, or corporation violating any provision of this UDO shall be guilty of an offense and, upon conviction, shall be fined as prescribed in the City Charter. Each day, such violation continues may constitute a separate offense.
- (d) The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person, who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

- (e) Nothing herein contained shall prevent the City from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

Section 120-2. - Inspection and right of entry.

- (a) Upon presentation of City identification to the developer, contractor, owner, owner's agent, operator or occupants, City employees authorized by the Planning and Development Director shall be permitted to enter during all reasonable hours, or outside reasonable hours in the event of any emergency threatening life or property, any public or private property for the purpose of making inspections to determine compliance with the provisions of this UDO during the open period of any development plan or permit.
- (b) Upon presentation of City identification to the developer, contractor, owner, owner's agent, operator or occupants, City employees authorized by the Planning and Development Director may seek to enter, during all reasonable hours, or outside reasonable hours in the event of any emergency threatening life or property, any public or private property for the purpose of making inspections to determine compliance with the provisions of this UDO following issuance of a Certificate of Occupancy. Where consent is not given to entry, such City employees may seek a warrant pursuant to section 120-3 to secure entry to the premises.
- (c) If a property or facility has security measures in force, which require proper identification and clearance before entry into its premises, the owner or operator shall make the necessary arrangements to allow access to the Planning and Development Director.
- (d) The owner or operator shall allow the Planning and Development Director ready access to all parts of the premises for the purposes of inspection, investigation, observation, monitoring, measurement, recording, enforcement, sampling and testing, photography and videotaping for ensuring compliance with the provisions of this UDO. The owner or operator shall allow the Planning and Development Director to examine and copy any records that are required under the conditions of any permit granted under this UDO.
- (e) The Planning and Development Director shall have the right to set up on any premises, property or facility such devices as are necessary to conduct any monitoring and/or sampling procedures.
- (f) The Planning and Development Director may require the owner or operator to install monitoring equipment and perform monitoring as necessary, and make the monitoring data available to the Department. The owner shall maintain this sampling and monitoring equipment at all times in a safe and proper operating condition or operator at his/her own expense.
- (g) Any temporary or permanent obstruction to safe and easy access to the premises, property or facility to be inspected and/or sampled shall be promptly removed by the owner or operator at the written or oral request of the Planning and Development Director and shall not be replaced. The costs of clearing such access shall be borne by the owner or operator.
- (h) Unreasonable delays in allowing the Planning and Development Director access to a facility, property or premises shall constitute a violation of this UDO.
- (i) If the Planning and Development Director has been refused access to any part of a premises, property, or facility and the Planning and Development Director is able to demonstrate probable cause to believe that there may be a violation of this UDO, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program designed to verify compliance with this UDO or any order issued hereunder, or to protect the overall public health, safety, environment and welfare of the community, then the Planning and Development Department may seek issuance of an inspection warrant from the municipal court.
- (j) The Planning and Development Director may determine inspection schedules necessary to enforce the provisions of this UDO.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

Section 120-3. - Inspection warrants.

- (a) The department, in addition to other procedures provided, may obtain an inspection warrant for the purpose of inspection or investigation of conditions relating to the enforcement of this UDO or observation, measurement, sampling or testing with respect to the provisions of this UDO.
  - (1) Inspection warrants may be issued by the municipal court when the issuing judge is satisfied that the department has established by oath or affirmation that the property to be inspected is to be inspected as a part of a legally authorized program of inspection that includes the property or that there is probable cause for believing that there is a condition, object, activity, or circumstance which legally justifies such an inspection of the property.
  - (2) An inspection warrant will be issued only if it meets the following requirements:
    - a. The warrant is attached to the affidavit required to be made in order to obtain the warrant;
    - b. The warrant describes, either directly or by reference to the affidavit, the property upon which the inspection is to occur and is sufficiently accurate that the executor of the warrant and the owner or occupant of the property or discharger can reasonably determine from it the property for which the warrant authorizes an inspection;
    - c. The warrant indicates the conditions, objects, activities or circumstances which the inspection is intended to check or reveal; and
    - d. The warrant refers, in general terms, to the code provisions sought to be enforced.

(Ord. No. [743](#), 12-19-17)

Section 120-4. - Notice of violation.

- (a) If the Planning and Development Director determines that any violation of this UDO is taking place, or that a condition of rezoning, DCI, variance, or other permit or administrative approvals are not complied with, the Planning and Development Director shall present to the owner, owner's agent, occupier, or party responsible for such use or activity, a notice of violation and order the use or activity to cease immediately.
- (b) The notice shall at least contain the following information:
  - (1) The name and address of the owner or responsible person;
  - (2) The address or other description of the site upon which the violation is occurring;
  - (3) A description of the nature of the violation;
  - (4) A description of the remedial actions or measures necessary to bring an action or inaction into compliance with a permit, approved plan or this UDO;
  - (5) The deadline or completion date of any such remedial actions or measures, to consist of not less than ten days, except that in the event the violation constitutes an immediate danger to public health or public safety, 24 hours' notice shall be sufficient; and
  - (6) A statement of the penalty or penalties that may be assessed against the owner or responsible person to whom the Notice of Violation is directed.
- (c) If the violation has not been corrected within a reasonable length of time, as noticed in the violation, the owner of the property on which such violation has occurred or the owner's agent, occupier, or other party responsible for the violation shall be subject to the penalties set forth in this chapter, provided that either the Planning and Development Director or his or her designee may, at his/her discretion, extend the time for compliance with any such notice.

- (d) The Planning and Development Director or his or her designee also shall have authority to issue a warning notice prior to issuance of a notice of violation. A warning notice shall be discretionary when circumstances warrant such action in the opinion of the Planning and Development Director and shall under no circumstances be required prior to issuance of a notice of violation or other enforcement action. If issued, a warning notice shall include all of the requirements set forth in subsection 120-4(b). If a warning notice has not resulted in corrective action within the time specified in the notice, or within any time limit as extended by the Planning and Development Director, the Planning and Development Director may proceed with a notice of violation or other authorized enforcement action.
- (e) Appeals of Notices of Violation shall be made pursuant to the process outlined in Chapter 280, Article 6.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

#### Section 120-5. - Stop Work Orders and revocations.

The Planning and Development Director may issue a Stop Work Order, which shall be served on the applicant or other responsible person. The Stop Work Order shall remain in effect until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violation or violations described therein, provided the Stop Work Order may be withdrawn or modified to enable the applicant or other responsible person to take necessary remedial measures to cure such violation or violations.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

#### Section 120-6. - Other enforcement.

In the event the remedial measures described in the notice of violation have not been completed by the date set forth for such completion in the notice of violation (see Section 120-4), any one or more of the following actions may be taken against the person to whom the notice of violation was directed. Before taking any of the following actions, the Planning and Development Department shall first notify the applicant or other responsible person in writing of its intended action as provided in Section 120-4. In the event the applicant or other responsible person fails to cure such violation after such notice and cure period, the Planning and Development Department may take any one or more of the following actions or impose any one or more of the penalties provided in Section 120-7:

- (1) *Withhold certificate of occupancy/completion.* The Planning and Development Department may refuse to issue a certificate of occupancy/completion for the building or other improvements constructed or being constructed on the site until the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein.
- (2) *Suspension, revocation or modification of permit.* The Planning and Development Department may suspend, revoke or modify the permit authorizing the project. A suspended, revoked or modified permit may be reinstated after the applicant or other responsible person has taken the remedial measures set forth in the notice of violation or has otherwise cured the violations described therein, provided such permit may be reinstated (upon such conditions as the Planning and Development Department may deem necessary) to enable the applicant or other responsible person to take the necessary remedial measures to cure such violations.

(Ord. No. [743](#), 12-19-17; Ord. No. [757](#), 12-18-18)

#### Section 120-7. - Penalties for violations.

- (a) *Civil penalties.* Where authorized by statute, in the event the applicant or other responsible person fails to take the remedial measures set forth in the notice of violation or otherwise fails to cure the violations described by the specified deadline or completion date, the City may impose a penalty not to exceed \$1,000.00 (for each day the violation is not remedied after the specified deadline or completion date).
- (b) *Criminal penalties.* The Police Department or Code Enforcement Officer may issue a citation to the applicant or other responsible person, requiring such person to appear in the municipal court of the City to answer charges for such violation. Upon conviction, a fine not to exceed \$1,000.00 or imprisonment for 60 days or both shall punish such person. Each act of violation and each day upon which any violation shall occur shall constitute a separate offense.

(Ord. No. [743](#), 12-19-17)

Section 120-8. - Judicial review.

All final decisions of the City concerning denial, approval or conditional approval of a permit shall be reviewable in DeKalb County Superior Court. Based on these proceedings and the decision of the court, the City may, within the time specified by the court, elect to:

- (1) Approve the permit application with lesser restrictions or conditions (i.e., grant a variance); or
- (2) Institute other appropriate actions ordered by the court that fall within the jurisdiction of the City.

(Ord. No. [743](#), 12-19-17)

Section 120-9. - Pre-application conference.

- (a) Applications to take the following actions shall not be submitted or accepted by the City until a pre-application meeting is held:
  - (1) Amend the future development map (FDM);
  - (2) Amend the zoning map (Rezoning);
  - (3) Vary or waive the terms of Title 2 or 3 of this UDO (Variance or Waiver);
  - (4) Permit a Development of Community Impact (DCI);
  - (5) Subdivide Land (Subdivision);
  - (6) Any other waiver or request requiring review and approval of the City Council;
  - (7) Any other application deemed necessary by the Planning and Development Director based on the scale and scope of the project.
- (b) The purpose of the pre-application meeting shall be to assist in the applicant's understanding of this UDO and its requirements; to educate the applicant on community design policies and standards; and to inform the applicant of all necessary application materials required by this UDO. No final decision on the application or assurances that a particular proposal will be approved shall be made.
- (c) The applicant shall present concept plans and an application to the Planning and Development Director that demonstrate how the pending application adheres to the requirements of this UDO.

(Ord. No. [743](#), 12-19-17; Ord. No. [748](#), 3-20-18; Ord. No. [757](#), 12-18-18)