

## **ARTICLE IX CONDITIONS APPLIED TO SPECIFIC USES**

**9.0 Purpose:** Where it has been determined that some uses contained within this ordinance may cause impacts to adjacent properties, public utilities, or require specific administrations, the following requirements shall apply to inherently allowed or conditional use permits. The following requirements shall apply to all zoning districts.

### **9.1 Residential Districts and Developments.**

The following requirements shall apply to residential districts and developments. All developments and residential construction shall meet or exceed the following requirements.

#### **9.1.0 Requirements for Accessory Buildings, Fences, and Ancillary Uses.**

- A. All swimming pools, associated decking and fencing shall have a setback of 5 feet from any property line or shall be no closer to any side property line than the residential structure, whichever is greater.
- B. The minimum setbacks of accessory structures other than those listed in this section shall be equal to the minimum side yard setback applicable to the zoning district. For P.U.D., the setback shall equal the side yard requirement indicated on the final plat. No accessory structure shall be permitted in the front yard of a residential lot.
- C. For all residential lots, no opaque fence and wall greater than 3 feet in height shall be allowed in front of a structure between the front building wall and a public or private street right-of-way.
- D. For all residential lots, no opaque fence or wall greater than 3 feet in height shall be permitted within 20 feet of the intersection of the right-of-way lines of streets, roads, highways or railroads. This shall apply to both public and private streets.

#### **9.1.1 Requirements for attached single-family dwellings or Townhouses in all zoning classifications.**

- A. No more than ten (10) or fewer than three (3) contiguous townhouses shall be built in a row.
- B. Rear entry, two car garages served by an alleyway located to the rear of the principal structure shall be required for each unit.
- C. All attached, single-family units shall have access from an internal local street. No unit or lot shall have direct automotive access to a collector or arterial street.
- D. Minimum lot width is 30 feet.
- E. Yard requirements and building setbacks shall be 10 feet for the front yard, 20 feet for the rear yard, and 20 feet for the side yard on such lots that lay at a corner of intersecting streets. All detached buildings shall have a minimum separation of 20 feet.
- F. All streets in a development containing attached single-family dwelling units shall have an additional seven (7) feet of right-of way and pavement width in addition to the minimum requirements set forth in Article XV for each side of the street that abuts lots containing such dwelling units. Within this additional pavement width, an on-street parking lane shall be designated.

### **9.1.2 Requirements for all Multi-family Districts.**

- A. All multi-family development shall preserve at least 20% of the total parcel in open space.
- B. All accessory structures shall be located no less than 5 feet from any side or rear property line.
- C. All accessory structures shall be located to the rear of the dwelling structure or to the side. In the case of a corner lot, the dwelling shall be located on a side or rear yard, but not between the dwelling and the right-of-way.
- D. All multi-dwelling units or attached single-family units in which individual parking is provided must be able to accommodate 2 vehicles per unit.
- E. No more than 10 or fewer than 3 contiguous townhouses shall be built in a row with approximately the same front line. The offset between each unit shall be at least 3 feet.
- F. No side yard is required except that on corner and interior lots, the building shall conform to the side yard setbacks of that district.
- G. No more than 50% of the total lot area shall be occupied by buildings.
- H. All multi-family developments shall be required to connect to sanitary sewer.
- I. Parking for multi-family developments shall be clustered as close to the applicable buildings as possible but shall not be located more than 100 feet away.

### **9.1.3 Residential Amenity Sites**

Amenity sites for single family and multi-family developments shall meet the following standards. Development proposals and site plans shall be reviewed and approved by the Town of Braselton staff either with the preliminary plat or through development review.

- A. Any amenity site shall be located on a parcel within the development in which it is to serve.
- B. All improvements shall be located entirely within the amenity site parcel.
- C. Easements to and from the amenity site through private property can shall be allowed provided that easements are indicated on the final plat of the subdivision or development.
- D. Any amenity site must be identified on the final plat for the subdivision prior to it being recorded. Should a site be identified after final plat is recorded, all adjacent property owners must be served notice through registered mail that an amenity site is proposed on the adjacent parcel or lot. Copies of said notifications shall be submitted to the Planning Director prior to approval of the amenity development permit. An amended final plat shall be approved by the Planning Director and recorded indicating the amenity site and adjacent parcels.
- E. Design Standards:
  - 1. Any covered structure shall meet the applicable setbacks for the development and zone in which it is located.
  - 2. All driveways and vehicular access drives shall access from a right-of-way located within the development.
  - 3. Parking and driveway surfaces shall be provided with the exception that gravel, pervious surface, or a similar dust-free material may be provided for 50% of the parking area.
  - 4. Parking requirements shall be 1 space for every 10 residential units unless otherwise interpreted by the Planning Director that less or possibly more may be more suitable for a particular development.
  - 5. 10 foot buffers consisting of an 8 foot high fencing along the property line and buffer vegetation (evergreen materials typically used for buffer materials) shall be located on amenity sites in which the adjacent parcel has been developed

with a dwelling unit. Where there is no adjacent dwelling unit, buffer materials are not required.

6. Where the amenity site is adjacent to a right-of-way that not internal to the development, a buffer (#5. above) shall be established along that property line(s) adjacent to the right-of-way.
7. At least 25% of the amenity site must remain in open space, not including wood decking, sidewalk, or parking area.

#### **9.1.4 Residential Guest House**

In residential and O-I zones, guest houses shall be permitted with the following requirements:

- A. The guest house must be an accessory use to the primary residential dwelling on the property.
- B. The guest house shall not be larger in heated floor space than the primary residence.
- C. The guest house may not be located on property having less than 15,000 square feet in area.
- D. The guest house must be located to the rear of the primary residence. No side yard guest houses may be allowed.

#### **9.1.5 Residential Yard Sale**

Yard sales shall be defined as the sale of household items by an individual or by a group of residents combining such items for sale within a neighborhood. Yard sales shall take place on the property in which the resident lives or within the neighborhood if it is a group event. No single or group yard sale shall take place more than 4 times a year and shall last no more than 3 days. All items for sale must be the property of those holding the sale. Vehicles not registered in the holder's name shall not be offered for sale during a yard sale.

#### **9.1.6 Standards for Conservation Subdivisions**

##### **A. Purpose and Intent.**

The Conservation Subdivision represents an alternative standard for residential development of major subdivisions within the R-I, R-II, and R-III districts. In order to minimize land disturbance and allow for greater preservation of greenspace, the clustering of structures into smaller lots may be allowed in order to achieve the normal maximum gross density allowed in a conventional R-I, R-II and R-III zoned subdivision. The objectives of the Conservation Subdivision regulations are:

1. To preserve the rural character through the permanent preservation of greenspace;
2. to allow for greater flexibility and creativity in the design of residential development;
3. to encourage a less sprawling form of development; to reduce infrastructure cost and needs by facilitating the construction of streets and public utilities in a more economical manner; to reduce soil erosion and sedimentation by minimizing land disturbance and removal of vegetation;
4. to preserve greenspace and unique or sensitive natural and historic resources such as streams, flood plains, wetlands, steep slopes, woodlands, and unique topography;
5. To promote interconnected greenways and corridors throughout the Town;
6. to preserve scenic views and reduction of perceived density by maximizing the number of houses with direct access to and views of greenspace;

7. to promote the construction of sidewalks, walking trails and bike paths both within the subdivision and connected to neighboring communities and businesses to promote pedestrian friendliness and reduce reliance on automobiles.

**B. General Regulations.**

1. The minimum gross tract area for a subdivision in a conservation category shall be no less than twenty-five (25) acres.
2. A Conservation Subdivision is allowable by right in an R-I, R-II, and R-III district provided that all requirements of this section and all other applicable sections of this ordinance are met.
3. No land disturbance or development permit shall be issued for a Conservation Subdivision until the Conservation Subdivision Concept Plan is approved by Mayor and Council. All future preliminary plats and development plans for the property shall conform to the approved Concept Plan notwithstanding any transfer of ownership interest or phasing of the project. Any party who subsequently desires to deviate from the approved Concept Plan shall be required to file for an Amendment of said Concept Plan that shall require approval by Mayor and Council.

**C. Housing Density Determination.** The maximum number of lots in the Conservation Subdivision shall be determined by either of the following two methods, at the discretion of the local jurisdiction:

1. Calculation: The maximum number of lots is determined by dividing the area of the tract of land by the minimum lot size specified in the underlying zoning. In making this calculation, the following shall not be included in the total area of the parcel:
  - a. slopes over 25 percent of at least 5,000 square feet contiguous area;
  - b. the 100-year floodplain;
  - c. bodies of open water over 5,000 square feet contiguous area;
  - d. wetlands that meet the definition of the Army Corps of Engineers pursuant to the Clean Water Act; or,
  - e. anticipated right-of-way needs for roads and utilities.
2. Yield Plan: The maximum number of lots is based on a conventional subdivision design plan, prepared by the applicant, in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site design plan, but the design must be capable of being constructed given site features and all applicable regulations.
3. There is no minimum lot size in a conservation subdivision. Minimum yard and building setback requirements are required as set forth in Section 8.3 of the Braselton Development Code

**D. Greenspace Requirements.**

1. Definition. Greenspace is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the Open

Space are restricted in perpetuity through the use of an approved legal instrument.

2. Standards to Determine Greenspace.

a. The minimum restricted Greenspace shall comprise at least 40% of the gross tract area.

b. The following are considered Primary Conservation Areas and are required to be included within the Greenspace. Primary Conservation Areas may not count towards more than 50% (20% of the gross tract area) of the minimum greenspace requirement:

- (1) The regulatory 100-year floodplain;
- (2) Buffer zones of at least 75 ft width along all perennial and intermittent streams;
- (3) Slopes above 25 percent of at least 5,000 square feet contiguous area;
- (4) Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act;
- (5) Populations of endangered or threatened species, or habitat for such species; and,
- (6) Archaeological sites, cemeteries and burial grounds.

c. The following are considered Secondary Conservation Areas and should be included within the Greenspace to the maximum extent feasible.

- (1) Important historic sites;
- (2) Existing healthy, native forests of at least one-acre contiguous area;
- (3) Individual existing healthy trees greater than 8 inches caliper, as measured from their outermost drip line;
- (4) Other significant natural features and scenic viewsheds such as ridge lines, peaks and rock outcroppings, particularly those that can be seen from public roads;
- (5) Prime agricultural lands of at least five acres contiguous area; and,
- (6) Existing trails that connect the tract to neighboring areas.

d. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected Greenspace but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the Greenspace.

e. At least 75 percent of the Greenspace shall be in a contiguous tract. The Open Space should adjoin any neighboring areas of Open Space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected Open Space.

- f. The Greenspace shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the Open Space.
3. Permitted Uses of Greenspace. Uses of Open Space may include the following:
  - a. Conservation of natural, archeological or historical resources;
  - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas;
  - c. Walking or bicycle trails, provided they are constructed of porous paving materials;
  - d. Passive recreation areas;
  - e. Active recreation areas, provided that they are limited to no more than 10 percent of the total Open Space and are not located within Primary Conservation Areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected Open Space;
  - f. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts, and such activities are not conducted within Primary Conservation Areas;
  - g. Nonstructural stormwater management practices;
  - h. Easements for natural drainage courses, access, and underground utility lines; or
  - i. Other conservation-oriented uses compatible with the purposes of this ordinance.
4. Prohibited uses of Open Space
  - a. Golf courses;
  - b. Roads, parking lots and impervious surfaces, except as specifically authorized in the previous sections;
  - c. Agricultural and forestry activities not conducted according to accepted Best Management Practices; and,
  - d. Other activities as determined by the Applicant and recorded on the legal instrument providing for permanent protection.
  - e. Man-made stormwater detention facilities; and
  - f. Above ground utilities.
5. Ownership and Management of Open Space
  - a. The applicant must identify the owner of the Open Space who is responsible for maintaining the Open Space and facilities located thereon. If a Homeowners Association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a Homeowners Association is the owner, the Homeowners' Association shall have lien authority to ensure the collection of dues from all members. The responsibility for maintaining the Open Space and any facilities located thereon shall be borne by the owner.

b. Management Plan. Applicant shall submit a Plan for Management of Open Space and Common Facilities (“Plan”) that:

- (1) allocates responsibility and guidelines for the maintenance and operation of the Open Space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements;
- (2) estimates the costs and staffing requirements needed for maintenance and operation of, and insurance for, the Open Space and outlines the means by which such funding will be obtained or provided;
- (3) provides that any changes to the Plan be approved by the Board of Commissioners; and,
- (4) provides for enforcement of the Plan.

c. In the event the party responsible for maintenance of the Open Space fails to maintain all or any portion in reasonable order and condition, The Town may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, Homeowner’s Association, or to the individual property owners that make up the Homeowner’s Association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

## 6. Legal Instrument for Permanent Protection

a. The Open Space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

- (1) A permanent conservation easement in favor of either : (i) a land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence and the conveyance instruments shall contain an appropriate provision for retransfer in the event the organization becomes unable to carry out its functions; or (ii) a governmental entity with an interest in pursuing goals compatible with the purposes of this ordinance. If the entity accepting the easement is not The Town then a third right of enforcement favoring The Town shall be included in the easement;
- (2) A permanent restrictive covenant for conservation purposes in favor of a governmental entity; or,
- (3) An equivalent legal tool that provides permanent protection, if approved by [the jurisdiction].

b. The instrument for permanent protection shall include clear restrictions on the use of the Open Space. These restrictions shall include all restrictions contained in this article, as well as any further restrictions the Applicant chooses to place on the use of the Open Space.

## **G. Application Requirements -**

1. Site Analysis Map Required - Concurrent with the submission of a subdivision concept plan, the applicant shall prepare and submit a site analysis map. The site analysis map shall show the property in its natural state before any subdivision of property or development is to occur. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design, and that the proposed greenspace will meet the requirements of this section. The site analysis map shall include the following features if applicable:
  - a. Property boundaries;
  - b. All streams, lakes, wetlands and other hydrologic features;
  - c. Topographic contours of no less than 10- foot intervals with identification of steep and moderate slope areas;
  - d. Significant concentrations of forested land;
  - e. All other Primary and Secondary Conservation Areas as described in this article (official FEMA 100 year flood plain boundary must be identified if applicable);
  - f. General vegetation characteristics;
  - g. General soil types
  - h. Potential connection with existing greenspace and trails;
  - i. The planned location of protected open space;
2. Subdivision Concept Plan Required - Concurrent with the submission of a site analysis map, the subdivision concept plan at a minimum shall include the following:
  - a. Property boundaries;
  - b. Planned location of protected open space;
  - c. Proposed location and boundaries of lots for dwelling units;
  - d. Building setbacks for lots;
  - e. Proposed location of streets, sidewalks, easements, and right of ways;
  - f. Proposed location of amenity areas (if applicable);
  - g. Existing major easements and right of ways;
  - h. Total acreage plus the amount of acreage dedicated to Primary Conservation areas and other protected greenspace;
  - i. Minimum lot size for dwelling units;
  - j. Greenspace management plan identifying responsible parties for the greenspace.
  - k. The legal instrument of permanent protection shall be placed on the property prior to the issuance of a land disturbance.
3. Follow all other requirements contained in the Town of Braselton Subdivision and Development Regulations concerning the subdivision of land. No land disturbance or development permit shall be issued for a Conservation Subdivision until the Conservation Subdivision Concept Plan is approved by Mayor and Council. All future preliminary plats and development plans for the property shall conform to the approved Concept Plan notwithstanding any transfer of ownership interest or phasing of the project. Any party who subsequently desires to deviate from the approved Concept Plan shall be required to file for an Amendment of said Concept Plan that shall require approval by Mayor and Council. (amended 10/04)



### **9.1.7 Other Requirements Applicable for All Residential Developments in R-1, R-2, R-III, R-M and PUD**

- A. All rights-of-way must have a street light system, to be owned and maintained by a homeowners' association.
- B. Sidewalks must be installed on both sides of all rights-of-way, not including residential alleys.
- C. Tree Planting
  - 1. There shall be two large species trees planted on each lot. Existing trees kept in place on a lot can count in meeting this requirement.
  - 2. Trees shall be planted prior to the issuance of a certificate of occupancy. If seasonal or inclement weather is prohibitive to planting, installation can be waived until planting season or when the weather permits installation. The installation shall take place prior to the release of any bonded amount of monies or any other final release of the developer or builder from the Town.
- D. A 25-foot buffer shall be established along all lots adjoining external rights of way.
- E. Every detached and attached single family dwelling shall have a two-car garage. All attached single-family dwellings (townhouses) shall have their garage located to the rear of the principal building and served by an alleyway. (amended 5-06)

## **9.2 Non Residential Districts and Developments**

**9.2.0 Purpose:** The following standards shall apply to commercial and other non-residential developments in all districts.

**9.2.1 Outdoor storage**— In any N-C, G-C, B-P, O-I, PUD, DOD, and D-D District, outdoor storage or sales displays may be permitted but shall be prohibited from front yards and shall be screened from view from public streets and adjacent property by a permanent opaque enclosure consisting of a minimum 8-foot high solid fence or wall. In an M-D or I-I District outdoor storage shall be permitted but shall be prohibited between the principal building and a public street/road. Exceptions to this rule are as follows:

- 1. Outdoor display of goods for sale associated with a business with an enclosed permanent structure may only be permitted through approval by the Planning Director. The items for display shall be located against and parallel to the building and shall not obstruct designated pedestrian walkways, parking areas, loading or unloading areas.
- 2. Outdoor sales and displays associated with peddlers and itinerant merchants shall be regulated by section 32-206 of the Braselton Code of Ordinances.
- 3. The parking of automobiles, trucks, trailers, that are incidental to the principal use and/or critical for the function of a permitted business may be allowed only if placed in the designated parking lot and only by approval of the Planning Director. Junked automobiles will be prohibited per section 31-114 of the Braselton Code of Ordinances.

For the purposes of this section, Outdoor Storage shall be defined as the keeping, in an unenclosed area, of any goods, material, waste, merchandise, or vehicles in the same place for more than twenty-four hours whether for storage, display, processing or sale.

### **9.2.2 Manufactured Home Park**

The following requirements shall apply to manufactured home park:

- A. The minimum land area of any manufactured home park shall be 5 acres.
- B. Each space within the park shall have a minimum area of no less than 8,000 sq. ft. if separate individual sewerage disposal facilities are located within the bounds of the manufactured home space. In cases where a centralized or public sewer system is utilized, the space can be reduced to 6,000 sq. ft. Development plans must specify the type of sewerage disposal system.
- C. No manufactured home shall be located closer than 40 feet to an exterior property line. The front setback for each manufactured home shall be at least 25 feet from the front lot line. The front lot line shall be defined as the line that is parallel to the front entrance of the unit.
- D. Manufactured homes shall be separated from each other and from other buildings by at least 25 feet.
- E. Off street parking shall be provided at a rate of two spaces per unit.
- F. All lots shall abut an interior driveway. All driveways shall be no less than 30 feet of right-of-way and have unobstructed access to a county, state, or federal road.
- G. All interior streets shall be constructed to public street and utility standards for minor streets.
- H. The park street system shall be maintained by the owner as well as lighted to provide adequate nighttime light.
- I. Parks shall be designed to provide a recreation area for up to and every additional 25 units. 100 sq. ft. of land must be dedicated to recreation for every unit. Recreation areas shall be accessible for all located within the park.
- J. All parks shall meet the landscape requirements located within this ordinance.
- K. No individual lot may be sold or ownership transferred with the intent to sell.
- L. Service and ancillary buildings. Accessory and ancillary uses may include but are not limited to:
  - 1. Park management office, repair shops, and storage
  - 1. Community sanitary facilities
  - 2. Community postal facilities
  - 3. Indoor and outdoor recreational facilities
  - 4. Commercial uses supplying essential goods and or services for the use of park residents.

### **9.2.3 The following shall apply to the development of travel trailer parks:**

- A. The minimum land area of travel trailer park shall be 5 acres.
- B. Each space within the park shall have a minimum area of no less than 8,000 sq. ft. if separate individual sewerage disposal facilities are located within the bounds of the trailer space. In cases where a centralized or public sewer system is utilized, the space can be reduced to 6,000 sq. ft. Development plans must specify the type of sewerage disposal system.
- C. No travel shall be located closer than 40 feet to an exterior property line.
- D. Travel trailers shall be separated from each other and from other buildings by at least 25 feet.
- E. Off street parking shall be provided at a rate of one space per unit.
- F. All lots shall abut an interior driveway. All driveways shall be no less than 30 feet of right-of-way and have unobstructed access to a county, state, or federal road.
- G. All interior streets shall be constructed to public street and utility standards for minor streets.

- H. The park street system shall be maintained by the owner as well as lighted to provide adequate nighttime light.
- I. Parks shall be designed to provide a recreation area for up to and every additional 25 trailers. 100 sq. ft. of land must be dedicated to recreation for every unit. Recreation areas shall be accessible for all located within the park.
- J. All parks shall meet the landscape requirements located within this ordinance.
- K. No individual lot may be sold or ownership transferred with the intent to sell.
- L. Service and ancillary buildings. Accessory and ancillary uses may include but are not limited to:
  - 1. Park management office, repair shops, and storage
  - 2. Community sanitary facilities
  - 3. Community postal facilities
  - 4. Indoor and outdoor recreational facilities
  - 5. Commercial uses supplying essential goods and or services for the use of park residents.
  - 6. No improvements shall be constructed or added to a travel trailer, included but not limited to decks, porches, canopies, roofs, lean-tos, or any other similar structures.

#### **9.2.4 Day Care Center, Family Day Care Center**

In all zones in which day care facilities are allowed either inherently or by permissive use, the following requirements shall apply:

- A. No such facility shall be located within 1000 feet of another facility as measured from the nearest property line of each facility.
- B. All outside recreation areas shall be located to the rear of the facility or to the side of the facility provided that the recreation area does not directly abut a public street or road right-of-way.
- C. All recreational areas shall be fenced with a non-opaque fence no less than 5 feet in height.
- D. A buffer shall be established between the recreational area and adjacent residential areas in conformance with the buffer requirements set forth in Article X of this code.
- E. Parking shall be provided, one for every staff member and one for every classroom.
- F. Driveway and pick-up facilities shall be designed to accommodate one stacked or waiting vehicle for every 5 persons (not including staff) based on the occupancy of the building. In no case shall vehicles be allowed to park or wait on a public right-of-way.

#### **9.2.5 Cemeteries, non-commercial and commercial:**

In all zoning districts allowing cemeteries, the following requirements shall apply:

- A. The site proposed for a cemetery shall have access to a collector or arterial right-of-way
- B. A cemetery shall be located on property not less than 10 acres.
- C. All structures shall have a setback of no less than 50 feet from any property line.
- D. All graves or burial lots shall be set back no less than 25 feet from any property line.
- E. All driveways through the property shall be at least 24 feet in width.

### **9.2.6 Temporary Construction and Sales Trailers:**

Temporary construction and sales trailers shall be allowed in all districts where a development is proposed and has been permitted for construction. The trailer must be a D.C.A. unit authorized for non-residential use. Under no circumstances may a residential manufactured home be used as a temporary construction or sales trailer. The following standards shall apply:

- A. The trailer shall be located on or directly adjacent to the permitted development
- B. Parking spaces for the trailer must meet parking requirements for the intended development if non-residential or office for residential and meet the following conditions:
  - 1. During construction of the development, access shall be off an existing public right-of-way.
  - 2. Once the construction and/or platting of the development is complete to an internal driveway or right-of-way.
  - 3. Parking may be asphalt, gravel, or decorative gravel.
- C. The trailer must be located 25 feet from any property line not associated with the development.
- D. If the trailer is to serve a non-residential development and would be adjacent to an existing residential use, a 8 ft. opaque fence shall be erected along that property line(s) abutting the residential use.
- E. The trailer may be permitted to remain on the property no later than 80% of the units or when the certificate of occupancy is issued for units within the development. The use of the trailer may be extended upon the review and approval of the Planning Commission. A personal appearance may be made.
- F. Personnel working for the construction company may occupy the unit.
- G. Future tenants of the development may also occupy the trailer provided that the development is not residential in nature.

### **9.2.7 Automobile Gas/Convenient Store**

Convenient stores or gas stations have become less associated with automotive repair and shall be interpreted in this ordinance to not include any kind of automotive repair.

The following standards apply to gas station/convenient stores:

- A. Any new lot on which a gas station/convenient store shall be located shall have a width of 100 feet, an area of no less than 15,000 sq. ft. Lots of record are exempt from the area requirement, however, all other standards apply to lots of record.
- B. All buildings shall have a setback no less than 40 feet from all rights-of-way.
- C. All canopies shall have a setback of no less than 30 feet from all rights-of-way or adjacent properties. Pumps shall also have a setback of 30 feet from all property lines.
- D. Only one curb cut per adjacent right-of-way shall be allowed.
- E. All parking areas and driveways shall be paved with asphalt or concrete and shall be curbed and guttered.
- F. A buffer of no less than 25 feet shall be established along any residential or O-I zone.
- G. Parking shall be required for employees, one per employee per shift and at least four spaces at the front of the building. Where building area is shared with another use, the parking standards for that shared use shall apply separately but may be reduced by 25%.

### **9.2.8 Automobile Express Service**

Express lubrication services or similar services shall be required to meet the following standards:

- A. All aspects of the business are enclosed within a single structure.
- B. Services provided shall be of routine maintenance and prevention such as fluid replacement, tire rotation, belt replacement, etc.
- C. No major automobile components are removed from vehicles for replacement or repair.
- D. No vehicles shall be stored on site overnight or outside of normal operating hours.

### **9.2.9 Automobile Repair**

Automotive repair facilities shall include all components of automotive repair including minor routine maintenance. The following standards shall apply:

- A. No automotive repair shop shall be located closer than 100 feet to a residential or O-I district or residential land use.
- B. The property shall be buffered with a 20 foot landscape buffer and shall be fenced on all adjoining private property lines with an opaque fence at least 8 feet in height.
- C. Along all rights-of-way a vegetative area no less than 15 feet wide shall be established and planted with evergreen shrubs that shall be a height of at least 4 feet. This is to provide some screening of parked cars, but not intended to block the establishment.
- D. Repair buildings located as ancillary uses to automotive sales and service establishments shall be located no less than 30 feet from any adjacent property line.

### **9.2.10 Standards for Telecommunications/Transmission Antennas and Towers.**

Purposes. To provide for the appropriate location and development of telecommunications facilities to serve the residents and businesses of Braselton.

- A. A significant view corridor shall be defined as an area to be kept free of obstructions or structures that interfere with the view of any scenic area, or historic building or area. A view corridor may be established by ordinance of Braselton, by zoning restrictions adopted in accordance with the ordinances of Braselton, or by any state or federal law or agency in accordance with provisions of federal laws or duly adopted regulations.
- B. The following shall be exempt from this ordinance:
  - 1. Any tower and antenna under 70 feet in total height and owned and operated by an amateur radio operator licensed by the Federal Communications Commission.
  - 2. Any telecommunications facility located on property owned, leased or otherwise controlled by the Town of Braselton, provided a license or lease authorizing such telecommunications facility has been approved by the Mayor and Council.
- C. Placement of Telecommunications Facilities by Zoning District.
  - 1. Telecommunications facilities shall be reviewed and approved by the Town Council in all non-residential zoning districts as a conditional use.
  - 2. Except as set forth in this section or listed as an "exclusion" in this ordinance, telecommunications facilities shall not be permitted in any residential zoning districts.
- D. Publicly used structures are preferred locations.

1. Any existing site on which a legal personal wireless service facility is currently located shall be a preferred location.
  2. Wholly industrial and commercial structures shall be preferred locations, particularly where existing visual obstructions or clutter on the roof or along a roof line can and will be removed as part of the installation of the telecommunications facility.
- E. The location and construction of all telecommunications facilities shall be as follows:
1. The owner of a telecommunications facility shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for such telecommunications facilities that are published by the FCC. Inspections of such facilities shall be conducted at least once every three years to ensure structural integrity. Inspections shall be conducted by a structural engineer licensed to practice in Georgia. The results of such inspection shall be provided to the Building Inspector.
  2. All telecommunications facilities must meet or exceed current standards and regulations of the Federal Aviation Administration (FAA), the Federal Communications Commission (FCC), and any other agency of the state or federal government with the authority to regulate telecommunications towers and antennas. If such standards and regulations are changed, then the owners of the telecommunications facilities governed by this ordinance shall bring such telecommunications towers and antennas into compliance with such revised standards and regulations within the date established by the agency promulgating the standards or regulations.
  3. All telecommunications facilities shall be enclosed by decay-resistant security fencing not less than six feet in height and shall be equipped with an appropriate anti-climbing device. This requirement may be waived by the Planning Director if it is determined that this would produce negative visual clutter or obstruct a view corridor.
  4. No illumination is permitted on telecommunications facilities unless part of an approved public lighting program or required by the FCC, FAA or other state or federal agency or competent jurisdiction, in which case the Building Inspector may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.
  5. No advertising is permitted on telecommunications facilities.
  6. Telecommunications facilities shall, subject to applicable standards of the FAA or other federal or state agencies, be maintained with a galvanized metal finish, painted a neutral color, or painted and/or textured to match the existing structure so as to reduce visual obtrusiveness. If federal or state regulations require, telecommunications facility shall maintain a galvanized steel finish or other required finish.
    - a. If an antenna is installed on a structure other than a tower and is generally visible to the public, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible. Roof mounted antenna shall be made visually unobtrusive by screening to match existing air conditioning units, stairs, elevator towers, or other background.
    - b. Antennas should be placed directly above, below or incorporated with vertical design elements of a building to help in camouflaging.

- c. Towers or roof-mounted antennas shall not be placed in direct line with significant view corridors, as designated by the Mayor and Council or by any state or federal law or agency.
      - d. Any equipment shelter or cabinet must be concealed from public view or made compatible with the architecture of the surrounding structures or placed underground. The shelter or cabinet must be regularly maintained.
  - 7. Landscaping shall be used to screen effectively the view of the tower compound from adjacent public ways, public property and residential property.
    - a. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.
    - b. The Mayor and Council may waive or modify the landscaping requirement where lesser requirements are desirable for adequate visibility for security purposes or for continued operation of existing bona fide agricultural or forest uses such as farms, nurseries and tree farms.
  - 8. Equipment at a telecommunications facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector and local street, access for maintenance vehicles shall be exclusively by means of the collector street.
  - 9. Accessory structures used in direct support of a tower shall be allowed but not be used for offices, vehicle storage or other outdoor storage. Mobile or immobile equipment not used in direct support of a tower facility shall not be stored or parked on the site of the tower. Towers may be located on sites, containing another principal use in the same buildable area. Joint use of a site is prohibited when a proposed or existing principal use includes the storage, distribution or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas and dangerous chemicals.
  - 10. The site shall be of a size and shape sufficient to provide an adequate setback from the base of any tower to any property
    - a. Towers greater than 70 feet in height shall not be located any closer than 2500 feet from any existing tower, measured in a direct line, either within or outside the Town limits unless technologically required or visually preferable as determined by the Town's Mayor and Council and the procedures for a variance under the Town's code. All other structures may be located as close to each other as technologically feasible, provided tower failure characteristics of the towers on the site will not lead to multiple failures in the event that one fails.
- F. Application Procedures.
- 1. Basic Information: Site plan or plans to scale prepared by a registered surveyor licensed to practice in the State of Georgia specifying the location of telecommunications facilities, transmission buildings and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses.
  - 2. Landscape plan to scale indicating size, spacing and type of plantings as required in this section.
  - 3. An impact statement fully describing the impact that the proposed telecommunications facility will have on the environment and surrounding area including the impact on adjacent residential structures and districts, impacts on structures and sites of historic significance and impacts on streetscapes and significant view corridors. The impact statement shall include a description of anticipated maintenance needs for the telecommunications facility, including

- frequency of service, personnel needs, equipment needs, and traffic noise or safety impacts of such maintenance.
4. Report from a professional structural engineer licensed in the state of Georgia, documenting the following:
    - a. Telecommunications facility height and design, including technical, engineering, economic, and other pertinent factors governing selection of the proposed design;
    - b. Total anticipated capacity of the telecommunications facility, including number and types of antennas that can be accommodated;
    - c. Evidence of structural integrity of the tower structure (i.e., engineer's statement that structure is built to meet or exceed standard building code);
    - d. Structural failure characteristics of any telecommunications tower over seventy 70 feet and demonstration that site and setbacks are of adequate size to contain debris; and
    - e. Setbacks for a telecommunications tower shall not be closer to a residential lot line than the height of the tower.
  5. A definition of the area of service to be served by the antenna or tower and whether such antenna or tower is needed for existing coverage or capacity.
  6. The identity of a community liaison officer to resolve issues of concern to neighbors and residents relating to the construction and operation of the facility; including name, address, telephone number, facsimile number and electronic mail address, if applicable.
  7. The existing towers and tall structures located within the geographic service area should be identified on a map along with written justification as to the need for a new tower in place of an existing structure.
    - a. A map indicating all existing tower and antenna sites located within the Town and within 2 miles of the town limits.
    - b. The applicant must provide any other information that may be requested by the Building Inspector, Zoning Enforcement Officer, Planning Director, Town Clerk, Mayor and Council, or the Town Attorney to evaluate fully and review the application and the potential impact of a proposed telecommunications facility.
    - c. Grant or Denial of Permit.
      1. The Building Inspector shall review the completed application for a building permit and shall issue a grant or denial of a building permit. The Planning Director shall review the completed application for a conditional use permit and shall forward the application for consideration of a conditional use permit to the Mayor and Town Council pursuant to Article XVIII of this ordinance within a reasonable time.
      2. The Mayor and Council may grant a conditional use permit provided that the requirements of this code have been satisfied.
      3. In granting a conditional use permit, the Mayor and Council may impose additional zoning conditions to the extent determined necessary to buffer or otherwise minimize any potentially adverse effects of the proposed tower or antenna on surrounding properties.
  8. An applicant and owner shall allow for future wireless communication companies, including public and quasi-public agencies using similar technology, to co-locate antenna equipment and facilities on any tower unless specific technical constraints prohibit said co-location. An applicant may negotiate any type of agreement for co-location but shall not charge fees which



are so unreasonable as to prohibit co-location in accordance with commercially reasonable standards.

9. Appeals from any decision of the Building Inspector (in the case of a building permit) or the Mayor and Council (in the case of a conditional use permit) shall be to the Zoning Board of Appeals pursuant to Article XVIII of the Development Code for Braselton, Georgia. Any decision on a request to build a tower or for a conditional use permit for a tower shall be in writing, and any denial of any such request or conditional use permit shall be supported by substantial evidence and a written record.
10. Telecommunications facilities, including, without limitation, power source, ventilation and cooling, shall be operated at all times within the limits of any applicable noise ordinance, shall not be operated so as to cause the generation of heat that adversely affects a building occupant and shall not be maintained or operated in such a manner as to be a nuisance.
11. All telecommunications facilities shall be maintained in compliance with standards contained in applicable building and technical codes so as to ensure the structural integrity of such facilities. If upon inspection by the Building Inspector, Zoning Enforcement Officer or their designees any such telecommunications facility is determined not to comply with the minimum standard building code or to constitute a danger to persons or property, then upon notice being provided to the owner of the facility and the owner of the property if such owner is different, such owners shall have 30 days to bring such facility into compliance. In the event such telecommunications facility is not brought into compliance within 30 days, Braselton may provide notice to the owners requiring the telecommunications facility to be removed. In the event such telecommunications facility is not removed within 30 days of receipt of such notice, Braselton may remove such facility and place a lien upon the property for the costs of removal or seek costs incurred through court action. Delay by Braselton in taking action shall not in any way waive Braselton's right to take action. Braselton may pursue all legal rights to ensure that telecommunications facilities not in compliance with the minimum standard building code standards or which constitute a danger to persons or property are brought into compliance or removed. Braselton may seek to have the telecommunications facility removed regardless of the owners' or operator's intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

#### G. Abandoned Towers.

1. Any telecommunications facility that is not operated for a continuous period of 12 months shall be considered abandoned, whether or not the owner or operator intends to make use of it or any part of it. The owner of a telecommunications facility and the owner of the property where the facility is located shall be under a duty to remove the abandoned telecommunications facility. If such antenna and/or tower is not removed within 60 days of receipt of notice from Braselton notifying the owner(s) of such abandonment, Braselton may remove such tower and/or antenna and place a lien upon the property for the costs of removal or seek costs incurred through court action. Braselton may pursue all legal remedies available to it to insure the abandoned telecommunications facilities are removed. Delay by Braselton in taking action shall not in any way waive Braselton's right to take action. Braselton may seek to have the telecommunications facility removed regardless of the owners' or operator's

intent to operate the tower or antenna and regardless of any permits, federal, state or otherwise, which may have been granted.

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

H. Pre-Existing Towers/Non-Conforming Uses.

1. All telecommunications facilities operative on the effective date of this ordinance shall be allowed to continue their present usage as a non-conforming use and shall be treated as a non-conforming use. Routine maintenance, including replacement with a new tower or antenna of like construction and height, shall be permitted on such existing telecommunications facilities. New construction other than routine maintenance shall comply with the requirements of this ordinance. The Building Inspector may approve a single addition of 20 feet to any existing tower whereby it can be shown that this would provide for co-location and eliminate the need for a new tower and it is determined that an adequate site exists for the location of any equipment buildings. Approval of an additional 20 feet applies to all zoning districts. Additions greater than 20 feet, or any addition to a tower already granted an addition under this subsection shall require a conditional use permit.
2. A telecommunications facility that has received Town approval in the form of either a building permit or conditional use permit, but has not yet been constructed or placed in operation shall be considered an existing telecommunications facility so long as such approval is current and not expired.
3. Placement of an antenna on a non-conforming structure shall not be considered an expansion of the non-conforming structure.

I. Coordination with Federal Law.

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