

TOWN OF DEARING, GEORGIA  
LAND DEVELOPMENT CODE

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# ARTICLE 1

## GENERAL PURPOSE AND LEGAL STATUS PROVISIONS

## ARTICLE 1 - GENERAL PURPOSE AND LEGAL STATUS PROVISIONS

### SECTION 1.1 OFFICIAL TITLE

This Ordinance shall be known and may be formally cited as, the “Town of Dearing, Georgia, Land Development Code,” or alternatively cited as the “Dearing Land Development Code.” The terms “Code” and “Ordinance” may be interchangeably used as abbreviations of the official title of the Dearing Land Development Code.

### SECTION 1.2 SCOPE AND JURISDICTION

This Ordinance constitutes the unified land development code for the Town of Dearing, Georgia, and includes regulations governing the zoning of property, building development, subdivision of land, signage, and a variety of other related topics regarding the general development, management, or use of land. The provisions of the Dearing Land Development Code shall govern all land and development within the town limits of Dearing, Georgia.

### SECTION 1.3 AUTHORITY

The Town Council of the Town of Dearing, Georgia, under the authority of Article IX, Section 2, Paragraph 4 of the Constitution of the State of Georgia enacted July 1, 1983, as amended; and, pursuant to the Zoning Procedures Law (O.C.G.A §36-66-1 et seq.) and other applicable laws enacted by the Georgia General Assembly, and the rules of various departments of the Georgia State Government which shall not be deemed to limit or repeal any other powers granted the Governing Body under state statutes; hereby ordains, and enacts into law those articles and sections contained within this Ordinance and including all subsequent amendments to this Ordinance.

### SECTION 1.4 PURPOSES

The purposes of the Dearing Land Development Code, including those provisions governing the exercise of zoning power as applicable, include but are not limited to the following:

1. Promote the health, safety, welfare, morals, and prosperity of the residents of the town of Dearing, Georgia;
2. Preserve the unique character of the town of Dearing, Georgia;
3. Classify land uses described by individual zoning districts, overlay districts, and special zoning districts;
4. Balance the interest of both public and private entities in land development;
5. Protect established land-uses from the encroachment of incompatible uses;
6. Promote responsible growth, secure safety from fire and health dangers, and promote desirable living conditions;
7. Provide economically sound and stable land development by assuring that development activity is supported by adequate infrastructure.

### SECTION 1.5 RULES OF CONSTRUCTION

Standard rules related to the construction and use of this Code include but are not limited to the following:

1. The interpretation and application of the provisions of the Dearing Land Development Code shall be held to the minimum requirements for the promotion of the health, safety, and general welfare of the residents of the town of Dearing, Georgia.
2. Where there is a conflict between the provisions of this Code, the more restrictive provision shall prevail unless the specific language of the Code requires a different interpretation.
3. Where an amendment to this Code has been adopted by the Town Council of Dearing and the adopted amendment conflicts with an existing provision found in the Dearing Land Development Code, the provision which is more restrictive shall prevail.
4. Purpose statements are not regulatory standards but rather descriptions of intent that guide the application and administration of this Code.
5. Graphics and illustrations are not regulations, but rather are included as examples for the convenience of the reader. Where there is an inconsistency between a graphic or illustration and the written text, the written text shall control unless otherwise provided in the specific Section.

### SECTION 1.6 ADOPTION AND EFFECTIVE DATE

It is ordained by the Town Council of the Town of Dearing, Georgia that the following Articles and Sections that collectively constitute the Dearing Land Development Code of the Town of Dearing, Georgia are adopted. This Code shall take effect immediately upon its adoption.

### SECTION 1.7 REPEAL OF CONFLICTING CODES

All other conflicting Codes or Ordinances or parts of Codes or Ordinances related to the content of the Dearing Land Development Code are hereby repealed.

### SECTION 1.8 VALIDITY AND SEVERABILITY

If any Article, Section, subsection, sentence, clause, phrase, or portion of the Dearing Land Development Code, or any amendment is for any reason held invalid or unconstitutional by a court of a competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision, and such decision shall not affect the validity of any remaining portions of the Dearing Land Development Code which have not specifically been declared to be invalid.



**SECTION 1.9 PREVIOUSLY ISSUED PERMITS**

The validity of permits issued prior to the adoption of the Dearing Land Development Code and any subsequent amendments shall not be affected unless such permit shall have otherwise been invalidated by expiration or other cause not associated with this Code.

**SECTION 1.10 GOVERNMENTAL BODIES**

Unless otherwise specifically provided, governmental bodies and authorities exempt from regulation under the police power of the Town of Dearing are exempt from the regulations contained in this Ordinance.

**SECTION 1.11 CODIFICATION**

The Town Council of the Town of Dearing hereby affirms that the Dearing Land Development Code is an ordinance of the Town of Dearing, Georgia, and orders that all Articles, Sections, and subsections of the Code may be renumbered at a later time to appropriately fit within the Town of Dearing Code of Ordinances, if necessary.

# ARTICLE 2

## INTERPRETATION, TERMS, AND DEFINITIONS

## ARTICLE 2 - INTERPRETATION, TERMS, AND DEFINITIONS

### SECTION 2.1 INTERPRETIVE AUTHORITY

The interpretation of any terms, words, phrases, definitions, tables, figures, graphics or illustrations; or any other information contained in the Dearing Land Development Code; shall be made by the Land Development Officer unless such authority is specifically granted to another officer, board, or commission as provided in this Code. Interpretations of this Code may be appealed subject to the provisions of Section 11.13 (Appeals.)

### SECTION 2.2 INTERPRETIVE PARAMETERS

For purposes of this Code, the following parameters shall apply to the use of specific terms, words, or phrases unless otherwise specifically noted within another Section or Article:

1. Words used in the present tense include the future tense; words used in the singular tense include the plural tense; and, words used in the plural tense include the singular.
2. Words suggesting masculine gender shall also include feminine gender and vice versa.
3. The word "person" includes an individual, firm, partnership, corporation, association, estate, trust, joint venture, board, agency, or any other interstate body, or legal public or private entity.
4. The terms "shall" and "must" are always mandatory and not discretionary, while the terms "should" and "may" are permissive.
5. The term "such as" shall not be inferred to be exclusive, and is intended to mean "including but not limited to."

Additional interpretive parameters related to specific terms, words, or phrases, may also be listed in other Articles of this Code in regard to concepts that may be more specific to a particular topic.

### SECTION 2.3 GENERAL TERMS AND DEFINITIONS

#### *Section 2.3.1 Applicability of General Terms and Definitions.*

Where a term is defined in this Article, its meaning and shall be construed as having application throughout this Code, unless the context clearly indicates otherwise.

Where a term is defined in any other Article of this Code, such term or list of terms shall be viewed as an extension of the list of general terms defined within Section 2.3.2 (List of General Terms and Definitions.) It is the general intent that a term defined in any other Article apply specifically to the Article within which it is listed and defined; however, such intent shall not prevent the Land Development Officer from applying it outside of the strict context of the Article within which it is listed and defined unless such application creates a conflict with other terms defined by this Code, or confusion in the administration of the provisions of this Code. Articles of this Code within which lists of terms and definitions are included are identified in Table 2.1. The descriptions provided within Table 2.1 do not infer any limitation on the application of any of the terms and definitions of this Code.

TABLE 2.1 ARTICLES CONTAINING LISTS OF TERMS AND DEFINITIONS		
	<i>Article</i>	<i>Description</i>
2	<i>Interpretations, Terms, and Definitions</i>	Includes a list of general terms and definitions (Section 2.3.2) that may be commonly referenced throughout multiple Articles of this Code.
7	<i>Sign Regulations</i>	Includes a list of terms and definitions related to signage and sign regulations (Section 7.2) that are almost exclusively referenced in the Article within which they are listed.
9	<i>Subdivision and Land Development Requirements</i>	Includes a list of terms and definitions related to subdivision and land development (Section 9.2) that are referenced predominantly in the Article within which they are located, and subsequent Articles addressing development review and general Code administration.

**Section 2.3.2 List of General Terms and Definitions.**

**Adult business:** means any “adult bookstore,” “adult movie house,” “explicit media outlet,” or any place utilized for commercial purposes for the depiction, performance, display, transaction, or similar action of materials or activities involving “sexual conduct” or “sexually explicit nudity,” all such terms defined in O.C.G.A. 36-60-3. Nothing in this definition shall be inferred to condone any commercialized “sexual conduct” or “sexually explicit nudity” that is violation of any other local, state, or federal, law, ordinance, or statute.

**Agriculture:** means the raising of soil crops, livestock, fish, fowl, and commercial timber in a customary manner on tracts of land at least two (2) acres in size, including all associated activities. Retail selling of products raised on the premises is permitted provided that space necessary for the parking of customer's vehicles is provided off of the public right-of-way.

**Airport:** means an area of land or water including any related buildings and structures used for the purpose of serving landing and departing aircraft, including helicopter, sailplanes, etc.

**Alley:** A minor, permanent service-way which is used for secondary vehicular access to the back or the side of properties which otherwise have primary vehicular access to a public street.

**Alternative tower structure:** shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures.

**Annexation:** The process in which a parcel of land is transferred from the jurisdiction of unincorporated McDuffie County to the jurisdiction of the Town of Dearing.

**Antenna:** shall mean any exterior apparatus designed for telephonic, radio, or television communications through the sending and/or receiving of electromagnetic waves.

**Applicant:** Property owner or their authorized representative who has petitioned the Town Council for approval of an application under the terms of this Code.

**Automobile service station:** means any area of land, including any buildings or structures thereon, that is used to dispense motor vehicle fuels, oils, and accessories at retail, and where repair service is incidental and no storage or parking space is offered for rent.

**Awning:** A roof-like cover that projects from the wall of a building for the purpose of shielding a doorway, walkway, or window from the elements. Awnings are often made of fabric or flexible plastic supported by a rigid frame, and may be retracted into the face of the building.

**Bed and breakfast inn (B&B):** Business establishment that operates within a single-family detached dwelling by an owner-occupant, offering temporary lodging and one or more meals to the traveling public while. Employment may not exceed two full time employees in addition to the owner. Breakfast is the only meal served to paying guests and is included in the room charge.

**Biomedical waste facility:** means any land or structure used for the final disposal, treatment, incineration, or storage of biomedical wastes as defined in O.C.G.A. § 12-8-22, as amended, whether or not they are mixed with or include other wastes allowed under Subtitle D of the Resource Conservation and Recovery Act of 1976, as amended.

**Block:** A piece or parcel of land entirely surrounded by public streets.

**Boarding house:** A residential use other than a hotel or motel in which lodging and meals are provided by a resident family or manager to non-household members in exchange for monetary compensation or other consideration.

**Buffer:** A strip of land located between a side or rear property line and a building, structure, or use, intended to separate and obstruct the view of the site on which the buffer is located from an abutting property. A buffer is intended to provide screening, as defined and as may be required by this Code.

**Buffer – natural undisturbed:** A buffer containing a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings replanted vegetation where sparsely vegetated.

**Buffer – planted:** A buffer consisting of newly planted trees and shrubs native to the region.

**Buffer – structural:** A visual screen created through construction of a solid wooden fence, decorative masonry wall, or combination of earthen berm and fence or wall.

**Build-to line:** Line establishing the maximum allowable distance between the nearest portion of any building excluding steps, gutters, and similar fixtures, and the property line when measured perpendicular thereto.

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

*Building - accessory:* Building subordinate to the principal building and used for purposes incidental to the principal building on the same lot. An accessory building may be detached or attached to the principal structure.

*Building – alteration:* Any change in the supporting members of a building (such as bearing walls, beams, columns, and girders) except such change as may be required for its safety; and addition to a building; any change in use resulting from moving a building from one location to another.

*Building – footprint:* Horizontal area measured within the exterior walls of the ground floor (i.e., footprint) of all principal buildings and accessory buildings.

*Building – height:* Vertical distance from the average elevation of the proposed finished grade at the front of the building to the highest point of the roof for flat roofs, to the mean height level between the eaves and ridge for gable, hip, and gambrel roofs, and to the deck line for mansard roofs.

*Building – principal:* Building in which the principal use of the lot is conducted.

*Building – retail:* Commercial establishment which generally sells commodities or services in varying quantities to ultimately the consumer and aforementioned commodities or services are primarily for the use of the purchaser.

*Business – wholesale:* means a commercial establishment that generally sells commodities or service in large quantities or by piece to retailers, contractors, other wholesale businesses, or manufacturing establishments. These commodities or services are mainly for resale, for use in the fabrication of a product, or for use by a retail service.

*Canopy:* A permanent structure, not enclosed and not retractable, attached or unattached to a building, for the purpose of providing shelter to patrons or automobiles, of as a decorative feature on a building wall.

*Cemetery:* Land and/or structure in the Town of Dearing dedicated to and used for the interment of human or pet remains. It may include a burial park for earth interments, mausoleum for vault or crypt interments, a columbarium for storing urns containing human remains, or a combination of one or more.

*Change of use:* means the discontinuance of an established land use and substitution of a use of a different kind, class, or nature in compliance with these regulations. Change of use does not include a change of tenants or proprietors, unless accompanied by a change in the type of use.

*Club, or lodge:* means building within which or land upon which organized fraternal, recreational, social, or educational meetings are conducted on a regular, not-for-profit basis. Fraternal organizations must demonstrate that they have received recognition and sanction from a parent group or organization. A private club must demonstrate that its membership is limited by either:

- (1) *The use and operation of an amateur athletic facility including, but not limited to, golf courses, tennis courts, shooting ranges, or swimming pools; or*
- (2) *Residency in a particular subdivision, condominium, apartment project, dormitory, or other residential development.*

*Clinic:* means a nonresidential establishment where patients are examined, diagnosed, and/or treated on an outpatient basis by licensed physicians, psychologists, psychiatrists, dentists, or chiropractors. No overnight accommodations.

*Cluster development:* means a residential subdivision within which individual lot sizes have been reduced to permit the creation of common open space maintained by a homeowner's association for the residents of the subdivision.

*Community shopping center:* means a shopping facility comprised of primarily retail enterprises usually housing a major chain department or variety store, or a supermarket as the principal tenant or anchor. Such a facility is intended to serve a population area of 5,000 or more. The minimum gross floor area for this type of center shall be 50,001, and the maximum gross floor area shall be 349,999.

*Community water system:* means a privately owned water system that complies with the minimum standards set by the Environmental Protection of the Georgia Department of Natural Resources.

*Comprehensive plan:* means the “McDuffie County Joint Comprehensive Plan 2009-2029,” as amended.

*Conditional use:* Zoning ordinance provision that impose conditions, restrictions, or limitations on a permitted use that are in addition to the restrictions applicable to all land in the zoning district. The conditions, restrictions, or limitations are set forth in the text of the Land Development Code.

*Condominium:* means a form of individual ownership of a unit combined with joint ownership of common areas of the building and grounds in a development as provided in the Georgia Condominium Act.

*Construction, actual:* means the commencement and continuous, uninterrupted construction for the purpose of permanent placement and fastening of materials to the land or structure for which a permit required pursuant to this chapter has been issued for the same purposes. Construction includes filling, grading, the installation of drainage facilities, and the substantial demolition, clearing, excavation, or removal of an existing structure preparatory to new construction, provided that work shall be reasonably continuous until completion of the approved construction.

*Construction field office:* means a building or structure temporarily located on a site under development and/or construction which houses offices of the construction contractor and/or affiliated sub-contractors.

*Convenience store:* means a retail store containing less than 2,000 square feet of gross floor area entirely in one story of a building that is designed and stocked to sell primarily food, beverages, sundries, and other grocery items to customers who purchase goods to satisfy special immediate needs (often characterized by impulse buying), as opposed to a "supermarket," which provides a wider range of goods which are intended to satisfy the full daily grocery needs of its customers. A convenience store is designed to attract and depends upon a large volume of stop and go traffic.

*Conventional construction:* means a dwelling unit constructed on the building site from basic materials delivered to the site, and which is constructed in accordance with the Standard Building Code or the Southern Building Code (SBCCI), and meeting the following development standards:

- (1) The home has a minimum width in excess of 16 feet.
- (2) The pitch of the dwelling unit's roof has a minimum vertical rise of four feet for each 12 feet of horizontal run.
- (3) Structure is placed upon a permanent masonry foundation, unbroken except for foundation vents and a foundation entry door.
- (4) A unit of construction constructed outside the boundaries of McDuffie County may not be brought into McDuffie County and used as a dwelling if such home was constructed more than five years from the date the application is requested.

*Cul-de-sac:* A street having one end open to traffic and being permanently terminated by a vehicular turnaround of circular design.

*Day care facility, group:* Any place operated by a person, agency, corporation, or institution, and licensed or registered by the state of Georgia as a day care center, group day care home, or childcare learning center wherein the operator and employees thereof receive compensation for one (1) of the following activities, such activities not being conducted concurrently at the facility: A) Care, supervision, training, and oversight is provided on less than a 24 hour basis for individuals who are elderly, physically ill or infirm, physically handicapped, mentally handicapped, or have other developmental disabilities; or, B) Care, supervision, and protection of seven (7) or more children who are under 18 years of age is provided for less than 24 hours per day.

*Day care facility, home:* Any private residence which is a business registered by the State of Georgia as a family day care home, and is operated by any person residing therein with or without compensation, providing for the care, supervision, and protection of six (6) or fewer children who are under 18 years of age. For the purpose of computing the number of children within the child day-care facility, all children who are related by blood, marriage, adoption or guardianship to the person or persons operating the facility shall be included.

*Developable land area:* means that portion of a lot which does not consist of surface waters, wetlands as delineated on the National Wetland Inventory maps for McDuffie County (prepared by the U.S. Fish and Wildlife Service), slopes in excess of 25 percent, areas reserved for storm-water retention or detention, special flood hazard areas (as delineated by the Federal Emergency Management Agency), or other areas dedicated for public improvements, and/or common use (Also see definition for "net density").

*Development, planned:* means for the purpose of signage, a planned development is a development of a single parcel of property to contain a number of businesses, such as an office park, strip shopping center, industrial park, and the like. Each such business, industry, office, etc. shall occupy its own designated space wholly independent and separate from any other adjoining business, industry, office, etc.

*Division (of land):* means any division of a tract or parcel of land into two (2) or more lots, building sites or other divisions for the purpose, whether immediate or future, of sale, or building development, involving a new street or a physical change in existing streets. This is term commonly interchanged with the term "subdivision."

*Duplex:* See "dwelling, two-family."

*Dwelling – principal:* Building designed or used as the primary residence on a lot.

*Dwelling – accessory (attached):* A secondary dwelling unit which is added to an existing single-family dwelling or in the case of a loft apartment, added to the upper floor of a commercial building, for use as a complete, independent living facility with provisions within the accessory dwelling unit for cooking, sanitation, sleeping, and food consumption.

*Dwelling – accessory (detached):* A secondary dwelling unit which is added to the property as a new freestanding accessory building. The dwelling unit is an independent living facility with provisions for cooking, sanitation, sleeping, and food consumption.

*Dwelling – loft:* A dwelling unit located in an upper story space of an existing non-residential building or a new mixed-use building.

*Dwelling, multifamily:* A building designed for, or occupied exclusively by, three (3) or more families living independently.

*Dwelling - single-family (attached) (also "townhouse"):* One (1) of a group of three (3) or more single family, attached dwelling units under fee simple ownership. Attached single-family dwellings that are not under fee-simple ownership are considered row houses (multi-family dwellings).

*Dwelling, single-family (detached):* A permanently sited building occupied or designed to be occupied exclusively by one family, not including dwellings defined herein as mobile homes or single-family attached dwellings.

*Dwelling, two-family (also "duplex"):* A building designed or arranged to be occupied by two (2) families living independently of each other. The building contains two (2) dwelling units either on one (1) lot, or, each dwelling is located on its own lot in fee-simple title and the two (2) dwelling units are attached along a common property line.

*Dwelling unit:* means a dwelling or portion thereof providing complete living facilities for one family.

*Easement:* A grant, by the property owner of a portion of land, for use by the public, a utility, a corporation, or person for specified purposes. No structure of any kind is permitted upon easements except that which is allowed or required in conjunction with the designated use. An easement acts as a reciprocal agreement between the subdivision property owners. Each property owner is responsible for maintaining such easement on the property. Drainage and utility easements are intended to be reciprocal easements among the subdivision property owners and not a dedication to the Town.

*Employee:* means any person who works in a business establishment, including the business proprietor, owner, or partner, whether paid or unpaid, full-time or part-time.

*Equestrian facilities:* means facilities dedicated to the commercial use of horses including: horse ranches, boarding stables, riding schools and academies, horse exhibitions, and saddle horse rentals; and, which may include any combination of structures such as barns, stables, corrals, and padlocks accessory and incidental to such uses whether or not such structures are also associated with other agricultural uses on the property.

*Escort bureau/introduction services:* means any business, agency or persons who, for a fee, commission, hire, reward or profit, furnished or offer to furnish names of persons, or who introduce, furnish or arrange for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

*FAA:* shall mean the Federal Aviation Administration.

*Family:* An individual, or two (2) or more persons related by blood, marriage, adoption or guardianship, or a group of not more than three (3) unrelated persons, occupying a dwelling unit and living as a single household, as distinguished from persons occupying a boarding house.

*Farm:* means any plot or tract of land devoted to uses in agriculture, forestry, horticulture, or the raising of livestock, poultry, or small animals as a source of income.

*Farming – commercial:* Any primary use of a tract or parcel of land for the purpose of raising for sale any type of agriculture products, nursery stock, including, but not limited to, soil crops, fish, fowl, silviculture, or livestock.

*FCC:* shall mean the Federal Communications Commission.

*Fee Simple:* Property owner unconditionally owns a specified piece of land

*Flag lot:* means an interior lot located to the rear of another lot, but with a narrow portion or extension of the lot extending and providing access to a public right-of-way.

*Floor area – gross:* Total horizontal area in square feet of all floors of building as measured to the outside surfaces of exterior walls and including halls, stairways, attached garages, porches, balconies, and basements.

*Floor area – net:* Area included in surrounding walls of a building, exclusive of vents, shafts, halls, attics, and basements.

*Flood:* means a general or temporary condition of partial or complete inundation of normally dry land areas from:

- (1) The overflow of inland or tidal waters; or
- (2) The unusual and rapid accumulation or runoff of surface waters from any source.

*Floodplain or floodprone area:* means any land area susceptible to being inundated by water from any source (see definition of “flood”).

*Floodproofing:* means any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures, or their contents.

*Frontage:* means the distance along which the front boundary line of a lot coincides with a public street right-of-way.

*Future land use map:* means the future land use map for the unincorporated areas of McDuffie County as contained in the comprehensive plan. Also referred to as the land use map.

*GDOT:* Georgia Department of Transportation

*Governing body:* shall mean in all instances the Dearing Town Council

*Group residence:* A single household of four (4) or more unrelated persons which provides for the sheltered care of residents who may or may not be developmentally disabled. In addition to residency, one (1) or more members of the household may also be provided with some combination of food assistance, social or counseling services, transportation, or other personal care. Group residences may or may not be under the supervision of a resident manager.

*Habitable floor:* means any floor usable for living purposes, which includes working, sleeping, eating, cooking, recreation, or a combination thereof. A floor used only for storage purposes shall not be considered a habitable floor.

*Halfway House: See Transitional Centers*

**Hazardous materials:** means any explosive, corrosive, flammable, toxic, or carcinogenic material, chemical, or substance that poses a serious threat to human health or welfare. Such substances do not include common household products and cleansers which may, by their nature, include or constitute hazardous materials, as long as they are used exclusively for their intended purpose and are not stored in quantities that are excessive for common residential use.

**Hazardous waste:** means any material, chemical, or substance which, because of its quantity, concentration, or physical, chemical, or infectious characteristics may: (a) cause, or significantly contribute to an increase in mortality or an increase in serious irreversible, or incapacitating reversible illness; or (b) pose a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, disposed, or otherwise managed. This definition includes all solid wastes defined as "hazardous wastes" by the Board of Natural Resources under Chapter 391-3-11 of the "Rules of Georgia Department of Natural Resources, Environmental Protection Division (as amended).

**Heavy industry:** means an existing or proposed industrial use, operation, or process which creates excessive noise, odor, smoke, or dust, or that may possess other objectionable characteristics which may be detrimental to, or incompatible with, surrounding properties and neighborhoods.

**Height:** shall mean, when referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.

**Highway:** A street or traffic way serving as and designated as a State or United States route.

**Home occupation:** Accessory use of a dwelling unit involving the manufacturing of goods or services for a charge, fee or other compensation meeting the criteria set forth in this Code.

**Home enterprise:** A principal dwelling unit that also serves as the place of work for the occupants.

**Hotel/motel:** means a building, or portion thereof, or a group of buildings, which provides sleeping accommodations in six or more separate units or rooms for transients on a daily, weekly, or similar short-term basis. Where such establishment is permitted as a primary use, all uses customarily accessory thereto for the comfort, accommodation, and entertainment of patrons, including restaurants, but not including bars, taverns, and nightclubs unless specifically permitted, shall be permitted.

**Impervious surface:** means any area of land where the surface has been compacted to 98 percent or more, or has been covered with a layer of material (asphalt, concrete, brick, or a structure containing a solid roof, floor, pad, or foundation) that is similarly resistant to permeation by water.

**Industrialized building:** means any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site, and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof.

**Industrialized housing:** means a factory fabricated dwelling or commercial unit built in one or more sections designed to fit together on a permanent foundation but which usually does not originally have wheels for movements and which is constructed in accordance with the Georgia Industrialized Building Act and which bears the seal of approval issued by the Commissioner of Community Affairs and meeting the following standards. (Also see "manufactured home.")

- (1) The home has a minimum width in excess of 16 feet.
- (2) The pitch of the home's roof has a minimum vertical rise of three feet for each 12 feet of horizontal run, and the roof is finished with a type of shingle that is commonly used in conventional residential construction.
- (3) The exterior siding consists of wood, hardboard, vinyl, brick, masonry, or aluminum (vinyl-covered or painted, but in no case exceeding the reflectivity of gloss white paint) comparable in composition, appearance, and durability to the exterior siding commonly used in conventional residential construction.
- (4) A masonry, mortared curtain wall (skirting), unpierced except for required ventilation and access, is installed so that it encloses the area located under the home to the ground level. Such a wall must have a minimum thickness of four inches.
- (5) The tongue, axles, transporting lights, and towing apparatus are removed after placement on the lot and before occupancy.
- (6) Landings shall be installed prior to occupancy of the requisite composition and size as per Section 312 of the "CABO (Congress of Building Officials) One and Two Family Dwelling," with said provisions being expressly incorporated by reference therein as part of this requirement.
- (7) An industrialized home, if constructed outside the boundaries of McDuffie County may be brought into McDuffie County and used as a dwelling if such home was constructed seven or less years from the date of application for permits. If constructed between eight and 12 years from the date of permit application, the industrialized home may be brought into McDuffie County provided the structure has been certified to be suitable for habitation. The requirements for certification shall be in a manner and on forms specified by the McDuffie County Planning Commission.

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*Institutional resident care facilities:* A residential building or facility providing for housing, meals, and 24 hour continuous oversight of one (1) or more residents, and licensed by the state of Georgia as either an assisted living facility, convalescent home, intermediate care home, nursing home, skilled nursing care facility, or personal care home. Institutional resident care facilities do not include boarding houses and group residences.

*Junkyard:* A place of business primarily engaged in the storage, sale, dismantling, or other processing of uses or waste materials which are not intended for reuse in their original forms. Typically uses include metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies.

*Kennel:* means an establishment, other than an animal shelter, where dogs or cats or other domestic animals are maintained for boarding, holding, training, or similar purposes for a fee or compensation.

*Land development:* See Article 9 (Subdivision and Land Development Requirements.)

*Land development officer (LDO):* Officer or authorized representative, designated as the Land Development Officer (LDO) by the Dearing Town Council as authorized to administer the Dearing Land Development Code.

*Landfill:* means an area of land on which or an excavation within which solid waste is placed for disposal and which is not a land application unit, surface impoundment, injection well, or compost pile.

*Light industry:* means any industrial business or operation that does not satisfy the definition of a heavy industry contained in this chapter.

*Livestock:* means all animals of the equine, bovine, or swine class, including goats, sheep, mules, horses, hogs, cattle, and other grazing animals, customarily raised or kept on farms for commercial purposes generally confined to food production or labor.

*Lot:* A parcel of land designated by number or other symbol as part of a legally approved and recorded subdivision or as described by metes and bounds and recorded in the office of the Clerk of McDuffie County Superior Court.

*Lot, corner:* A lot abutting upon two or more streets at a corner; a lot abutting upon two or more streets at their intersection or upon two parts of the same street forming an interior angle of less than 135 degrees. The point of intersection of the street lines or of the street lines as extended is the corner.

*Lot, double frontage:* A lot, other than a corner lot, abutting upon two or more streets. A corner lot shall be considered having double frontage if it has access on three or more sides or shows access to two streets parallel to one another.

*Lot, flag:* An interior lot, located behind another lot, which has a narrow strip of land not less than 20 feet in width for its entirety that runs along one side of the front lot to provide access to the public street. A panhandle or pipe stem lot is considered a flag lot.

*Lot, width:* The distance between the side lot lines at the setback line as measured along a straight line parallel to the front lot line or parallel to the front lot lines or parallel to the chord thereof

*Manufactured home:* means a structure, transportable in one (1) or more sections, which, when each section is in the traveling mode, is eight (8) feet or more in body width and 40 feet or more in body length, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein; or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

*Manufactured home park:* means any lot where manufactured homes are customarily parked for a longer period of time than 30 days for living or sleeping purposes, or where spaces are set aside and offered for rent for use by manufactured homes for living or sleeping purposes, including any land, building, structure, or facility used by occupants of manufactured homes on such premises. Manufactured home parks must comply with the specific requirements for such parks as delineated in article VI, section 44-102.

*Metes and bounds:* surveyor's description of a parcel of real property, using measured distances, angles and directions.

*Minor* (as applied in the Land Development Code): means any person who has not attained the age of 18 years.

*Mixed use building:* A building designed, planned and constructed as a unit, used partially for residential use and partially for office, personal service, retail, entertainment or public uses. This term includes live-work units, which are jointly used for commercial and residential purposes but where the residential use of the space is secondary or accessory to the primary use as a place of work.

*Model home:* means a principal residential building or dwelling unit, temporarily open to viewing by prospective homebuyers or lessees, on property containing or proposed to contain a residential development or subdivision, and which may also be used temporarily as real estate sales office for lots or dwelling units within the development or subdivision.

*Modular home:* means a factory fabricated transportable building consisting of units designed to be incorporated at a building site on a permanent foundation resulting in a permanent structure to be used for residential purposes and which bears a seal of compliance with regulations of the Southern Building Code or the Georgia Industrialized Building Act. Such structures are generally characterized as having wood floor joists, transported to the site on a flatbed trailer, placed by crane on an unbroken perimeter foundation and perimeter footing.

*Motel.* See definition of "hotel."

*Neighborhood shopping center:* means a shopping facility comprised primarily of retail and service enterprises selling or providing standard convenience goods and services. Such a facility is intended to serve immediately adjacent residential neighborhoods. The maximum gross floor area for this scale of development shall be 40,000 square feet.

*Net density:* means an expression of a common measure indicating the ratio of the total developable land area of a proposed development project divided by the number of buildable lots or residential dwelling units. Total developable land area is the total land area of the proposed development site, less land dedicated for public improvements, areas of common use, or areas of sensitive natural resources.

*Non-conforming building:* A building or structure that does not meet one or more height, setback, building coverage, or other dimensional requirements for the zoning district in which said building or structure is located (or if within an overlay zone that establishes dimensional requirements for buildings and such overlay zone provisions are controlling, does not meet one or more of such dimensional requirements for the overlay zone in which said building or structure is located); or a building or structure occupied by a use subject to the provisions of Code, and which does not meet one or more height, setback, building coverage, or other dimensional requirements of this Code for said specific use.

*Non-conforming Lot:* defined as a lot of record which legally existed prior to the adoption of this Land Development Code but which, due to the adoption of this Land Development Code, does not conform to the minimum access, frontage, lot size, lot width, or other lot requirements of the zoning district or overlay zone in which the lot is located as established by this Ordinance; or a lot of record lawfully established after the effective date of this Land Development Code which, due to an amendment to this Land Development Code, does not conform to the minimum access, frontage, lot size, lot width, or other lot requirements of the zoning district or overlay zone in which the lot is located.

*Non-Conforming use:* A use or activity that: was lawfully established prior to the adoption of this Land Development Code, but which, by reason of such adoption or amendment, is no longer a use or activity permitted by right in the zoning district in which said use or activity is located (or if within an overlay zone that establishes use restrictions and such overlay zone uses are controlling, is no longer a use or activity permitted in the overlay zone in which said use is located) as established in this Land Development Code; or a use or activity that was lawfully established prior to the amendment of this Land Development Code, but which, by reason of such amendment, is no longer a use or activity permitted by right in the zoning district in which said use or activity is located (or if within an overlay zone that establishes use restrictions and such overlay zone uses are controlling, is no longer a use or activity permitted in the overlay zone in which said use is located) as established in this Land Development Code or an amendment thereto.

*O.C.G.A.:* Official Code of Georgia Annotated.

*Open-air business:* means any commercial establishment with the principal use of displaying products in an area exposed to open air on three (3) or more sides of the property, including but not limited to rock yards, nurseries, garden centers or supply stores, landscaping companies, lumber and building material yards, statuary and monument sales, or other similar merchandise.

*Open space:* means a yard area which is not used for or occupied by a dwelling, driveway, off-street parking lot, loading space, drying yard, or refuse storage space.

*Outdoor:* Not located within a building as defined in this Article.

*Overlay zoning district:* means a special zoning district that is superimposed over one or more general zoning districts to create an additional set of requirements that must be satisfied by all land development activities in order to protect certain special resources.

*Passenger car:* Every motor vehicle, except motor driven cycles, and low-speed vehicles, designed for carrying ten passengers or less and used for transportation of persons.

*Place of worship:* A building or structure, or group of buildings or structures, regularly utilized for assembly for the purpose of public religious worship, and including all accessory buildings and uses customarily associated with such primary purpose.

*Planned development:* means an area of land controlled by a landowner, to be developed as a single entity for a number of dwelling units, and commercial and industrial uses, if any, the plan for which does not correspond in lot size, bulk, or type of dwelling or commercial or industrial use, density lot coverage and required open space to the regulations established in any one or more districts created under this chapter. A planned development may be designated as a residential subdivision, or a planned unit development (PUD), as applicable to this chapter, and described in article VII.

*Professional:* When used in connection with "use," "office," and "occupancy," a use or occupancy by persons generally engaged in rendering personal, executive, or administrative services or activities, including but not limited to accountants, architects, engineers, land surveyors, doctors, lawyers, insurance offices, real estate offices, religious organizations, stockbrokers, and administrative agencies considered professional in character. Occupations that are considered professional in nature typically are represented by national organizations which promulgate ethical codes and standards of conduct for persons employed in that trade. These national organizations also provide a forum for exchange of ideas and may issue licenses for persons practicing the professional trade. This term does not include repairs or sales of tangible personal property stored or located on the premises or any use which would create any loud noise, noxious odors, hazardous wastes, or air emissions.

*Public right-of-way:* Roadway surface being used by the traveling public and/or proposed to be used by the traveling public, being paved or unpaved, being either existing or proposed alleys, roadways, stub-outs, cul-de-sacs, etc.

*Real property:* all land, structures, firmly attached and integrated equipment (such as light fixtures or a well pump), anything growing on the land, and all "interests" in the property which may be the right to future ownership.

*Recreational vehicle (travel trailer or RV):* means a motorized vehicular portable structure designed as a temporary dwelling, containing not more than 320 square feet of floor area and not more than eight feet in width.

*Regional shopping center:* means one or more commercial structures and associated lands designed as a unit that contains at least 350,000 net square feet of floor area or will accommodate at least 30 retail and/or service establishments, one or more of which caters to a broad consumer market and serves as a market "anchor" for the other businesses in the center. Such a facility is intended to primarily serve the residents of McDuffie County and surrounding counties.

*Residential child care facility:* means an institution, society, agency, or facility providing full-time care for children outside of their own homes, including temporary shelters or other facilities for children and their families or portions thereof. This term shall include "child-caring institutions," as defined in the Georgia Children and Youth Act (Ga. Code 49-5-1), but shall not include foster family homes.

*Restaurant – drive-in:* Establishment which accommodates customers placing orders and being served food and beverages without having to depart the automobile. A drive in restaurant may also cater to customers who order and consume food within the establishment.

*Restaurant – fast food:* Establishment in which the principal business is the sale of pre-prepared or rapidly prepared food directly to the customer in a ready-to-consume state for consumption either within the restaurant building or off-premises.

*Restaurant – full service:* Establishment in which the principal business is the sale of food and beverages to customers in a ready-to-consume state, and in which customers are served their food/beverages by a restaurant employee at a table or counter at which the food/beverage is consumed, or customers are served their food and beverages by means of a cafeteria-type operation where food and beverages are consumed within the restaurant building. This definition includes cafeteria, coffee shops, taverns, pubs, and sidewalk cafes.

*Retail use:* Any business offering goods and products for sale to the public, which may include the incidental repair of such goods and products, that operates entirely within a building except for outdoor display. Specific land uses that may otherwise meet the definition of retail use but are independently listed within the tables of permitted and conditional uses provided within this Code shall not be considered as a retail use by this definition.

*Right of way:* a public road or public way that is accepted by the governing body.

*Riverine:* Relating to, formed by, or resembling a river (including tributaries), stream, brook, etc.

*Salvage yard:* See "Junkyard."

*Setback:* A line establishing the minimum allowable distance between the front wall of a building a principal building and the street right-of-way line or a side or rear building wall and a side or rear property line when measured perpendicularly thereto.

*Site-built:* See "Conventional construction."

*Solid waste:* means any solid refuse materials generated by residential, commercial, industrial, or institutional uses for disposal.

*Solid waste facility:* means any land or structure used for the long-term disposal, storage, transfer, collection, treatment, utilization, processing, incineration, or any combination thereof, of solid waste. This definition shall include inert waste landfills, private industry landfills, municipal solid waste landfills, composting facilities, medical waste or biomedical incinerators, and hazardous waste treatment, storage, or disposal facilities

*Special exception:* means a use permitted upon approval by the board of commissioners; a review and recommendation by the planning commission to the board of commissioners first being necessary because the provisions of this chapter covering conditions precedent or subsequent are not precise enough to all applications without interpretation and such review and exception is provided for by this chapter. A special exception is not a variance. Rather, it is a land use that can be made compatible with a principal use under certain standards and conditions.

*Special temporary outdoor event:* means an intermittent event accessory to the normal daily activities of a business or organization, or any temporary event conducted by a civic, philanthropic, educational or religious institution. Special temporary outdoor events include a wide variety of activities such as grand opening, closeout, or seasonal sales, fund raising or membership drives, carnivals, circuses, festivals, and other similar events.

*Street:* A dedicated and accepted right-of-way for vehicular traffic. Includes but is not limited to highway, thoroughfare, lane, road, boulevard, way, place, court, trail or otherwise.

*Street width:* shortest distance between the lines delineating the traveling surface of a street. For streets with curbs, the width is measured from the edge of pavement.

*Structure:* Anything built, constructed or erected, or established or composed of parts joined together in some definite manner, the use of which requires location on the ground or which is attached to something having permanent location on the ground. For purposes of this Land Development Code, parking decks, swimming pools, tennis courts, signs, dog houses, and outdoor fenced animal runs are considered structures. Tents, vehicles, trailers, and play equipment attached to the ground in some permanent or temporary way shall be considered structures. A structure may or may not be easily moved from a given location on the ground. Walls and fences are considered structures but are subject to setback regulations for walls and fences rather than principal or accessory building setback regulations. Driveways, parking lots, patios, and other similar surface treatments not utilizing vertical components are not considered structures.

*Structure – temporary:* means a structure which is permitted within a land-use district without any foundation or footing and which is removed when the designated time period, activity or use for which the temporary structure was erected has ceased.

*Subdivider:* Any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit, dividing or proposing to divide land so as to constitute a subdivision. This definition includes any authorized agent.

*Subdivision:* See Article 9 (Subdivision and Land Development Requirements.)

*Substantial improvement:* means any repair, reconstruction, or improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the structure either: (a) before the improvement or repair is started, or (b) if the structure has been damaged and is being restored, before the damage occurred. When used in the context of the Flood Hazard Area Overlay District, substantial improvement is considered to occur when first alteration of any wall, ceiling, floor, or other structural part of the structure commences, whether or not the alteration affects the external dimensions of the structure. The term does not, however, include either: (a) any project for improvement of a structure to comply with existing state or local health, sanitary, or safety code specifications, which are solely necessary to assure safe living conditions; or (b) any alteration of a structure listed on the National Register of Historic Places.

*Tenant house:* means a single-family residential dwelling which is leased by a private farming entity for migrant, or other agricultural workers for the purpose of providing temporary housing where agricultural labor is in demand.

*Tower:* shall mean any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, and the like.

*Town Council:* The elected members of the Dearing, Georgia Town Council which serves as the “Governing Body” (see Governing Body”)

*Town:* The Town of Dearing, Georgia.

*Townhouse:* See “single-family (attached).”

*Transmission tower:* means a structure situated on a site that is intended for transmitting or receiving telecommunications signals, including, but not limited to, television, radio, and telephone signals.

*Transitional Center (Halfway House):* means a licensed, temporary, residential living arrangement for persons leaving an institutional setting or initially placed in lieu of more restrictive custodial confinement, wherein supervision, rehabilitation (including, but not limited to drug rehabilitation), and counseling are provided from support staff who are present whenever residents are present, in order to mainstream residents back into society, enabling them to live independently.

*Travel trailer park:* means any lot on which are temporarily parked two (2) or more travel trailers for a period of less than 30 days.

*Unified development:* A single commercial, industrial, or institutional property that is designed or intended for occupancy by two (2) or more related uses, businesses or tenants; or a residential subdivision, or multi-unit residential development.

*Use – accessory:* Use incidental and subordinate to the principal use.

*Use – conditional:* Use permitted in a particular zoning district only upon showing that such use in a specific location will comply with all the conditions and standards for the location or operation of such use as specified in the appropriate Article and authorized by the Town Council.

*Use – principal:* Primary purpose or function that a lot serves or is proposed to serve and conducted in the principal building.

*Use – temporary:* Use established for a fixed period of time with the intent to discontinue such use upon the expiration of a time period unless permission to continue is use is renewed.

*Variance:* means a request for and/or the granting of relief from any of the dimensional requirements of the land development code. Requests for variances include, but are not limited to a request for reduced setbacks, reduced road frontage, reduced minimum lot size, reduced number of parking spaces.

*Variance, administrative:* request for and/or the granting of relief from any of the dimensional requirements of the land development code by the Land Development Officer. Requests for variances include, but are not limited to a request for reduced setbacks, reduced road frontage, reduced minimum lot size, reduced number of parking spaces. The Land Development Officer can only grant minor relief from the aforementioned dimensional requirements.

*Yard:* means a space on the same lot with a main building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

*Yard, front:* means an open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and the front line of the building projected to the side lines of the lot. The depth of the front yard shall be measured between the front line of the building and the right-of-way line. Covered porches, whether enclosed or unenclosed, shall be considered as part of the main building and shall not project into a required front yard. On corner lots, the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

*Yard, rear:* means an open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and the rear line of the main building projected to the side lines of the lot. On all corner lots, the rear yard shall be at the opposite end of the lot from the front yard.

*Yard, side:* means an open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

*Yard sale:* means a sale, open to the public, of new, used, or previously owned personal property; including but not limited to goods, wares, merchandise and clothing, held on vacant property or on the lawn, yard, porch, patio or other out-building of a single-family dwelling or other residence. The term “yard sale” shall also include garage sale, rummage sale, tag sale, or other similar activity.

*Zoning:* In order to regulate the location of structures, the height and bulk of structures, the use and intensity of use of lots and structures, and to regulate open spaces and aesthetics, the City is divided into zoning districts which are individually described in this Ordinance. Those districts are set forth in Article 3 of this Ordinance from lowest to highest intensity.

*Zoning decision:* means the final legislative action by the board of commissioners which results in: (a) the adoption of a zoning ordinance; (b) the adoption of an amendment to a zoning ordinance which changes the text or map of the zoning ordinance; (c) the adoption of an amendment to a zoning ordinance which rezones property from one zoning classification to another; or, (d) the grant or denial of a special exception or variance.

*Zoning District – Base:* Zoning district that emphasizes the placement of prescribed land use to specific parcels within the city, and may include a varying degree of supplemental dimensional and design requirements applicable to individual land uses. Base zoning districts are illustrated in on the “Official Zoning Map of Dearing, Georgia” and may alternatively be referred to throughout this chapter simply as a “base district.”

*Zoning District – Overlay:* Zone which imposes a set of requirements or relaxes a set of requirements imposed by the underlying zoning district when there is a special public interest in a particular geographic area that does not coincide the underlying zone boundaries

*Zoning district - Special:* A zoning district which provides for a set of requirements that are unique to an individual tract of land, and replaces in full, the requirements of the base zoning district.

# ARTICLE 3

## ZONING DISTRICTS

## ARTICLE 3 - ZONING DISTRICTS

### SECTION 3.1 ZONING DISTRICTS ESTABLISHED

The Town of Dearing hereby establishes zoning districts as an integral component of the management of land use and development within the municipal limits; and, categorizes such districts as base zoning districts, overlay zoning districts, or special zoning districts as set forth in Section 3.2, 3.3 and 3.4 of this Article.

### SECTION 3.2 BASE ZONING DISTRICTS

The Town of Dearing's base zoning districts, and the purpose of each, are listed in Table 3.1. The purpose statements for each base zoning district serve as a summary of the intended district character and regulatory intent.

TABLE 3.1: BASE ZONING DISTRICTS		
<i>Zoning District</i>		<i>Purpose</i>
<i>R-A</i>	<i>Residential – Agricultural District</i>	The Residential-Agricultural (R-A) District promotes the use of large lots in order to maintain the rural residential character of areas within and surrounding the town, by allowing for the continuation of agricultural uses and low intensity housing types of quality construction and design to be located on large lots, and by providing a transitional area between the rural areas of McDuffie County and areas of concentrated development within Dearing.
<i>R-SF1</i>	<i>Residential – Single Family 1 District</i>	The Residential Single Family 1 (R-SF1) District promotes single family residential uses within a low intensity neighborhood environment that incorporates open spaces and supporting institutional uses in a secondary capacity such as, churches, schools, etc. Commercial options exist for residential dwellings within this district that are located along a major thoroughfare in order to provide a gradual transition between residential and commercial areas of the town.
<i>R-SF2</i>	<i>Residential – Single Family 2 District</i>	The Residential Single Family 2 (R-SF2) District promotes single family residential uses on smaller lots that meet market demand for developments of higher intensity and support a more efficient use of public infrastructure, while providing for an overall neighborhood environment that incorporates sufficient open spaces and supporting institutional uses in a secondary capacity such as, churches, schools, etc. Commercial options exist for residential dwellings within this district that are located along a major thoroughfare in order to provide a gradual transition between residential and commercial areas of the town.
<i>R-MF</i>	<i>Residential – Multifamily District</i>	The Residential Multifamily (R-MF) District provides areas for multifamily residential developments including, but not limited to, duplexes, townhomes, apartment complexes and uses that complement the neighborhood environment such as churches, schools, parks, open spaces, etc. This district may provide a transition between some lower intensity residential areas and commercial areas of the town.
<i>TC</i>	<i>Town Center District</i>	The Town Center (TC) District provides for the revitalization and reuse of existing buildings, and new construction of buildings in Dearing's historic commercial core. It offers residents a wide range of retail establishments, professional offices, restaurants, and residential uses, and promotes compact site and building development patterns that generates a safe and walkable built environment.
<i>GC</i>	<i>General Commercial District</i>	The General Commercial (GC) District provides for a variety of commercial, retail, office, and service activities for the residents of Dearing and surrounding McDuffie County. The uses in this district serve a greater number of patrons than other commercial districts of more limited scope or scale.
<i>I</i>	<i>Industrial District</i>	The Industrial (I) District provides an area for limited industrial and warehousing uses. The district provides for a number of employment opportunities in Dearing which may include, but not be limited to, manufacturing, bulk storage, etc. The district should be separated from residential areas due to potential incompatibility.

### **SECTION 3.3 OVERLAY ZONING DISTRICTS**

The Dearing Land Development Code grants the Dearing Town Council the authority to create overlay zoning districts. These districts provide the Town Council of Dearing the opportunity to address specific circumstances that may exist within a defined geographic area. These circumstances may include, but not be limited to, addressing the following needs: promoting historic preservation, providing for design standards that enhance community character, protecting environmental resources, enhancing economic initiatives, etc.

Overlay zoning districts created and applied to parcels within Dearing shall not physically replace the underlying base zoning district(s) for such property, but shall be applied and mapped in addition to each applicable parcel's base zoning district. Unless specifically stated in any other article or section of this code, or otherwise creating a conflict between ordinance provisions as provided in Section 1.5 (Rules of Construction) of this Code, the standards of an overlay zoning district shall be applied to applicable parcels in addition to, or to varying degrees in place of, the standards of each parcel's base zoning district.

### **SECTION 3.4 SPECIAL ZONING DISTRICTS**

The Dearing Land Development Code grants the Dearing Town Council the authority to create special zoning districts. These districts provide the Town Council of Dearing with the opportunity to create an area to accommodate the development of property in a unique manner on a case-by-case basis that may not otherwise be accommodated by utilizing the existing base zoning districts. Special zoning districts may be structured so that their application to property within Dearing is subject to a detailed and planned process that will allow for the flexible application of dimensional and other general development provisions in exchange for higher quality development, including enhancements not otherwise required by this Code.

Special zoning districts created and applied to parcels within Dearing shall physically replace the pre-existing base zoning district(s) for such property, and shall be mapped in the same manner as a base zoning district. Once applied, the standards of a special zoning district shall replace in full those of the parcel's original base zoning district. Each special zoning district applied to property following the approval of Town Council may incorporate dimensional and other development provisions that are unique to the applicable parcels.

### **SECTION 3.5 OFFICIAL ZONING MAP**

The boundaries of all zoning districts in the Town of Dearing are shown on the map entitled the "Official Zoning Map of Dearing, Georgia" and which may be referenced herein as the "Official Zoning Map." All notations, references and other information displayed on the Official Zoning Map are part of the Dearing Land Development Code and have the same force and effect as if described in the text of the Code. The Official Zoning Map shall be kept in the office of the Town Clerk.

### **SECTION 3.6 ZONING DISTRICT BOUNDARIES**

Boundaries of zoning districts herein established, and as displayed on the Official Zoning Map, shall adhere to the following provisions for the purpose of the administration, interpretation, and enforcement of this Ordinance.

1. Where zoning district boundaries are indicated as approximately following the municipal boundaries, such municipal boundaries shall be construed as the zoning district boundaries.
2. Where zoning district boundaries are indicated as approximately following property lines, such property lines shall be construed as the zoning district boundaries.
3. Where zoning district boundaries are indicated as approximately following creeks, rivers, streams or other bodies of water, the centerline of the creek, river, stream or other body of water shall be construed as the zoning district boundaries.
4. Where zoning district boundaries are indicated as approximately following a street, road, highway, railroad, or other utility right-of-way, the centerline of such right-of-way shall be construed as the zoning district boundaries; except that where such right-of-way is officially vacated or abandoned, the zoning district of the property to which it reverts shall apply regardless of the previous right-of-way centerline location.
5. Distances not specifically indicated on the Official Zoning Map shall be determined by the scale of the Official Zoning Map.
6. Where there is uncertainty regarding the exact location of the boundaries of a particular base zoning district, overlay zoning district, or special zoning district as displayed on the Official Zoning Map, a determination shall be made by the Land Development Officer. Any such administrative determination is subject to appeal in accordance with Section 11.13 (Appeals) of this Code.

### **SECTION 3.7 MAJOR THOROUGHFARES**

The Dearing Land Development Code includes some provisions that link allowable land development arrangements, intensities, and types, and permissible land uses, to the functional classification of streets and thoroughfares. Existing thoroughfares identified on the Town of Dearing's major thoroughfare map are incorporated by reference as a component of the Official Zoning Map, and shall have the same force and effect as all other notations, references and additional information displayed thereon. The Town of Dearing's major thoroughfare map is derived directly from the "Functional Classification Map, McDuffie County, Georgia, 2005" produced by the Georgia Department of Transportation in cooperation with the Federal Highway Administration; however, the Town of Dearing reserves the right to customize its thoroughfare designations on all highways, streets, and roads depicted within and adjacent to the municipal limits for purposes of applying the provisions of this Code to property within the Town.



# ARTICLE 4

## ZONING DISTRICTS REGULATIONS

## ARTICLE 4 - ZONING DISTRICTS REGULATIONS

### SECTION 4.1 PERMITTED LAND USES BY ZONING DISTRICT

The Town of Dearing hereby establishes lists of land uses which may be allowed within those specific zoning districts established in Article 3 of this Code (Zoning Districts Established.) No new, altered, or reinstated land use shall be established within the Town of Dearing; nor, corresponding certificate of compliance issued by the Town of Dearing; unless said land use is permitted within the zoning district applied to the applicable property located within the municipal limits of Dearing, and in accordance with the provisions of this Article.

#### *Section 4.1.1 General Parameters for Determining Permitted Land Uses*

1. Land uses listed within Table 4.1 shall be permitted, permitted with conditions, or permitted as a special use in each applicable zoning district. Uses shall not be permitted, and buildings and structures associated with such use shall not be erected, structurally altered, or enlarged on property, unless said use is permitted within the applicable zoning district as listed in Table 4.1., and in accordance with one (1) of the following designations:
  - “P” (Permitted Use) - Indicates that the use is permitted in the zoning district.
  - “C” (Conditional Use) - Indicates that the use is permitted in the zoning district subject to use-specific requirements contained in Article 5 (Supplemental Use Regulations.)
  - “S” (Special Use) - Indicates that the use may be permitted by Dearing Town Council subject to use-specific requirements contained in Article 5 (Supplemental Use Regulations,) and the procedural requirements of Section 11.8 (Special Uses.)
2. Any listed use that does not have the letter P, C, or S listed in a particular zoning district is prohibited in that zoning district. The exceptions to these provisions are legal non-conformities established prior to the effective date of the ordinance, and the regulation which rendered the use as non-conforming.
3. The majority of commercial, industrial, and institutional land uses listed in the tables contained within this Article are assigned a corresponding North American Industry Classification System (NAICS) code. Land uses assigned an NAICS code shall be defined by their NAICS definition. A land use which falls into multiple NAICS categories shall be defined by the most detailed NAICS definition (a five (5) digit NAICS class overrides a four (4) digit NAICS class and so forth.) If no NAICS code is assigned to a land use, then such use shall be defined utilizing a corresponding definition located in Article 2, Section 2.2 (Interpretations, Terms, and Definitions).
4. Each land use listed in Table 4.1 as permitted within one (1) or more zoning districts shall be inferred to be a “principal use” as defined by this Code. An exception to this provision is that in no case shall an accessory use or temporary use identified in Table 4.1 be considered a principal use of property. Lists of accessory and temporary land uses permitted within the town of Dearing are located within Tables 4.2 and 4.4 respectively.

#### *Section 4.1.2 Prohibited Land Uses*

Without limiting the general prohibition of unlisted and incompatible land uses from the Town of Dearing as provided in Subsection 4.1.3 (Uses not Listed,) the following land uses are expressly prohibited in the Town of Dearing:

1. Mobile home parks and manufactured home parks.
2. Industries which manufacture: caustic or corrosive acids; chlorine or other noxious gases; explosives; fertilizer on an industrial scale or glue; products involving hair or fur; and industrial uses involving a drop forge or using power hammers.
3. Solid waste landfills.
4. Hazardous waste disposal.
5. Petroleum refining.

#### *Section 4.1.3 Uses not Listed*

The Land Development Officer shall determine whether a particular land use not listed in the tables contained in this Article may be reasonably interpreted as adhering to a particular use category. In rendering an interpretation of a land use not listed in herein, the Land Development Officer shall be guided by the following provisions:

1. The Land Development Officer may consider an unlisted land use as permitted on a case-by-case basis where they determine that the proposed use is materially similar to a specific listed land use according to corresponding NAICS codes, or definitions contained in Article 2 (Interpretations, Terms, and Definitions).
2. In determining that an unlisted land use is materially similar to a specific listed land use, such use shall then be subject to all of the same supplemental regulations, or special use requirements of the use for which it was found to be compatible prior to it being established.
3. Unlisted land uses which the Land Development Officer cannot group as similar or compatible to a specific listed land use according to corresponding NAICS codes, or definitions contained in Article 2 (Interpretations, Terms, and Definitions), shall be deemed as incompatible and shall be prohibited from being located within Dearing.

The determination of the Land Development Officer regarding uses not otherwise listed in the tables contained in this Article shall be recorded in writing. The Land Development Officer may opt to refer interpretation of an unlisted use to the Town Council at a regularly scheduled meeting for ratification by the Council. Such an action does not constitute an amendment to the text of this Code and shall not be subject to the procedural requirements of Section 11.6 (Text Amendments.)

TABLE 4.1: PERMITTED LAND USES BY ZONING DISTRICT

P = Permitted C = Conditional S = Use Permitted Only After Permission has been granted by the Town Council	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Residential									
Dwelling - Loft						P			
Dwelling - Multifamily					P				
Dwelling - Single Family (Attached)					P	P			
Dwelling - Single Family (Detached)		P	P	P	P		P		
Dwelling - Two-family					P				
Manufactured Homes		C	C						Art. 5 Sec. 5.1.9
Residential, Group Living									
Boarding House		S	S		S		S		Art.5 Sec 5.1.3
Group Residence		S	S		S		S		Art.5 Sec 5.1.3
Institutional Resident Care Facilities				S	C		S		Art.5 Sec 5.1.7
Commercial / Institutional									
Administration, Public	92					P	P	P	
Adult Business								S	Art.5 Sec 5.1.1
Agriculture	111, 112, 1151,1152	P							
Ambulatory Health Care Services	621					P	P	P	
Animal Clinic / Veterinarian’s Office	541940					P	P		
Animal Grooming	812910					P	P		
Automotive / Machinery Repair	811						P		
Bank and Financial Institutions	5221					P	P		
Barber and Beauty Salons	812112					P	P		
Bed and Breakfast	721191	C	C	C	C	C	C		Art.5 Sec.5.1.2
Billiards or Pool Hall	713990					P	P		
Building Contractor's Office	236					P	P		
Business Service Center	56143					P	P		
Carpet / Upholstery Cleaning Service	561740						P		
Caterer	722320					P	P		
Cemetery		S	S	S	S	S	S		Art.5 Sec.5.1.4
Clubs and Lodges - Non-Commercial	813410				P	P	P		
Convenience Store	445120					P	P		
Convenience Store with Gas Station	447110						P		

TABLE 4.1: PERMITTED LAND USES BY ZONING DISTRICT (CONTINUED)

P = Permitted C = Conditional S = Use Permitted Only After Permission has been granted by the Town Council	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Commercial / Institutional									
Courier Service	492110					P	P		
Day Care Facility - Group					C	C	C		Art.5 Sec 5.1.5
Document Preparation Service	561410					P	P		
Dry Cleaning Services	812320						P		
Equestrian Facilities		P							
Fitness and Recreational Sports Centers	713940					P	P		
Financial Investments	5239					P	P		
Forestry	113, 1153	P							
Funeral Home	812210						P		
Gas Station without Convenience Store	447190						P	P	
Grocery Stores	445110					P	P		
Home Enterprises	List of Permitted Home Enterprises can be found in Table 4.3								
Home Occupations	List of Permitted Home Occupations can be found in Table 4.3								
Hotel / Motel	7211					P	P		
Hospitals - General Medical and Surgical	6221					P	P	P	
Insurance Office	524210					P	P		
Junkyard / Salvage Yard								S	Art.5 Sec.5.1.8
Laundromat (Coin Operated)	812310						P		
Library		P	P	P	P	P			
Mixed Use Building						P			
Motor Vehicle and Motor Vehicle Parts and Supplies Merchant Wholesalers	4231							P	
Museum / Historical Site / Similar Use	7212	P	P	P	P	P	P		
Open-air Business						C		C	Art.5 Sec.5.1.10
Pawn Shop	52298						P		
Performing Arts and Spectator Sports Facilities	7111, 7112					P	P		
Personal Care Services; Other	812199					P	P		
Pest Control or Extermination Services	561710						P		
Place of Worship		C	C	C	C	C	C		Art.5 Sec 5.1.11

P = Permitted  
C = Conditional  
S = Use Permitted Only After Permission has been granted by the Town Council

TABLE 4.1: PERMITTED LAND USES BY ZONING DISTRICT (CONTINUED)

<div>P = Permitted</div> <div>C = Conditional</div> <div>S = Use Permitted Only After Permission has been granted by the Town Council</div>	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Commercial / Institutional									
Restaurants - Full Service	72251					P	P		
Professional Services	541					P	P		
Restaurants - Limited Service (incl. Fast Food)	722513					P	P		
Restaurants - Limited Service with Drive Through	722513						P		
Retail Use						P	P		
School, Elementary and Secondary	6111	P	P	P	P	P	P		
School, College, University and Professional	6112, 6113					P	P		
School, Specialty	6114, 6115, 6116					P	P		
Studios – Independent Artists, Writers and Performers	7115					P	P		
Taxidermist	711510						P		
Telephone Answering Service	561421					P	P		
Theater: Indoor	512131					P	P		
Travel Agency	561510					P	P		
Wireless Telecommunication Facilities		S						C	A.5 S.5.1.12
Industrial Uses									
Apparel Manufacturing	315							S	A.5 S.5.1.6
Beverage Manufacturing (excl. Alcohol)	312							S	A.5 S.5.1.6
Computer or Electronic Manufacturing	334							S	A.5 S.5.1.6
Dry Cleaning Plant	812320							S	A.5 S.5.1.6
Food Manufacturing	311							S	A.5 S.5.1.6
Furniture Manufacturing	337							S	A.5 S.5.1.6
General Freight	4841							P	
Industrial Trucks, Tractors, or Trailer Merchant Wholesalers	4238							P	
Motor Vehicle Merchant Wholesaler	4231							P	
Non-Metallic Mineral Product Manufacturing	327							S	A.5 S.5.1.6
Other Commercial and Industrial Machinery & Equipment Rental and Leasing	5324							P	

TABLE 4.1: PERMITTED LAND USES BY ZONING DISTRICT (CONTINUED)

P = Permitted C = Conditional S = Use Permitted Only After Permission has been granted by the Town Council	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
<b>Industrial Uses</b>									
Pharmaceutical & Medical Supply Manufacturing	325412							S	A.5 S.5.1.6
Printing and Related Services	323							S	A.5 S.5.1.6
Specialized Freight Trucking	4842							P	
Textile Mills	313							S	A.5 S.5.1.6
Truck Tractor and Leasing	5321							P	
Truck Repair Shops	81111							P	
Utility Sub-Stations		P	P	P	P	P	P	P	
Warehouse & General Storage	493110							P	
Warehouse Self Storage	531130							P	
Wholesale Trade	42							P	
<b>Accessory Uses</b>									
List of permitted uses can be found in Table 4.2									
<b>Temporary Uses</b>									
List of permitted temporary uses can be found in Table 4.4									

## SECTION 4.2 PERMITTED ACCESSORY USES AND STRUCTURES

Allowable accessory uses of land within the Town of Dearing are listed within Table 4.2. Accessory uses of land within Dearing shall be permitted on property only in conjunction with an established principal land use. Where permitted, accessory land uses and structures shall adhere to the applicable provisions of Section 5.2 (Accessory Uses and Structures) of this Code.

The provisions of Section 4.1 (Permitted Land Uses by Zoning District) regarding principal land uses shall also apply to this Section in order to determine whether or not an accessory use identified within Table 4.2, or other similar use not otherwise identified within the table, may be established within the municipal limits of Dearing,

TABLE 4.2: ACCESSORY USES BY ZONING DISTRICT

C = Conditional	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Accessory Uses									
Accessory Dwellings		C	C	C	C		C		Article 5, Section 5.2
Caretaker Residence								C	
Communal Resident Facilities		C	C	C	C	C	C		
Drive-Through Facilities							C		
Home Enterprise		C	C	C	C	C	C		
Home Occupation		C	C	C	C	C	C		
Livestock		C	C	C	C		C		
Outdoor Display Area						C	C		
Yard Sale		C	C	C	C				



### SECTION 4.3 PERMITTED HOME ENTERPRISES AND HOME OCCUPATIONS

The establishment of a home enterprise or home occupation within a residential structure shall be limited to those land uses listed in Table 4.3. By their nature, all home enterprises and home occupations are accessory and conditional uses, and may be permitted only subject to requirements contained within Section 5.2 (Accessory Uses and Structures) of this Code.

The provisions of Section 4.1 (Permitted Land Uses by Zoning District) regarding principal land uses shall also apply to this Section in order to determine whether or not a home enterprise or home occupation identified within Table 4.3, or other similar use not otherwise identified within the table, may be established within the municipal limits of Dearing.

TABLE 4.3: HOME ENTERPRISES AND HOME OCCUPATIONS BY ZONING DISTRICT

E = Home Enterprise O = Home Occupation	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Home Enterprise & Home Occupations									
Barber (Single Chair)	812111	O	O	O	O	O	O		Article 5, Section 5.2
Barber (Three Chairs Maximum)	812111	E	E	E	E	E	E		
Beautician (Single Chair)	812112	O	O	O	O	O	O		
Beautician (Three Chairs Maximum)	812112	E	E	E	E	E	E		
Artist	711510	E/O	E/O	E/O	E/O	E/O	E/O		
Construction Contractor's Office	236	E/O	E/O	E/O	E/O	E/O	E/O		
Coffee Shop	722515	E	E	E	E	E	E		
Computer Repair	811212	E/O	E/O	E/O	E/O	E/O	E/O		
Crafts	453220	E/O	E/O	E/O	E/O	E/O	E/O		
Day Care Facilities - Group		E	E	E					
Day Care Facilities - Home		O	O	O	O	O	O		
Dressmaking / Seamstress / Tailor/ Alterations	3152	E/O	E/O	E/O	E/O	E/O	E/O		
Day Care Facility - Home (6 or Less Individuals)		O	O	O	O	O	O		
Home Marketing (i.e. Amway, Mary Kay, etc.)	561422	E/O	E/O	E/O	E/O	E/O	E/O		
Interior Decorator	541410	E/O	E/O	E/O	E/O	E/O	E/O		
Physician of Other Licensed Medical Practitioner	621	E/O	E/O	E/O	E/O	E/O	E/O		
Professional Service Office (i.e. Attorney, Architect, Engineer, etc.)	541	E/O	E/O	E/O	E/O	E/O	E/O		
Teaching Musical Instruments (1 Student)	611610	O	O	O	O	O	O		
Tutoring (Maximum 4 Students)	611691	O	O	O	O	O	O		
Notary Public	541199	O	O	O	O	O	O		
Photography ( 1 Customer )	541921	E/O	E/O	E/O	E/O	E/O	E/O		
Real Estate Agent	53190	E/O	E/O	E/O	E/O	E/O	E/O		

TABLE 4.3: HOME ENTERPRISES AND HOME OCCUPATIONS BY ZONING DISTRICT (CONT.)

E = Home Enterprise O = Home Occupation	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Home Enterprise & Home Occupations									
School, Specialty	6114, 6115, 6116	E	E	E	E	E	E		Article 5, Section 5.2
Studios – Independent Artists, Writers, and Performers	7115	E/O	E/O	E/O	E/O	E/O	E/O		
Tax Consultant	541213	E/O	E/O	E/O	E/O	E/O	E/O		
Travel Agent	561510	E/O	E/O	E/O	E/O	E/O	E/O		
Upholstery	811420	O	O	O	O	O	O		

#### SECTION 4.4 PERMITTED TEMPORARY USES AND STRUCTURES

Allowable temporary uses of land within the Town of Dearing are listed within Table 4.4. Where permitted, temporary land uses and structures shall adhere to the applicable provisions of Section 5.3 (Temporary Uses and Structures) of this Code.

The provisions of Section 4.1 (Permitted Land Uses by Zoning District) regarding principal land uses shall also apply to this Section in order to determine whether or not a temporary use identified within Table 4.4, or other similar use not otherwise identified within the table, may be established within the municipal limits of Dearing.

TABLE 4.4: PERMITTED TEMPORARY USES BY ZONING DISTRICT

E = Home Enterprise O = Home Occupation	North American Industry Classification System Code	Permitted Use By Zoning District							Supplemental Regulations
Use		R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I	
Temporary Uses									
Construction Field Offices and Equipment Sheds		C	C	C	C	C	C	C	A.5 S.5.3.2
Model Home		C	C	C	C				A.5 S.5.3.3
Special Temporary Outdoor Event		C	C	C	C	C	C	C	A.5 S.5.3.4
Temporary Leasing/Sales Offices		C	C	C	C				A.5 S.5.3.5

#### 4.5 DIMENSIONAL STANDARDS FOR BASE ZONING DISTRICTS

Basic dimensional standards for base zoning districts are summarized in Table 4.5. Application of the dimensional standards presented within the table to property within Dearing may however be subject to variation in accordance with Section 6.3 (General Dimensional Requirements,) or other provisions of this Code. Notwithstanding the direction provided in Section 1.5 (Rules of Construction) of this Code, where the strict application of the provisions of Section 6.3 or other provision of this Code results in an inconsistency with the dimensional standards established herein, the requirements of the alternative provision provided in Section 6.3 shall prevail and apply.

TABLE 4.5: DIMENSIONAL STANDARDS FOR BASE ZONING DISTRICTS

	Base Zoning District						
	R-A	R-SF 1	R-SF 2	R-MF	TC	GC	I
<b>Building and Lot Requirements</b>							
<b>Minimum Lot Size<sup>1</sup></b>							
Dwelling - Single-family detached	2 acres	15,000 sq ft	7,500 sq ft	7,500 sq ft	N/A	10,000 sq ft	N/A
Dwelling – Single-family attached	N/A	N/A	N/A	7,500 sq ft	None	N/A	N/A
All Other Uses <sup>2</sup>	2 acres	20,000 sq ft	15,000 sq ft	15,000 sq ft	None	10,000 sq ft	1 acre
Maximum Residential Density (Dwelling units per acre)	0.5	2.9	5.83	12	N/A	4.36	13
<b>Minimum Lot Width<sup>1</sup></b>							
Dwelling - Single-family detached	100'	75'	60'	60'	N/A	100'	N/A
Dwelling – Single-family attached	N/A	N/A	N/A	30'	30'	N/A	N/A
All Other Uses	100'	75'	75'	100'	None	100'	100'
Minimum Road Frontage	100'	50'	50'	30'	30'	50'	250'
Maximum Building Coverage	20%	20%	35%	35%	95%	50%	70%
Maximum Impervious Surface Coverage	40%	30%	50%	60%	100%	75%	85%
<b>HEIGHT REQUIREMENTS</b>							
Maximum Height in Feet	35 ft.	35 ft.	35 ft.	35 ft.	50 ft.	50 ft.	50 ft.
Maximum Height in Stories <sup>5</sup>	2	2	2	2	2	2	N/A
<b>PRINCIPAL BUILDING SETBACK REQUIREMENTS <sup>6</sup></b>							
Front Setback (all streets)	50 ft.	25 ft.	15 ft.	25 ft.	N/A <sup>7</sup>	25 ft.	50 ft.
Side Setback (Per Side)	15 ft.	10 ft.	10 ft.	15 ft.	None	25 ft.	25 ft.
Rear Setback	15 ft.	20 ft.	20 ft.	25 ft.	None	25 ft.	25 ft.
<b>ACCESSORY BUILDING OR STRUCTURE SETBACKS AND REQUIREMENTS <sup>6</sup></b>							
Front Setback	N/A	N/A	N/A	N/A	N/A	N/A	N/A
Side Setback	15 ft.	5 ft.	5 ft.	25 ft.	None	25 ft.	25 ft.
Rear Setback	15 ft.	5 ft.	5 ft.	25 ft.	None	25 ft.	25 ft.
From Principal Building	15 ft.	15 ft.	15 ft.	15 ft.	None	15 ft.	15 ft.
From Accessory Buildings	15 ft.	15 ft.	15 ft.	15 ft.	None	15 ft.	15 ft.

<sup>1</sup> Minimum lot size is based upon property lines of a parcel regardless if property is partially located within the Town Limits.

<sup>2</sup> Alternative minimum lot sizes may apply to specific land uses where provided in Article 5 (Supplemental Use Regulations.)

<sup>3</sup> An alternative maximum residential density, not to exceed 12 dwelling units per acre, may be established by Town Council as part of the special use approval of an institutional resident care facility.

<sup>4</sup> Minimum lot width is measured from the required front setback line.

<sup>5</sup> The maximum height by stories may be increased by ½ story, such space constituting a fully enclosed and habitable attic space supplied to centralized heating and air conditioning.

<sup>6</sup> Front setbacks measured from the street right-of-way line. Side and rear setbacks measured from the adjacent property line.

<sup>7</sup> Principal buildings within the TC district shall be subject to a build-to line that shall not exceed 15' from the right-of-way on Augusta Highway (U.S. Highway 78,) and 10' on all other street frontages.

<sup>8</sup> Single family attached dwellings meeting the definition of a "townhouse" may be subdivided via a zero lot-line arrangement and be subject to no side yard setback where individual units share a building wall.

#### SECTION 4.6 OVERLAY ZONING DISTRICT STANDARDS (Reserved)

#### SECTION 4.7 SPECIAL ZONING DISTRICT STANDARDS (Reserved)

# ARTICLE 5

## SUPPLEMENTAL USE REGULATIONS

## ARTICLE 5 - SUPPLEMENTAL USE REGULATIONS

### SECTION 5.1 CONDITIONAL AND SPECIAL USES

Certain uses listed in Article 4 (Zoning Districts Regulations) are subject to supplemental and use-specific regulations. Land uses addressed within this Section, and referenced in Article 4 as conditional uses, may be approved by the Land Development Officer subject to adherence to the conditions listed in the applicable Section of this Article. Land uses addressed within this Section, and referenced in Article 4 as special uses, require the consent of the Dearing Town Council as provided in Section 11.8 (Special Use Permits) of this Code, are subject to the conditions listed in the applicable Section of this Article, and may be subject to additional conditions of the Town Council.

Certificates of compliance for an approved conditional use or special use run with the land and are transferable unless otherwise indicated in relation to a specific land use where identified in the applicable Section of this Article.

#### *Section 5.1.1 Adult Businesses*

Subject to the approval of Town Council, no person shall establish or operate an adult business except in compliance with at least the following minimum provisions:

1. Adult businesses shall not be located within 1000 feet of any lot zoned to allow single-family detached dwellings, single-family attached dwelling, manufactured homes, or multi-family dwellings.
2. Adult businesses shall not be located within 1000 feet of the lot line of any government building, library, park, place of worship, playground, school building or school grounds.
3. Adult businesses shall not be located within 1000 feet of the lot line of any other adult business.

The distance restrictions set out above shall apply in any and all directions from the lot line of the proposed adult use at the point closest to the lot line of the other property, as measured in a straight line to the point on the lot line of the other property that is located closest to the lot line of the proposed adult use property. This distance shall be verified by plat showing distances furnished by the applicant, prepared by a land surveyor registered in the State of Georgia. This plat shall accompany and be made part of the application for a conditional use approval.

Adult businesses shall be required to comply at all times with any of the other requirements of the Town of Dearing Code of Ordinances regarding adult businesses or adult entertainment. The Town of Dearing shall revoke the business license of any adult business where it observes violations of this Code, or other provisions of the Town of Dearing Code of Ordinances. The provisions of Section 11.12.4 (Discontinuance and Abandonment of Nonconforming Uses) and Section 11.12.5 (Abandonment of Nonconforming Uses for Unlawful Activity) typically reserved for non-conforming uses shall also apply to adult businesses.

Certificates of compliance for the special use of an adult business on any property, and the associated business license, are not transferable to any other party and require application for a new special use.

#### *Section 5.1.2 Bed and Breakfast Inn (B&B)*

Bed and breakfast inns operated within the Town of Dearing shall be subject to the following provisions:

1. The bed and breakfast inn shall be operated by the owner-occupant(s), or a member of the family, residing in the dwelling.
2. Employment shall not exceed two (2) non-resident employees in addition to the owner.
3. A minimum of two (2) guest rooms, but no more than five (5) guest rooms may be rented.
4. There shall be no changes to the exterior of the dwelling that conflict with the structure's original intent or identity of serving as a single household residence; nor, changes that may be incompatible with the character of the neighborhood.
5. Rooms for rent may not be equipped with cooking facilities. Breakfast shall be included in the charge for the room, and is the only meal that may be served by the proprietor.
6. No guest shall remain in a bed and breakfast for a period in excess of 14 consecutive days.
7. Vehicle traffic shall at all times be parked off-street within the residential driveway or other on-site permitted parking.
8. All licenses required by the state, county, or town regulations must be obtained and presented to the Land Development Officer prior to zoning approval.

#### *Section 5.1.3 Boarding Houses and Group Residences*

Concerns about the negative impacts that dormitory-style housing, including boarding houses and group residences, may have on a community; such as the increased potential for overcrowding, unsanitary conditions, illicit activities, and other disturbances which may threaten public safety; necessitate that the Town Council develop standards to balance the existing character and health of Dearing's neighborhoods with the potential to allow for alternative and reasonable housing arrangements that accommodate basic human needs. To meet such needs without detracting from the stability of Dearing's neighborhoods and districts, requests to allow for the establishment of a boarding house or group residence shall be considered

by Dearing Town Council on a case-by-case basis. Subject to the approval of Town Council, no person shall establish or operate a group residence, or let a person occupy any rooming unit in any boarding house or group residence, except in compliance with at least the following minimum provisions:

1. No person shall operate a boarding house or group residence unless he or she holds a valid business license issued in the name of the operator and for the specific dwelling. The Town of Dearing shall compile and maintain a list of registered boarding houses and group residences. Property owners operating a boarding house or group residence on the effective date of this ordinance shall be required to have a business license for their establishment.
2. As part of the registration process, property owners of existing and new boarding houses or group residences shall appoint an agent, who lives in McDuffie County, as the person responsible for the property. The designated agent shall be available to be contacted 24 hours a day, 7 days a week. The agent is the party designated to receive all notices concerning the use of the property. The name and telephone number of the agent responsible for the boarding house and group residence will be provided by the town to any residents who have complaints about the boarding house or group residence. The designated agent for the property shall be responsible for responding expeditiously to any complaints received by the Town and problems if they occur.
3. At least one (1) flush water toilet and bathtub or shower, connected to a water sewerage system and in good working condition, shall be supplied for each five (5) persons or fraction thereof residing in the boarding house or group residence. All such facilities shall be located within the dwelling so as to be accessible from a common hall or passageway to all persons sharing such facilities.
4. No basement, attic, or accessory building shall be used as a habitable room for occupancy by any person.
5. No room shall be used as a sleeping room by any person unless there are at least seven hundred 700 cubic feet of air-space; exclusive of closet space; and such room is served by heat and air conditioning, and furnished with a mattress elevated above the floor by a bedframe for each registered occupant.
6. A building plan, prepared by a registered architect, shall be provided to the Land Development Officer for provision to the Town Council in addition to those submittal package components typically required for consideration of a special use.
7. The property owner shall be individually responsible for the maintenance of safe and sanitary conditions in every part of the boarding house or group residence.
8. Boarding houses and group residences in the R-A and R-SF zoning district shall be allowed only on property with direct frontage on Augusta Highway (U.S. Highway 78,) and, where motor vehicle access to and from the site may be provided from Augusta Highway in accordance with any intersection and/or driveway spacing requirements provided by this Code, and subject to the approval of GDOT.
9. Boarding housings and group residences meeting the definition of *Transitional Center* shall be subject to Subsection 11.5.4 (B).

The Town of Dearing shall revoke the business license of any boarding house or group residence where it observes violations of this Code, or other provisions of the Town of Dearing Code of Ordinances; or, where it receives repetitive, recurring, or an excessive number of complaints from citizens. These complaints must be documented in order for the Town of Dearing to proceed with the revocation of the business license, and the certification of compliance with this Code. The provisions of Section 11.12.4 (Discontinuance and Abandonment of Nonconforming Uses) and Section 11.12.5 (Abandonment of Nonconforming Uses for Unlawful Activity) typically reserved for non-conforming uses shall also apply to boarding houses and group residences.

Certificates of compliance for the special use of a boarding house or group residence on any property, and the associated business license, are not transferable to any other party and require application for a new special use.

#### *Section 5.1.4 Cemeteries*

Subject to the approval of Town Council, no person shall establish or operate a cemetery except in compliance with at least the following minimum provisions:

1. Each new cemetery shall be located on a site not less than four (4) acres.
2. Cemeteries shall be enclosed by a fence or wall no less than four (4) feet in height.
3. All structures shall be setback a minimum of 15 feet from any property line or roadway right-of-way.
4. All graves or burial lots shall be located a minimum of 15 feet from any property line or roadway right-of-way.
5. Where the square footage of a cemetery existing at the time of adoption of this Code or a new cemetery subsequently approved by Town Council is proposed to be expanded, the entire cemetery shall be subject to the provisions of this Section; and, reasonable efforts shall be made to reduce non-conformities of per-existing portions of the cemetery with this Code.
6. The Land Development Officer shall receive a site plan and perpetual care plan for presentation to the Town Council prior to the approval of a request for a new cemetery, or for the expansion of an existing cemetery.

**Section 5.1.5      *Group Day Care Facilities***

Group day care facilities must be licensed or registered by the State of Georgia as a day care center, group day care home, or childcare learning center and shall be subject the following provisions:

1. Group day care facilities serving children shall have a minimum outdoor play area of 150 square feet per child.
2. Group day care facilities serving children shall have all outdoor play areas surrounded by a wall or fencing of a minimum of five (5) feet in height. Walls and fencing shall be maintained in such condition that ingress and egress to the play area may only occur at controlled access points.
3. A minimum of 35 square feet of air-conditioned and heated interior floor space shall be provided per child or other individual served.
4. Off-street drop-off and pick-up facilities shall be provided which shall be adequate to contain all associated vehicular activity. Pick-up and drop-off shall be conducted on the property and not in the public right-of-way.
5. Vehicular ingress and egress shall be confined to collector or arterial streets. Group day care facilities may not be provided with vehicular access from a local street.
6. Group day care facilities may be operated as a home enterprise where the provisions of this Section, and other applicable sections of this Code, are met.

**Section 5.1.6      *Industrial Uses***

Industrial uses have the potential to generate negative impacts on surrounding properties as a result of the activities conducted thereon, including impacts on air quality, noise, light, glare, odor, vibration, waste disposal, etc., that are incompatible with other land uses in the Town of Dearing and the overall environment. To mitigate such potential occurrences, industrial uses designated within section of Table 4-1 of Article 4 (Zoning District Regulations) of this Code as special uses shall be considered by Dearing Town Council on a case-by-case basis. Subject to the approval of Town Council, no person shall establish or operate an applicable industrial use except in compliance with at least the following minimum provisions:

1. The property on which a proposed industrial use is to be located shall contain a minimum of three (3) acres and shall comply with applicable dimensional requirements for the Industrial (I) Zoning District as established in Article 4 (Zoning District Regulations) of this Code.
2. Buildings containing an industrial use, and all buildings or structures within which hazardous materials are stored or utilized for commercial or industrial use, shall not be sited within 1,000 feet of any residential dwelling or any tract of land, lot, or parcel that is used as a school, public space, place of worship, medical facility or office (including clinics), or other institution for children, elderly, or dependents at the time the industrial use is proposed. This provision shall also apply in cases where the Town of Dearing is already processing any application, site plan, or subdivision, to accommodate any of the above listed uses prior to the receipt of a formal special use application for an applicable industrial use.
3. No zoning approval shall be issued until the Land Development Officer is presented with copies of all federal and state permits and approvals verifying compliance of the proposed land development activities with all applicable federal and state regulations, including, but not limited to, National Pollutant Discharge Elimination System and Air Quality Control Regulations promulgated by the Environmental Protection Agency. The Town Council may require the applicant to utilize the best available technology to treat and minimize potential pollution impacts generated by the proposed use.
4. Industrial uses shall be attractively landscaped to help mitigate their potential visual impacts on adjoining lands. The Town Council may impose special landscaping and buffer requirements as it deems necessary to screen the proposed use from neighboring properties.
5. All areas of a property to be utilized as an industrial use that do not constitute developable land areas shall be reserved and maintained as open space. The Town Council may require an additional buffer area of up to 25 feet in width between the proposed industrial uses or activities and the open space lands, if it deems the buffer necessary to protect the open space lands from potential or accidental pollution impacts.
6. Industrial uses shall be served by municipal water and sewer.
7. There shall be no activities which emit dangerous or harmful radioactivity or electrical disturbance adversely affecting the operation of equipment beyond the boundaries of the lot.
8. No vibration shall be discernible to the human sense of feeling shall perceptible, without instruments at any point beyond the lot line.

**Section 5.1.7      *Institutional Resident Care Facilities.***

Institutional resident care facilities shall meet the requirements of the State Board of Health and applicable rules of the State of Georgia, Department of Human Resources. Proof of compliance with such requirements shall be required to be on file with the Land Development Officer prior to the issuance of a certification of compliance to this Code. These facilities may also include *Transitional Centers* as defined in Subsection 2.3.2.

Institutional resident care facilities proposed to be located within the R-A and GC zoning districts shall be subject to review by the Town Council in accordance with the provisions of Section 11.8 (Special Use Permits) of this Code. In considering special use applications for institutional resident care facilities, and the Town Council may approve maximum residential densities of up to 12 dwelling units per acre, such consideration not constituting a variance of the provisions of this Code. Alternative residential densities shall be consistent with a site plan approved by Town Council. Boarding houses and group residences meeting the definition of Transitional Center are subject to 11.5.4 (b).

**Section 5.1.8      *Junk Yards, Salvage Yards, Towing Yards, Wrecking Yards***

Certain uses such as junk yards, salvage yards, towing yards, wrecking yards, and other similar commercial and industrial operations requiring the storage of inoperative equipment or vehicles for prolonged period of time could present unsightly views or health hazards. The purpose of these regulations is to protect the health, safety, aesthetics, and economic well-being of the community from the adverse impacts of these uses. The storage of hazardous materials, noise, dust, clutter of junk and salvage materials create a negative image for the community, endanger the health and safety of residents, and reduce the value of adjoining properties. To mitigate such potential impacts, junk yards, salvage yards, towing yards,



and wrecking yards shall be considered by Dearing Town Council on a case-by-case basis. Subject to the approval of Town Council, no person shall establish or operate a junk yard, salvage yard, towing yard, or wrecking yard except in compliance with at least the following minimum provisions:

1. The land area for a junk yard, salvage yard, towing yard or wrecking yard, shall be a minimum of three (3) acres.
2. Junk yards, salvage yards, towing yards, wrecking yards, shall be a minimum of 500 feet from any residential zoning district boundary.
3. Any junk yard, salvage yard, towing yard, or wrecking yard, shall have a maximum slope of five (5) percent.
4. The exterior boundary of any junk yard, salvage yard, towing yard or wrecking yard, shall be located 100 feet from all adjacent properties.
5. The exterior boundary of any junk yard, salvage yard, towing yard, or wrecking yard, shall be completely enclosed by a solid wooden fence or masonry wall having a minimum height of eight (8) feet. All fences and walls shall be maintained in good condition and shall be void of openings except at approved controlled access points to allow for vehicular ingress and egress. Town Council may permit that the minimum eight (8) foot screening provision be higher to account for topographic issues; and, may allow the screening provision to be met through a combination of fences, walls, and berms.
6. All required screening fences and walls shall be surrounded by an additional vegetative screen to be located between the exterior of the fence or wall and the property line. The Town Council shall determine the width of the vegetative screen, and materials to be included within, on a case-by-case basis; but, such vegetative material shall be adequate to further conceal the principal use from the view of adjacent properties and public rights-of-way at maturity.
7. Materials stored within any junk yard, salvage yard, towing yard, or wrecking yard shall not be stored so as to exceed the height of exterior fencing.
8. No material shall be placed in junk yards, salvage yards, towing yards, wrecking yards, which is capable of being transferred out of the junk yard by wind, water, or other causes.
9. Storage between the fence or wall and the street or property line is prohibited.

#### *Section 5.1.9      Manufactured Homes.*

Manufactured homes shall be subject to the following provisions:

1. Manufactured homes shall be placed on a permanent foundation, installed in accordance with the installation instructions from the manufacturer, as appropriate, and the transportation mechanisms, including tongue, wheels, axles, hitch, transporting lights, and towing apparatus shall be removed prior to occupancy.
2. The entire perimeter area between the bottom of the structure and the ground of each manufactured home shall be skirted or underpinned with brick, masonry, or finished concrete that completely encloses the perimeter of the undercarriage except for proper ventilation and access openings.
3. The exterior siding of the manufactured home shall consist of vinyl, wood or hardboard siding material.
4. The manufactured home shall have a pitched roof with a slope of at least three (3) feet in height for each twelve (12) feet in width. Roof materials shall be wood shake, tile, asphalt shingle, coated metal, or similar material.
5. The manufactured home shall have a minimum width of greater than 17 feet, a minimum length of 40 feet, and have a minimum floor area of six hundred and forty (640) square feet.
6. Steps and a landing, deck, or entry area at least ten (10) feet by ten (10) feet shall be added for each entrance to the manufactured home prior to occupancy.
7. Industrialized buildings, manufactured, or mobile homes existing at the time of the adoption of this Code but not adhering to the provisions of this Section may not be relocated to another lot, parcel or property within the municipal limits of Dearing.

Manufactured homes permitted under this Section may be used for residential purposes only. No other industrialized or manufactured, or mobile building shall be permitted on property within the Town of Dearing for permanent occupancy. No such building shall be permitted for temporary occupancy except as otherwise allowed by the provisions of Section 5.3 (Temporary Uses and Structures.)

#### *Section 5.1.10    Open-Air Businesses*

Open-air businesses shall be subject to the following provisions:

1. Administrative functions, sales offices, restrooms and other facilities supporting the principal business shall be located within a building constructed on a permanent foundation, excluding any industrialized, manufactured, or mobile building.
2. The Land Development Officer may require that the exterior boundary of any open air business which abuts a property used for residential purposes incorporate any combination of a fence, wall, berm, and vegetative material necessary to screen the open-air use from the residential property.

#### *Section 5.1.11    Places of Worship*

Places of worship, and their associated accessory uses, have the potential to generate high levels of activity on a recurring basis. In order to mitigate the potentially disruptive impacts to surrounding residential neighborhoods that may occur due to frequent assemblage, places of worship including their associated accessory uses shall be subject to the following provisions:

1. Places of worship shall be located on a property that has frontage on a collector and/or arterial street, and, where motor vehicle access to and from the site may be provide in accordance with any intersection and/or driveway spacing requirements provided by this Code. Motor vehicle access to and from property used for a place of worship shall not be provided from a local street.
2. The principal assembly building used as a place of worship shall be setback a minimum of fifty (50) feet from all property lines abutting an R-A, R-SF1, or R-SF2 zoning district, or from any other abutting property utilized for residential purposes.
3. Accessory buildings associated with the place of worship shall be setback a minimum of twenty (20) feet from all property lines abutting an R-A, R-SF1, or R-SF2 zoning district, or from any other abutting property utilized for residential purposes.



4. Accessory uses associated with a place of worship may include, but are not limited to, a residence for the housing of a priest, pastor, minister, rabbi, etc., school buildings, recreational facilities, religious bookstore serving the immediate congregation, and cemeteries, and must be on the same lot as the principal building used as a place of worship.

The addition of accessory buildings to house uses associated with a place of worship; excluding those accessory buildings or structures otherwise exempted from review and approval by this Code; following the original conditional approval of the principal use shall require the additional administrative review and approval of the Land Development Officer.

#### *Section 5.1.12 Towers and Wireless Telecommunications Facilities*

The provisions of this Section are established to provide guidelines for the siting of wireless telecommunications equipment and facilities, microwave towers, common carrier towers, cellular, television and radio telecommunications towers and antennae, all such facilities collectively representing the definition of "towers and wireless telecommunications facilities" as provided within this Code. No person shall establish or operate an applicable industrial use except in compliance with the provisions of this Section. These provisions shall apply as follows:

1. *District height limitations.* The requirements set forth in this chapter shall govern the location of towers and wireless telecommunications facilities that exceed, and antennas that are installed at a height in excess of, the height limitations specified for each zoning district. The height limitations applicable to buildings and structures shall not apply to towers and wireless telecommunications facilities.
2. *Public property.* Towers and wireless communications facilities located on publicly owned property shall be exempt from the requirements of this section, provided a license or lease authorizing such antenna to tower has been approved by the governing authority.
3. *Amateur radio; receive only antennas.* This section shall not govern any tower, or the installation of any antenna, that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.
4. *Grandfathered towers and antennas.* Any tower and wireless communications facilities existing on the effective date of this chapter shall not be required to meet the requirements of this section, other than the requirements of Subsections 5.1.11 (A.5) & (A.6). Any such towers and wireless communications facilities that fail to meet the requirements of this chapter shall be referred to in this chapter as "grandfathered towers" or "grandfathered antennas."

#### *A. General requirements.*

1. *Purpose and goals.* The purpose of this section is to establish general requirements for the siting of towers and other wireless communications antennas. The goals of this section are to: encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the community; to encourage strongly the joint use of new and existing tower sites; to encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal; to encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas; and to enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively, and efficiently.
2. *Principal or accessory use.* Antennas and towers may be considered either principal or accessory uses. An existing tower structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For the purposes of determining whether the installation of a tower or antenna complies with district development regulations the dimensions of the entire lot shall control, even though the antennas to towers may be located on leased parcels within such lots.
3. *Inventory of existing sites.* Each applicant for an antenna and/or tower shall provide to the Town Council an inventory of its existing towers, including specific information about the location, height, and design of each tower. The Town Council may share such information with other applicants applying for administrative approvals or special use permits under this Section or other organizations seeking to locate antennas within the jurisdiction of the governing authority.
4. *Aesthetics and lighting.* The guidelines set forth in this Section shall govern the location of all towers, and the installation of all antennas, governed by this Section, provided that the governing authority may waive these requirements if it determines that the goals of this Section are better served thereby.
  - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted sky blue, gray, or foliage green or such color as is specified by the Town Council, so as to reduce visual obtrusiveness.
  - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
  - c. If an antenna is installed on a structure other than a tower, 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.
  - d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
5. *Federal requirements.* All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, then the owners of the towers and antennas governed by this Section shall bring such towers and antennas into compliance with such revised standards and regulations. Failure to do so shall constitute grounds for the removal of the tower or antenna at the owner's expense.
6. *Building codes and safety standards.* To ensure the aesthetic appearance and structural integrity of towers, the owner of a tower shall ensure that it is properly maintained and, in regard to its structural integrity, it shall be maintained in compliance with standards contained in applicable state building codes.

(or local building codes if adopted) and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Land Development Officer or other inspecting authority concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, then upon notice being provided to the owner of the tower, the owner shall have 30 days to bring such tower into compliance with such standards. If the owner fails to bring such tower into compliance with such standards within said 30 days, the governing authority may remove such tower at the owner's expense.

**B. Administrative approvals.**

The Land Development Officer may administratively approve the uses listed in Subsection 5.1.11 (B.3). Each applicant for administrative approval shall apply by providing to the Land Development Officer the minimum information set forth in Subsections 5.1.11 (C.2) & (C.4) of this Section; provided however that the Town Council may establish accompanying fees for the purpose of processing requests for the administrative approval of towers and wireless telecommunications facilities; and, the Land Development Officer may prepare accompanying application forms.

1. The Land Development Officer shall unless due to specific causes of a delay, respond to each such application within 30 days after receiving it by either approving or denying the application. If the Land Development Officer fails to respond to the applicant within said 30 days, the application shall be deemed to be approved.
2. In connection with any such administrative approval, the Land Development Officer may, in order to encourage shared use, administratively reduce any district setback requirements by up to 50 percent.
3. *Specific administratively approved uses.* The following uses may be approved by the development code administrator (DCA) after conducting an administrative review:
  - a. Installing an antenna on an existing structure such as an existing tower, building, sign, light pole, water tower, or other freestanding nonresidential structure) that is less than 50 feet in height, so long as said additional antenna adds no more than 20 feet to the height of said existing structure in any zoning district;
  - b. Locating any tower structure in the I (Industrial) zoning district that a Georgia licensed professional engineer certifies can accommodate the ultimate number of shared users proposed by the applicant, and that the DCA concludes is in conformity with the goals set forth in Subsection 5.1.11 (A.1) and the requirements of this Section, and that meets the following height and usage criteria:
    - i. For a single user, up to 90 feet in height,
    - ii. For two users, up to 120 feet in height, and
    - iii. For three or more users, up to 150 feet in height.

**C. Towers and wireless telecommunications facilities as special uses.**

1. *General.* Towers and wireless telecommunications facilities not subject to an administrative approval by the Land Development Officer under Subsection 5.1.11 (B) herein, may be considered by the Town Council as special use in the R-A (Residential Agriculture) and I (Industrial) zoning districts. Towers and wireless telecommunications facilities being consider as a special use share adhere to the applicable provisions of Section 11.8 (Special Use Permits) of this Code; except that the submittal package requirements provided within this Subsection shall apply; and, shall adhere to the following provisions:
  - a. In recommending a special use, the Town Council may impose conditions to the extent it concludes such conditions are necessary to minimize any adverse effect of the proposed tower on adjoining properties.
  - b. Any information of an engineering nature that the applicant submits, whether civil, mechanical, or electrical shall be certified by a licensed Georgia professional engineer.
2. *Site plan.* Each applicant requesting a special use under this Section shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations, and other documentation, signed and sealed by a licensed Georgia professional engineer or surveyor showing the location and dimensions of all improvements, including information concerning topography, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information necessary to assess compliance with this Section.
3. *Factors considered in granting special uses.* The Town Council shall consider the following factors in determining whether to issue a special use permit:
  - a. Height of the proposed tower,
  - b. Proximity of the tower to residential structures and residential district boundaries,
  - c. Nature of uses on adjacent and nearby properties,
  - d. Surrounding topography,
  - e. Surrounding tree coverage and foliage,
  - f. Design of the tower, with particular reference to the design characteristics that have the effect of reducing or elimination visual obtrusiveness, and
  - g. Availability of suitable existing towers and other structures as discussed in Subsection 5.1.11 (C.4) below.

4. *Availability of suitable existing towers or other structures.* No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing owner or structure can accommodate the applicant's proposed antenna may consist of any of the following:
  - a. No existing towers or structures are located within the geographic area required to meet the applicant's engineering requirements.
  - b. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
  - c. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
  - d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
  - e. The fees or costs required to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed unreasonable.
  - f. Property owners or owners of existing towers or structures are unwilling to accommodate reasonably the applicant's needs.
  - g. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
5. *Security fencing.* Towers shall be enclosed by security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device, provided however, that the governing authority may (in its sole discretion) waive such requirements, as it deems appropriate.
6. *Landscaping.* The following guidelines shall govern the landscaping surrounding towers for which a special use is required; provided however, that the Town Council may (in its sole discretion) waive such requirements if the goals of this Section would be better served.
  - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower compound from adjacent residential property.
  - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.
  - c. Existing natural tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.

D. *Removal of abandoned antennas and towers.* Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned, and the owner of such antenna or tower shall remove same within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If such antenna or tower is not removed within said time period, the governing authority may remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

## SECTION 5.2 ACCESSORY USES AND STRUCTURES

Property within the town of Dearing may contain buildings, structures, or uses which are located on the same lot as a principal building, but which are ancillary and subordinate to the primary use of the property. Such accessory buildings, structures, or uses may be permitted subject to supplemental and use-specific regulations. Land uses addressed within this Section, may be approved by the Land Development Officer subject to adherence to the conditions listed in the applicable Section of this Article; except, where such accessory building, structure, or use is specifically exempted from administrative certification by Section 11.4.3 (Exemptions from Certificate of Compliance) of this Code.

### Section 5.2.1 General Accessory Use Regulations

Accessory uses of property, include buildings and structures serving such use, shall be subject to the following provisions:

1. Buildings accessory to residential uses in residential zoning districts shall be located in a rear or side yard.
2. In all other zoning districts, accessory buildings, structures, and uses shall be located in a rear or side yard with the exception of decorative landscape structures.
3. No accessory building shall be erected on a lot until construction of the principal building or establishment of a principal use has commenced.
4. The use of any industrialized building, manufactured home, or mobile home as an accessory building is prohibited.
5. The net floor area of an accessory building or structure shall not exceed ten (10) percent of the lot area or 10,000 square feet, whichever is less.
6. Accessory buildings and structures shall be setback no less than a minimum ten (10) feet from any property line, except for fences or walls that may be permitted at the property line.
7. Accessory buildings or structures shall not exceed the height of the principal building on the site, unless specifically exempted from height restrictions by this Code, or where serving a principal agriculture use of the property in the R-A district, or principal industrial use in the I district. This provision does not provide an exemption for any building or structure not listed in Section 6.2.2 (Exemptions from Height Restrictions) from the overall height requirements of the zoning district in which it is located.

**Section 5.2.2      Accessory Structures and Uses, Customary Residential**

A wide variety of structures may be customarily situated on a piece of residential property, and serve as an accessory use to principal residential dwelling units thereon. The following are examples of customary accessory structures, not meeting the definition of a “building,” which may be found on residential property:

- Private garages
- Children’s’ play house
- Home workshop
- Swimming pools
- Satellite dishes
- Fences and Walls
- Agricultural Buildings
- Detached garages
- Tennis Courts
- Sheds
- Similar Uses

The list of customary accessory structures and uses identified within this Section is not all-inclusive, and the Land Development Officer may determine on a case-by-case basis that a similar structure or use warrants being categorized as a customary residential accessory structure or use. Customary accessory structures shall be among those items that are exempt from a certificate of compliance as provided in Section 11.4.3 (Exemptions from Certificate of Compliance) of this Code, but such uses shall still be subject to the following minimum dimensional requirements of Section 5.2.1 (General Accessory Use Regulations.)

**Section 5.2.3      Accessory Dwelling**

Accessory dwellings units shall be subject to the following provisions:

1. One (1) accessory dwelling unit may be permitted on a property containing an owner-occupied single-family detached residence.
2. Use of an accessory dwelling unit is not permissible where the principal dwelling unit is vacant or otherwise uninhabitable; except, where otherwise being occupied by the owner-occupants of the property on a temporary basis as a result of renovation of the principal dwelling unit.
3. An accessory dwelling may be contained in either a detached accessory building or attached to the principal building.
4. Accessory dwelling units shall contain a minimum of 300 square feet of heated and air conditioned floor space per occupant; but, shall not exceed 50 percent of the gross floor area of the first floor of the principal building or 1,000 square feet, whichever is less.

**Section 5.2.4      Caretaker Residence**

A caretaker residence may be established as a dwelling unit accessory to an industrial use subject to the following provisions:

1. Only one (1) caretaker residence may be established.
2. The caretaker residence shall be located within a building housing a permitted and active industrial use. Caretaker residences shall not be established as an independent single-family dwelling unit or other stand-alone building.
3. The caretaker residence shall contain a minimum of 300 square feet of heated and air conditioned floor space per occupant; but, shall not exceed 25 percent of the gross floor area of the first floor of the principal building or 1000 square feet, whichever is less.
4. Approval of a caretaker residence by the Land Development Officer is contingent upon the applicant providing evidence of their need for full-time or 24-hour on-site security, and that they have or are preparing a contract, employment agreement, or other similar documentation illustrating their intention to provide for that need.

**Section 5.2.5      Communal Resident Facilities**

Residential subdivisions and multi-family developments may include communal facilities for the convenience and enjoyment of residents. Such facilities typically include but are not limited to: clubhouses, swimming pools, playground equipment, community management offices, volleyball courts, laundry facilities, etc. Communal resident facilities are subject to the following provisions:

1. Communal resident facilities shall be incorporated into the preliminary and final subdivision plat, or multi-family development site plan; and, shall be located on parcels adhering to the applicable minimum lot requirements provided in Table 4.5 (???.)
2. All communal resident facilities shall adhere to the applicable minimum dimensional requirements provided in Table 4.5 (???,) including those accessory structures and improvements such as patios, swimming pools, etc., otherwise exempted from setback requirements.
3. Communal resident facilities shall be for the convenience and enjoyment of existing residents and shall not be operated as business enterprises advertising to and/or serving non-residents.
4. Communal resident facilities may include a community management office for the assistance of residents, or for the lease or sale of lots or units within a permitted residential development or subdivision; but, such office space shall not exceed 50 percent of any clubhouse or other similar community building.

Communal resident facilities that also meet the definition of “building” as established by this Code, and which are established, or are intended to be established, on a separate parcel or lot meeting the dimensional requirements of this Code, shall be considered as principal uses on such lot or pending lot and be subject to the dimensional requirements for principal buildings in the applicable zoning district.

#### *Section 5.2.6 Drive-Through Facilities*

Drive-through facilities shall be prohibited in the Town Center (TC) District and shall include all facilities, whether providing access to customer service windows or to self-service amenities, which are intended to allow occupants of a motor vehicle to make a purchase or receive a service on a business property without having to exit the motor vehicle. Drive-through facilities do not include lanes, driveways, or portions of parking lots serving as loading areas for persons or merchandise.

#### *Section 5.2.7 Home Enterprise*

Home enterprise provisions are hereby established to promote the retention and adaptive use of residential structures on high-volume thoroughfares through conversion of residential dwellings to mixed-use properties. Home enterprise provisions are intended to promote investment in existing structures, and to allow for a transition between commercial districts and Dearing’s residential neighborhoods. Home enterprises identified in Section 4.3 (Permitted Home Enterprises and Home Occupations) may be established in a residential dwelling subject to the following provisions:

1. Home enterprises shall be allowed only on property fronting on and accessing Augusta Highway (U.S. Highway 78).
2. Home enterprises may only be operated in single-family detached dwellings.
3. The home enterprise shall be operated by either the owner of the principal dwelling, a member of the family residing in the dwelling, or a tenant of the dwelling with written approval from the owner of the dwelling.
4. Occupants of the dwelling shall be authorized to work on the premises in connection with the home enterprise.
5. Two (2) non-residents will be allowed to work on the premises for the purpose of a home enterprise.
6. The exterior appearance of the dwelling used for a home enterprise must remain that of a residential use. External alterations inconsistent with the residential use shall be prohibited.
7. The floor space associated with the home enterprise shall not exceed 50 percent of the gross floor area of the entire structure or 1000 square feet whichever is less.
8. A home enterprise may display certain material in front of the dwelling including a limited amount of merchandise, one (1) easel board sign or one anchored folding sign board in addition to any signs allowed by the Sign Ordinance (Article 7).
9. The exterior display of any materials associated with home enterprise while the home enterprise is not open for business is prohibited.
10. Off-street parking shall be provided to serve the commercial use in an amount, and a manner, consistent with the provisions of Section 6.5 (Off-Street Parking) of this Code. Vehicle traffic related to the home enterprise shall at all times be parked off-street within the residential driveway or other required on-site parking.
11. A home enterprise shall not generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance. There shall be no exterior lighting of the building or property that is not in character with a residential neighborhood. Home enterprises must exclude the use of machinery or equipment that emits sound that is detectable beyond the property. Chemical, electrical, or mechanical equipment that is not normally a part of domestic or household equipment and which is used primarily for commercial purposes shall not be permitted.
12. A home enterprise shall not generate traffic in conjunction with the home enterprise between 8:00 p.m. and 7:00 a.m.
13. All licenses required by the state, county, or town regulations must be obtained and presented prior to receiving zoning approval.

#### *Section 5.2.8 Home Occupations*

Home occupations identified in Section 4.3 (Permitted Home Enterprises and Home Occupations) may be established in a residential dwelling subject to the following provisions:

1. The home occupation shall be subordinate to the use of the dwelling for residential purposes.
2. The home occupation shall be operated by either the owner of the principal dwelling, a member of the family residing in the dwelling; or, a tenant of the dwelling with written approval and authorization from the owner of the dwelling.
3. Occupants of the dwelling shall be authorized to work on the premises in connection with the home occupation.
4. The home occupation shall not exceed 25 percent of the gross floor area of the first floor or 750 square feet whichever is less.
5. The exterior appearance of the dwelling used for such activity must remain that of a dwelling. No external alterations inconsistent with the residential use of the dwelling are permitted.
6. Vehicle traffic related to the home occupation, if any, shall at all times be parked off-street within the residential driveway or other on-site permitted parking.
7. Motor vehicles kept on site in association with the home occupation shall be used by residents only and only vehicles used as primarily passenger vehicles shall be permitted in connection with the conduct of the home occupation.
8. The transporting of goods by truck or tractor-trailer in connection with a home occupation is prohibited. There shall be no goods, products, or commodities received on the premises, by truck or tractor-trailer; provided, however, that the provision shall not prevent the delivery or pick-up of packages by a commercial carrier (Fed Ex. UPS. etc.).
9. A home occupation shall not generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance. There shall be no exterior lighting of the building or property that is not in character with a residential neighborhood. Home occupations must exclude the use of machinery or

equipment that emits sound that is detectable beyond the property. Chemical, electrical, or mechanical equipment that is not normally a part of domestic or household equipment and which is used primarily for commercial purposes shall not be permitted.

10. A home occupation shall not generate traffic in conjunction with the home occupation between the hours of 8:00 p.m. and 6:00 a.m.
11. Retail sales of products or goods produced or fabricated on the premises as a result of the home occupation are the only type of products or goods allowed to be sold on the premises.
12. The home occupation and dwelling shall comply with all applicable building and fire codes. Home occupations shall not be permitted in any dwelling unit in which the primary residential use does not fully comply with applicable zoning requirements for the general zoning district in which it is located.
13. There shall be no activity associated with the home occupation visible outside the dwelling.
14. All licenses required by the state, county, or town regulations must be obtained and presented prior to receiving a certificate of compliance.
15. Up to two (2) home occupations may be concurrently operated within the same dwelling unit; except that, only one (1) home occupation may be permitted within a dwelling unit if a second home occupation is to be located within an accessory structure. In no case shall the combined businesses exceed the maximum dimensional requirements permitted by items (4) and (16), or otherwise result in a condition that would cause a violation of any of the other provisions of this Section.

Notwithstanding the provisions listed above, a single home occupation may be permitted in an accessory structure serving a residential dwelling provided that all of the provisions of Section 5.2.3 (Accessory Dwelling) of this Code are met. Home occupations within an accessory structure shall also adhere to all of the provisions of this Section, except for item (4) which shall be substituted by the following:

16. The home occupation located within the accessory building shall not exceed 50 percent of the gross floor area of the structure or 500 square feet whichever is less.

The right to operate a home occupation is conditional and may be continued only for so long as the use of the property is conducted in accordance with the provisions of this Code, or otherwise conducted lawfully and does not produce a condition that constitutes a nuisance. Actions constituting grounds for the immediate termination of a home occupation by unlawful activity in addition to violations of this Code include:

1. Use of the property in a manner that constitutes a nuisance under the applicable provisions of the Dearing Town Code.
2. Use of the property for any activity which is in violation of law or ordinance.

#### *Section 5.2.9 Livestock*

The keeping of livestock for non-commercial purposes may be permitted as an accessory use to a single-family detached dwelling in all zoning districts subject to the following provisions:

1. Lots shall be in excess of two (2) acres or more.
2. No building or structure dedicated to the shelter of livestock shall be located within 100 feet of any property line.
3. Livestock shall be kept for the personal use and enjoyment of the occupants of the premises, and shall not be raised for the purposes of commercial production and sales.

The provisions of this Section do not apply to livestock in the R-A district which are raised for commercial purposes in conjunction with the property's permitted principal use of agriculture; to livestock associated with commercial equestrian facilities as permitted by the provisions of this Code; nor, to enclosures accessory to animal clinics or veterinary hospitals licensed by the state of Georgia.

#### *Section 5.2.10 Outdoor Display Area*

The outdoor display of merchandise may be permitted in association with a permitted and active business establishment engaged principally in retail sales and contained within a principal building on a commercial property. Outdoor display areas shall be subject to the following provisions:

1. Outdoor display areas shall not exceed 10 percent of the lot area, or 50 percent of the floor area within the principal building dedicated to sales.
2. Outdoor sales areas shall not encroach into required setback areas; nor, into parking areas, and shall not obstruct safe and direct pedestrian access between the street or parking area, and the principal customer entrance of the business.
3. Outdoor display areas shall not be used for the storage of materials, equipment, scrap, or junk not clearly intended for sale or lease in conjunction with the enclosed business establishment.



The provisions of this Section do not apply to an open-air business.

**Section 5.2.11 Yard Sales**

Yard sales, garage sales, rummage sales, tag sales, or other similar temporary activities, where permitted on a property used for residential purposes may be allowed without a certificate of compliance subject to the following provisions:

1. The activity shall not exceed 48 hours, occur more frequently than once every 90 days, nor otherwise constitute a special temporary outdoor event as defined by this Code.
2. No more than two (2) families or households may participate in the sale by furnishing personal property for sale and/or engaging in sales activity.
3. Sales shall take place between the hours of 6:00 a.m. and 6:00 p.m. All items, including displays and sales tables, shall be removed from view by the end of the sales day.
4. No music, games, sale of concessions or other entertainment or activities may be conducted at the time and place of the sale, and there shall be no unnecessary or excessive noise.
5. Adequate parking shall be provided at the sale site such that it does not encroach onto neighboring property, nor, prohibit access to and from other property.

**SECTION 5.3 TEMPORARY USES AND STRUCTURES**

Specific land uses may be allowed within the municipal limits of the Town of Dearing on a temporary basis, for a prescribed period of time. The establishment of temporary uses and structures shall be subject to the approval of the Land Development Officer unless otherwise stated within a particular Section.

**Section 5.3.1 General Standards for Temporary Uses and Structures**

All proposed temporary uses and structures shall be subject to the following provisions:

1. Temporary uses shall not interfere with ongoing development activities on a site, or with the use of permanent buildings, structures, infrastructure, and amenities.
2. Temporary uses shall not impact adjacent or proximate residential uses adversely, or in a manner that would be inconsistent with those impacts that would typically be generated by a permanent and permitted use on the property.
3. Permanent alterations to the site are prohibited except for those which will serve existing principal and permanent uses.
4. A signed letter from the property owner authorizing the temporary use, structure, and scope of activity must be submitted with the application for a temporary use permit.
5. Temporary uses and structures shall not be permitted within public rights-of-way or utility easements.
6. Off-street parking shall be adequate to accommodate the proposed temporary use in addition to any existing permanent and principal use.
7. Temporary uses do not involve the construction or alteration of a permanent building or structure, and does not allow for the permanent placement of any industrialized, manufactured, mobile or modular building on a property for residential occupancy.
8. Temporary signs may be erected following the provisions of Article 7 (Signs) of this Code.
9. A site plan of the proposed use shall accompany the application for temporary use. This site plan may be drawn in a legible manner to scale and identify adjacent streets, relevant buildings or structures, parking, and zoning district setbacks, location of the proposed use, and all other relevant information necessary to evaluate the proposed temporary use.

**Section 5.3.2 Construction Field Offices and Equipment Sheds**

Temporary construction-related activities, including construction field offices and equipment and storage sheds may be permitted within industrialized, manufactured, mobile, and other temporary buildings to support work on a construction site approved by the Town of Dearing. Construction field offices and equipment sheds shall be subject to the following:

1. Construction field offices and equipment/storage sheds shall be located on the same site as a specific construction project; except, where site constraints prohibit the placement of construction field offices and equipment/storage sheds on the project site, such activities may be located "remotely" on an adjacent or proximate property subject to the agreement of the Land Development Officer.
2. Construction field offices and equipment/storage sheds shall be removed from the project site, or adjacent site or proximate site(s) within 30 days of completion of construction.
3. Any portion of a construction site, or adjacent or proximate site used for construction field offices or equipment/storage sheds shall be restored to an undisturbed condition following removal of the temporary structures.
4. Construction field offices and equipment/storage sheds shall not be subject to the applicable zoning district provisions of Section 5.1.8 related to manufactured homes.

**Section 5.3.3      *Model Home***

A dwelling unit may be constructed and used as a model home or temporary office for the lease or sale of lots or units within a permitted residential development or subdivision subject to the following provisions:

1. A model home shall be placed on a development site in accordance with an approved preliminary plat or site plan; and, such that upon final plat approval it is located on an individual lot that meets all applicable zoning district dimensional requirements for residential use.
2. Sales shall be limited to lots and dwelling units within the subdivision where the model home is located.
3. The use of the model home for a sales office shall be discontinued within 30 days after ninety 90 percent of the dwelling units within the development or subdivision have been constructed.

**Section 5.3.4      *Special Temporary Outdoor Event***

Special temporary outdoor events accessory to a business, non-profit, or other civic organization may be authorized subject to the following provisions:

1. All parking for special temporary outdoor events must be accommodated on the property in which the event is proposed to occur; or, may be located "remotely" on an abutting or proximate property which is not separated from the event site by a collector or arterial street. Remote parking to serve a temporary special outdoor event that is separated by the event by a collector or arterial street may be approved by the Town Council on a case-by-case basis. Where the Town Council approves such a waiver on remote parking requirements, it shall document how attendees will be safely transported between the event and parking facilities.
2. Special temporary outdoor events shall be limited to normal business hours if associated with a business activity. In no case shall any special temporary outdoor event operate after 8:00 pm and before 7:00 am, unless the Town Council approves alternative hours of operation on a case-by-case.
3. Special temporary outdoor events shall not be conducted on any property which is principally used for residential purposes.
4. Special temporary events that may also be categorized as a carnival, circus, or other similar traveling event or show shall only be permitted in the GC and TC districts; or, on any other non-residential property fronting on and having direct vehicular access to Augusta Highway (U.S. Highway 78,) where motor vehicle access to and from the site may be provided from Augusta Highway in accordance with any intersection and/or driveway spacing requirements provided by this Code, and subject to the approval of GDOT.
5. The duration of a special temporary outdoor event shall not exceed 30 consecutive days.
6. Each business or organization requesting approval of a special temporary outdoor event shall be limited to four (4) events per every 12 month period. No more than four (4) special temporary outdoor events may be authorized for a specific property, or adjacent property under common ownership, per every 12 month period; and, each event must be separated by at least 30 consecutive days.

Notwithstanding the provisions listed above, some special temporary outdoor events may be proposed that function on an alternative schedule such as on weekends, or during consecutive months in a season. To accommodate such possibilities, the Town Council may consider alternative special outdoor event schedules that are not subject to items (5) and (6) above regarding duration and recurrence. Subject to the approval or conditional approval of Town Council, alternatively scheduled special outdoor events shall adhere to at least the following minimum provisions:

7. The special temporary outdoor event shall adhere to items (1) through (4) listed within this Section.
8. The event will serve a civic purpose as interpreted by Town Council, and shall not be intended to primarily serve as an extension of the normal daily activities of a business.
9. The cumulative number of non-consecutive days on which the event may be conducted shall not exceed 32 in any 12 month period.
10. Each organization requesting approval of an alternatively scheduled special temporary outdoor event shall be limited to one (1) permit per every 12 month period. No more than one (1) alternatively scheduled special temporary outdoor event may be authorized for a specific property, or adjacent property under common ownership, per every 12 month period.

**Section 5.3.5      *Temporary Leasing / Sales Offices***

Temporary offices may be established within industrialized, manufactured, mobile, and other temporary buildings for the lease or sale of lots or units within a permitted residential development or subdivision. Such temporary leasing and sales offices shall be subject to the following provisions:

1. Temporary leasing and sales offices are subject to the conditional use requirements of Section 5.1.8 related to manufactured homes.
2. Temporary leasing and sales offices shall be located on the same site as a specific development or subdivision project for which it has been established; or, may be located "remotely" on an abutting property which is not separated from the project site by a street.
3. Temporary leasing and sales offices shall be permitted for a period of 12 months, subject to a renewal of up to two (2) six (6) month periods if requested.
4. In no case shall a temporary leasing and sales office remain on a project site for more than two (2) years; nor, following the establishment of a model home related to the same development or subdivision.



**SECTION 5.4 MISCELLANEOUS USES AND ACTIVITIES**

Article 4 of this Code (Zoning District Regulations) specifies that land uses not listed within one (1), many, or all zoning districts established by the Town of Dearing shall be determined to be prohibited from the applicable district, districts, or the town as a whole. Such a prohibition is not meant to prevent the use and enjoyment of private property in a manner that is clearly incidental to those principal and accessory uses that may otherwise be permitted on property within particular zoning districts. Notwithstanding this intention, certain miscellaneous and incidental activities and uses of property shall be subject to the applicable provisions of this Section.

**Section 5.4.1 *Junked Vehicles and Material.***

Unless allowed within a junk yard, salvage yard, towing yard or wrecking yard permitted and maintained in accordance with the provisions of Section 5.1.7 of this Code, it shall be unlawful to park or continuously store abandoned, wrecked, junked or inoperable vehicles, power-driven construction equipment, used lumber or metal, used appliances, or any other miscellaneous scrap material that is visible from a public street or adjacent or abutting property. Such vehicles or material shall be enclosed with a minimum six (6) foot high opaque fence and screened with vegetation. Enclosures for the purpose of storing junked vehicles and material shall adhere to the minimum setback requirements for accessory structures and uses, and shall not be allowed in front yards. Additional screening as determined by the Land Development Officer, based upon the elevations and uses of surrounding properties, may be required to comply with this provision in side and rear yards.

**Section 5.4.2 *Vehicle Parking in Residential Districts.***

The parking or storage of commercial vehicles (including but not limited to buses, dump trucks, delivery trucks, semi-trailers, etc.) shall not take place on any vacant residential lot; nor, shall the storage of such vehicles be considered a permissible principal use of property. It shall be unlawful to park or store commercial vehicles in the front yard of any property zoned R-A, R-SF1, R-SF2, or R-MF; except where such vehicles are accessory to and serve the principal agriculture use of the property in an R-A district. In the R-SF1, R-SF2, and R-MF districts, one (1) commercial vehicle may be parked in the side or rear yard of a property.

# ARTICLE 6

## GENERAL DEVELOPMENT REGULATIONS

## ARTICLE 6 - GENERAL DEVELOPMENT REGULATIONS

### SECTION 6.1      **GENERALLY**

The Town of Dearing hereby adopts common standards and rules by which land uses may be established or altered within the municipal limits of the Town. The provisions of this Article govern the manner in which permitted land uses may be located on property within Dearing, and provide the standard provisions that must be incorporated into proposed development activities in order to ensure that new or modified developments adhere to, or exceed, the Town's basic rules for facilitating growth that is functionally compatible with local infrastructure, and aesthetically compatible with the Town's districts and neighborhoods.

### SECTION 6.2      **GENERAL USE REQUIREMENTS**

#### *Section 6.2.1      Use of Land*

No land shall hereafter be used, occupied, or altered except in full compliance with the provisions of this Land Development Code, unless specifically provided otherwise by this Code.

No use or activity shall hereafter be established, re-established, located, extended, or expanded except in full compliance with the provisions of this Land Development Code, unless specifically provided by this Code.

No building or structure or part thereof shall herein after be located, relocated, occupied or used, extended, converted, or structurally altered except in full compliance with the provisions of this Land Development Code, unless specifically provided otherwise by this Code.

#### *Section 6.2.2      Use Upon a Lot of Record*

No building or structure shall be erected, or use established, unless upon a lot of record as defined by this Land Development Code, unless specifically provided otherwise in this Code.

#### *Section 6.2.3      One Single-family Dwelling Unit Per Lot of Record*

Only one (1) detached single-family dwelling unit, one (1) single-family attached dwelling, one (1) two-family dwelling, or manufactured home, under fee-simple ownership shall be permitted on a single lot of record. This Section shall not be construed to prevent the location of more than one (1) non-residential building on a single lot of record, where permitted.

### SECTION 6.3      **GENERAL DIMENSIONAL REQUIREMENTS**

Basic dimensional requirements for land uses are established in Article 4 (Zoning District Regulations) of this Code for broad application to property in the Town of Dearing. Reliance on a single tabular set of dimensional requirements however provides little clarity to their method of interpretation and application in individual scenarios. The dimensional requirements in this Section supplement those standards provided in Article 4, and shall prevail and apply where an inconsistency exists. Adherence to the provisions of this Section shall not be construed to permit the creation of lot or parcels, or development thereon of such property, in any manner that is inconsistent with the subdivision and land development requirements established in Article 9 (Subdivision and Land Development Requirements) of this Code.

#### *Section 6.3.1      Height*

No building or structure shall hereafter be erected or altered so as to exceed the height limits established for the zoning district in which the building or structure is located; or any alternative height limits established for a specific building, structure, or use in Article 5 (Supplemental Uses Regulations,) or any other provision in this Code.

#### *Section 6.3.2      Exemptions to Height Restrictions*

The following buildings and structures or parts thereof are hereby exempt from the height limitations as set forth in the zoning districts:

1. Agricultural buildings such as barns, silos, windmills, grain elevators and other farm structures, but not including dwellings.
2. Cooling towers, gas holders, or other industrial structures where required by an allowed manufacturing process.
3. Church spires, belfries, cupola, domes, monuments, observation towers, transmission towers, windmills, chimneys, conveyors, flagpole, radio towers and aeriels. This exemption does not apply to towers and wireless telecommunications facilities which shall be subject to the applicable provisions of Article 5 (Supplemental Use Requirements) of this Code.

**Section 6.3.3**      *Lot Size and Density*

No lot shall hereafter be developed with a number of housing units that exceeds the residential density for the zoning district (or if applicable and controlling, the overlay zoning district or special zoning district) in which the lot is located as established by this Code.

No lot shall hereafter be platted, established, or developed unless it meets or exceeds the minimum lot size for the zoning district (or if applicable and controlling, for the overlay zoning district or special zoning district) in which the lot is located as established by this Code, provided, however, that where an overlay zoning district or a special zoning district allows the reduction of a lot size, or adjustment of density requirements for the applicable zoning district, than the overlay zoning district or special zoning district standards shall apply.

No lot shall hereafter be platted, established, or developed that fails to meet the minimum lot width for the zoning district (or if applicable and controlling, the overlay zoning district or special zoning district) in which the lot is located as established by this Code, except as otherwise specifically provided.

**Section 6.3.4**      *Land Area of a Lot*

The minimum lot size requirements for property in each zoning district is based on the land area of a lot, including those lands that may be periodically or seasonally inundated by water such as floodplains and wetlands. Open areas of water such as a lake or pond, or portion thereof, shall not be used to calculate a property's minimum required lot area. For purposes of this provision, detention or retention areas and ponds developed as part of residential subdivision shall be considered a lake or pond and shall not be used to calculate the square footage of individual lots proposed to be subdivided, whether or not the detention or retention area retains water on a permanent basis.

**Section 6.3.5**      *Street Frontage*

No lot shall hereafter be platted, established, or developed that fails to maintain the minimum road frontage on a public street as established in Article 4; provided, however, that fee simple lots for attached residential dwelling units (i.e. townhouses) may be platted to lot widths and with street frontages specified for such uses in the Dearing Development Code.

The street frontage requirement of the Dearing Development Code shall not inhibit access to a building, structure, or activity by means of an access easement, if the lot on which it is located meets the minimum required street frontage and the use accessing the easement is permitted in the zoning district in which the lot is located.

**Section 6.3.6**      *Yards and Building Setbacks*

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in a manner to have narrower or smaller rear yards, front yards, or side yards than specified and required for the zoning district in which the property is located.

**Section 6.3.7**      *Building Coverage*

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or altered in any manner that exceeds the maximum building coverage or impervious surface area coverage specified for the zoning district in which it is located.

**SECTION 6.4**      **BUFFERS AND SCREENING**

The Dearing Land Development Code hereby establishes basic landscaping requirements to enhance the aesthetic, economic, and environmental value of property subject to, or potentially impacted by, development activity. To assist in facilitating beneficial development activity in the Town of Dearing, property shall be subject to the provisions of this Section.

**Section 6.4.1**      *Buffer Requirements*

Where required within this Code, buffers shall be established exclusively within the lot, parcel or tract, upon which the triggering activity and corresponding development is located. Required buffers shall not be located on another lot, or in a manner on the affected property that is not clearly associated with the intent to mitigate the impact of a specific building, structure or use.

No certificate of compliance shall be issue for development whereby required buffers have been installed that contain vegetative material, or are of spatial dimensions, that are less than those that are specified within a specific provision of this Code.

**Section 6.4.2**      *Screening of Commercial Service Areas and Rooftop Equipment*

Service areas, including loading areas, loading entrances, dumpster pads, sites for trash or recycling containers, and heating, ventilation, and air conditioning equipment (whether on the ground or on the roof of a building) shall be screened from the view of adjoining properties, public streets, parking areas, and other areas open to the public. Such screening, may be structural or vegetative or a combination of both, is subject to the approval of the Land Development Officer, and where applicable shall meet the specific requirements of Article 9 (Subdivision and Land Development Regulations.)

Rooftop mechanical and electrical equipment, including but not limited to elements of a building's heating and air conditioning system, shall be screened from public view by building elements that are designed as an integral part of the building architecture, or by a parapet wall.

## **SECTION 6.5 OFF-STREET PARKING**

Unless specifically provided elsewhere in this Code, at the time of the establishment of any use, or erection of any building, or at the time any principal building is enlarged or increased in capacity by adding dwelling units, guest rooms, seats or floor area, there shall be provided permanent off-street parking spaces incorporating surface materials and other improvements as specified in this Section.

### *Section 6.5.1 Off-Street Parking Area on Same Site as Use it Serves*

All parking areas containing spaces required by this Section, and for all additional parking provided in excess of this Section, for all uses shall be located on the same lot as the use for which such parking is intended, except as specifically provided otherwise in another Section of this Code.

### *Section 6.5.2 Parking Area Use Limitations*

#### *Section 6.5.2.1 Limited Use*

Areas provided to meet the minimum parking requirements of this Section as to handicapped and other parking spaces, along with aisles and driveways necessary to provide access to those spaces, shall not be used for any purpose other than the temporary parking of on-site vehicles for the present on-site use or uses. Specifically, no such parking area may be used for the sale, repair, dismantling or servicing of any vehicles, equipment, materials, or supplies.

#### *Section 6.5.2.2 Temporary Structures*

The Town of Dearing may allow temporary parking arrangements on a property that serve and are in conjunction with an temporary use established and approved in accordance with the provisions of Section 5.3 (Temporary Uses and Structures) of this Code, and provided that any such arrangement and associated structures are removed from the site at the conclusion of the activity.

### *Section 6.5.3 Design Requirements*

#### *Section 6.5.3.1 Paving*

Parking lots intended to provide for off-street parking spaces required by the Dearing Development Code shall be improved and maintained utilizing any of the following paving materials and standards:

- Concrete Interlocking Paver System (sand base)
- Concrete Design Blocks (sand base)
- Brick Pavers (flexible/rigid base)
- Granite Setts (on six (6) inch sand base)
- Cut Stone (on flexible/ridged base)
- Exposed Aggregate in Concrete Base
- Four (4) inch Stabilized Aggregate Base Plus One (1) inch Hot Laid Asphaltic Concrete Binder
- Bituminous Surfacing – Double Treatment
- Concrete (minimum four (4) inches 3,000 lbs. mix)
- Asphalt (minimum four (4) inches)

#### *Section 6.5.3.2 Curb and Gutter*

Curb and gutter shall be constructed along and border those portions of parking areas abutting the public street right-of-way, and including driveway throats providing access to and from the site from the street. Consistent with Subsection 6.4.3.5, wheel stops shall be provided where parking spaces abut and face the edge of a parking area where a curb and gutter edge treatment has not been provided.

#### *Section 6.5.3.3 Grading*

Proper grading to eliminate sheet flow of drainage water onto sidewalks, public rights-of-way, and abutting properties shall be designed and constructed. Provisions may be necessary for on-site collection and storage of drainage water.

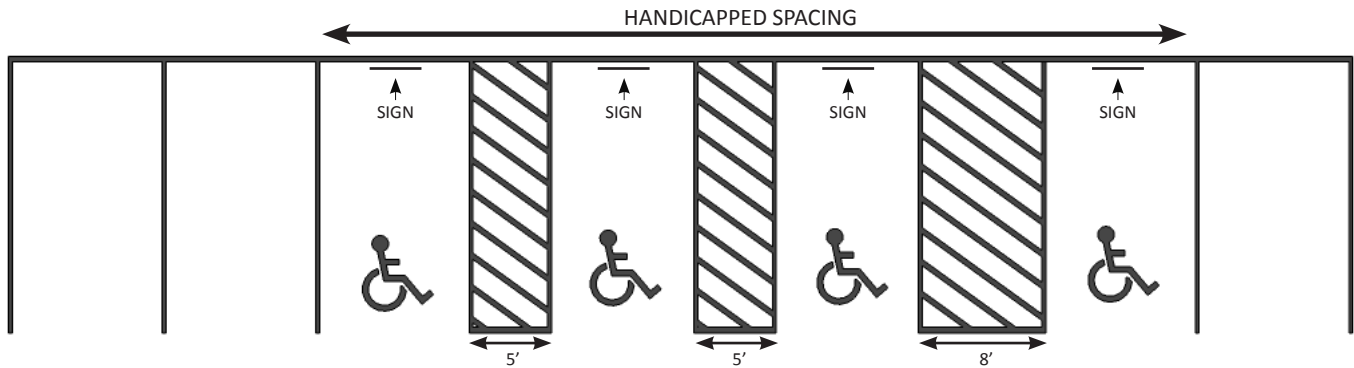
#### *Section 6.5.3.4 Parking Space Dimensions, Standard*

Every parking space shall provide a usable rectangular area at least 9 feet wide by 18 feet long, excluding access aisles.

#### *Section 6.5.3.5 Parking Space Dimensions, Handicapped*

All handicapped parking shall comply with the requirements of the federal Americans with Disabilities Act (ADA.) Handicapped parking spaces shall be clearly demarcated, and shall be designated as reserved by a sign showing the symbol of accessibility, per applicable state law requirements. Such signs shall be located so that they cannot be obscured by a vehicle parked in that space. Each handicapped space shall be served by at least one (1) adjacent aisle five (5) feet wide to facilitate access to the motor vehicle. (See Figure 6-1, page 6-5)

Figure 6-1: Handicapped Spacing



*Section 6.5.3.6 Minimum Dimensions of Access Aisles*

Access aisles in parking lots must be at least thirty (30) feet wide for two (2) way traffic and sixteen (16) feet wide for one-way traffic. One-way traffic must be clearly marked with directional arrows on the pavement at each intersection with another aisle.

*Section 6.5.3.7 Markings and Wheel Stops*

Clear and permanent markings shall be provided to define individual parking spaces, drive aisles, drive lanes, and intersections in accordance with specifications approved by the Land Development Officer. Markings shall not be required of spaces used exclusively for the demonstration of inventory associated with motor vehicle rental or sales. Wheel stops shall be provided in all parking facilities that do not already have curbing for all spaces abutting property lines, buildings, and landscaping. No vehicle shall overhang a public right-of-way. Wheel stops shall be a minimum of four (4) inches in height and width and six (6) feet in length. They shall be firmly attached to the ground and so constructed as to withstand normal wear.

*Section 6.5.4 Off-Street Parking Requirements*

Unless specifically provided otherwise in the Dearing Development Code, on each lot where a building, structure, or use exists, each site shall be designed to provide and shall provide for a minimum number of off-street parking spaces as provided in Tables 6.1, and handicapped-accessible off-street parking spaces as specified in Table 6.2.

*Section 6.5.4.1 Parking Space Requirements, Standard*

Standard off-street parking spaces shall be provided for each new, or expanding land use, in an amount consistent with or in excess of the minimum requirement provided in Table 6.1. It is the intent of this Code that all land uses listed in Article 4 (Zoning District Regulations) shall be provided with off-street parking unless specifically exempted herein. The Land Development Officer is hereby provided with the discretion to determine the general land use categories identified in Table 6.1 that best match those land uses identified in Article 4 for purposes of determining the amount of off-street parking related to a proposed development. All standard off-street parking spaces and areas shall adhere to the full design and dimensional requirements of Section 6.5.

TABLE 6.1: MINIMUM OFF-STREET PARKING STANDARDS

<i>Use</i>	<i>Parking Spaces Required</i>
<i>Residential (Single – Family)</i>	
Dwelling - Loft	2 per dwelling unit
Dwelling – Single-family Detached	2 per dwelling unit
Manufactured Home	2 per dwelling unit
<i>Residential (Multi-Family)</i>	
Dwelling – Multi-Family	1 per bedroom + 1 per 4 dwelling units
Dwelling – Single-family Attached	1 per bedroom
Dwelling - Two-family	1 per bedroom
<i>Accommodations and Group Living</i>	
Boarding House	1 per bedroom
Group Residence	1 per bedroom
Hotel, Motel, and Other Lodging Facilities.	1 per guestroom + required spaces for additional uses (i.e. restaurants, assembly space, etc.)
Institutional Resident Care Facilities	1.4 for each 4 beds
<i>Commercial Retail and Services</i>	
General Business and Professional Offices	1 for every 500 square feet of total floor space
General Commercial Retail Establishments	1 for every 500 square feet of retail sales area
General Professional Service Establishments	1 for every 500 square feet of area accessible to patrons
Ambulatory Health Care Facilities (incl. Medical & Dental Offices, Outpatient Care Services, Medical Labs, etc.)	1 for every 500 square feet of total floor space
Automotive and Machinery Service, and Repair	1 for every 1000 square feet of retail sales area or customer area
Banks and Financial Institutions	1 for every 500 square feet of total floor space
Convenience Store	1 for every 500 square feet of retail sales area
Convenience Store with Gas Station	1 for every 500 square feet of retail sales area + 1 per pump
Dry Cleaning Services and Laundromat	1 for every 1000 square feet of customer service area
Funeral home	1 for every 4 seats in largest chapel or main assembly area
Gas Station without Convenience Store	1 per every 2 pumps
Grocery Stores	1 for every 500 square feet of total floor space
Home Occupation	Not Applicable
Hospitals - General Medical and Surgical	1.5 per bed
Open-Air Business	1 per every 500 square feet of indoor floor space accessible to patrons + 1 per every 1,500 square feet of outdoor sales or display area
Personal Care Service Facilities	1 per every 500 square feet of area accessible to patrons
Restaurant – Full Service	1 per every 500 square feet of customer service and seating area.
Restaurant – Limited Service (incl. Fast Food) w/Seating	1 per every 500 square feet of customer service and seating area
Restaurant – Limited Service (incl. Fast Food) w/o Seating	1 per every 1000 square feet of customer service area
Shopping Center, Mall, or Other Unified Commercial Development not Otherwise Enumerated	2.5 per every 1000 square feet of retail sales area

TABLE 6.1: MINIMUM OFF-STREET PARKING STANDARDS (CONTINUED)

<i>Use</i>	<i>Parking Spaces Required</i>
<b><i>Industrial Uses:</i></b>	
General Manufacturing and Industrial Uses	1 for each employee during a maximum work shift
Junkyard, salvage yard	1 per every 1000 square feet of office space
Warehouse Self-Storage	1 per every 30 storage units
Warehouse and General Storage	1 for each employee during a maximum working shift plus space for storage of truck or vehicle used
Wholesale Trade	1 per every 1000 square feet of sales floor area
<b><i>Public Assembly / Institutional:</i></b>	
Cemetery	Not Applicable
Day Care Facility - Group	2 spaces + 1 per every 6 children or other individuals served (based on maximum allowable capacity)
Clubs and lodges, Non-Commercial	1 for every 1000 square feet
Fitness and Recreational Sports Centers	10 spaces plus + 1 per every 500 square feet of court area, surface water area, or other floor area accessible to patrons.
Government Offices	1 for every 500 square feet of total floor space
Library	1 for every 500 square feet of total floor space
Museum / Historical Site / Similar Use	1 for every 500 square feet of total floor space
(Indoor) Performing Arts and Spectator Sports Facilities, and other Places of Assembly (i.e. Auditorium, Assembly Hall, Civic Center, Spectator Sport Facilities, Theater, etc.)	1 for every 5 seats in room with greatest seating capacity; or, 1 per 50 square feet in largest assembly area without fixed seats.
(Outdoor) Performing Arts and Spectator Sports Facilities, and other Places of Assembly (i.e. Auditorium, Assembly Hall, Civic Center, Spectator Sport Facilities, Theater, etc.)	1 for every 5 seats in room with greatest seating capacity; or, 1 per 50 square feet in largest assembly area without fixed seats.
Place of Worship	1 for every 5 seats in room with greatest seating capacity; or, 1 per 50 square feet in largest assembly area without fixed seats + required spaces for additional uses (i.e. day care facility, school, etc.)
School, Elementary and Secondary	2 spaces per classroom + required spaces for additional use (i.e. offices, places of assembly, etc.)
School, College, University and Professional	5 spaces per classroom + required spaces for additional use (i.e. offices, places of assembly, etc.)
School, Specialty	1 for every 500 square feet of total floor space
<b><i>Park / Recreation / Conservation:</i></b>	
General Outdoor Recreational Areas, Parks, etc.	1 for each 5,000 square feet of land area
General Indoor Amusement or Place of Recreation (i.e. Billiard Halls, Bowling Alleys, Skating Rinks, etc.)	1 for each 500 square feet of area accessible to patrons
<b><i>Agricultural</i></b>	
Agriculture	Not Applicable
Equestrian Facilities	1 per every 2000 square feet of total floor space
Forestry	Not Applicable



*Section 6.5.4.2      Parking Space Requirements, Handicapped*

In addition to those standard parking spaces required and provided in accordance with this Code, handicap-accessible off-street parking spaces shall be provided for each new, or expanding land use, in an amount consistent with or in excess of the minimum requirement provided in Table 6.2. All handicapped off-street parking spaces and areas shall adhere to the applicable design and dimensional requirements of Section 6.4.

*Section 6.5.5      Administrative Variances*

In accordance with Section 11.11 (Administrative Variances) of this Code, the Land Development Officer may consider requests for administrative variances from the following provisions of Section 6.5:

- Section 6.5.3.1      Paving
- Section 6.5.4.1      Parking      Space      Requirements, Standard

TABLE 6.2: REQUIRED NUMBER OF  
HANDICAPPED PARKING SPACES

Total Required Parking Spaces	Minimum Number of Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2 Percent of Total
1001 and Over	20 Plus 1 for each 100 over 1000

**SECTION 6.6      ACCESS TO SERVICE AREAS**

*Section 6.6.1      Time Period for Access to Service Areas*

Access to service areas, including dumpster pads, shall be limited to the hours of 5:30 a.m. and 6:00 p.m., unless an emergency situation warrants access to these areas.

# ARTICLE 7

## SIGNS

ARTICLE 7 SIGNS

SECTION 7.1 PURPOSE.

*Section 7.1.1 Purpose and Objectives*

In addition to the general purposes of the Dearing Land Development Code, the town of Dearing has determined to provide for a balanced system of management related to the placement, maintenance and removal of signs within the municipal limits to meet the following objectives:

- A. To balance the right of individuals to convey their messages through signage and the right of the public to be protected against the unrestricted proliferation of sign structures;
- B. To enhance the economy of the town by promoting reasonable, orderly, and effective displays of signs that allows for the public to locate community facilities, goods and services;
- C. To protect and enhance property values by providing for a tranquil aesthetic environment that provides compatible disposition of signs with surrounding land uses, and reduces overall visual clutter;
- D. To allow property owners and residents to enjoy the use of their property without the interference of visual obstruction, distraction, or hazard;
- E. To preserve and protect residential neighborhoods, community activity centers and gateways, and major thoroughfares which, through orderly design and maintenance of the built environment – including signage – generate community pride and exhibit clear community expectations that promote investment through a predictable development pattern;
- F. To maintain and improve traffic safety by preventing or restricting signs that due to their placement or appearance increase the probability of accidents by impeding the vision of, obstructing, or confusing, travelers; and, which if left unregulated increases hazards to the traveling public through the unmitigated erection of larger, brighter or more distracting signs by owners attempting to convey competing messages;
- G. To manage increasingly vibrant and distracting signs, including those that incorporate LED and similar digital technology that can cause unique hazards to the traveling public by a higher level of distractibility, and demand greater diligence and resources to enforce proper use and display than those sign structures not incorporating such technology;
- H. To provide for some signage that has the targeted purpose of promoting public safety, but for which the identification of such by description is difficult without referring to its ancillary or incidental function; such as, address numerals or unified development entrance signage; which, is a tool for enabling the traveling public and emergency personnel to locate points of ingress and egress during visitation or emergency call response. While such signage is referred based upon the function it serves within the context of this Article, the provisions of this Article are unrelated to the content of the speech provided and allow maximum expressive potential to sign owners;
- I. To ensure the proper maintenance of signs, for safety and structural soundness, as well as appearance; and,
- J. To provide for fair and consistent enforcement of sign regulations.

SECTION 7.2 DEFINITIONS.

For purposes of this Article, certain terms and words are hereby defined, and shall have that meaning ascribed to them as provided herein. All other words and phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise, or a specific definition has been ascribed to them as provided within a separate Article of this Code.

*Banner.* Any sign printed or displayed on lightweight fabric, or similar flexible material with or without frames and that is mounted to a pole or building at more than one (1) edge. When mounted, banners shall remain stationary and not flap or wave in a manner similar to a flag or pennant. Flags, pennants, ribbons, and other wind-blown devices shall not be considered banners.

*Beacon.* Any light with one (1) or more beams directed into the atmosphere or directed at one (1) or more points not on the same zone lot as the light source; also, any light with one (1) or more beams that rotate or move. The term “beacon” may also include spot lights, strobe lights, or other similar apparatus.

*Flag.* Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols, used as a symbol of a government, political subdivision, or other entity.

*Marquee.* A permanent roof-like structure projecting beyond a building or extending along and projecting beyond the wall of the building, but not supported by the ground, and constructed of durable material to provide protection from the weather.

*Sign* means any display or words, shapes, or images designed to convey a message to the viewer, located within or on the exterior of any dwelling, building, object or structure, or located on any lot, or upon a dedicated supporting structure, object, device, including poles, banners, windows or other devices located upon such lot.

*Sign, ancillary.* A sign or sticker designed to be read from close range (i.e. five [5] feet), attached to a building or structure, and serving the purpose of instructing the reader in the manner or method in which a device may be utilized or operated. Examples of ancillary signs include but are not limited to: lettering for operating a device or selecting a product, inspection certificates on gasoline pumps, “flammable” signs on enclosures for fuel canisters, menu boards not exceeding the aggregate sign display area of signs requiring a permit, etc.

*Sign, animated.* A sign that utilizes moving structural elements, flashing or sequential lights, lighting elements, or other automated methods to create movement, the appearance of movement, or other special effects. Signs meeting the definition of and regulations governing changeable copy signs and traffic control devices and warning signs meeting the standards of the Manual of Uniform Traffic Control Devices are not considered animated signs.

*Sign, awning.* A sign imposed or painted onto any awning, canopy, or other similar plastic or fabric covered structure extending over a door, entrance, window, or outdoor service area. A marquee is not an awning or canopy sign.

*Sign, building.* Any sign attached to any part of a building.

*Sign, canopy.* See "sign, awning."

*Sign, changeable copy.* A sign designed to allow the changing of letters, words, logos, or symbols through manual, electric, or electronic means without altering the face or surface of the sign, or creating movement or the appearance of movement. For purposes of this article, a changeable copy sign does not include an animated or a tri-vision sign.

*Sign, derelict.* A sign that is dilapidated and is, or has the potential to be, structurally insecure, in danger of falling, or otherwise hazardous or unsafe.

*Sign, freestanding.* A completely self-supporting sign structure attached to the ground which is wholly independent of any building or other structure. The term "freestanding sign" may take the form of a monument sign or stanchion sign as defined herein.

*Sign, incidental.* A sign of no more than two (2) square feet that serves the purpose of guiding safe traffic movements onto, from, or within property, and without which there is an increased risk of incompatible traffic movements or obstructions. Examples of incidental signs include but are not limited to: "stop," "no parking," "entrance," "loading zone" and other similar traffic related directives.

*Sign, LED.* A sign or any portion thereof that utilizes light emitting diode technology or other similar semi-conductor technology to produce an illuminated image, picture, or message of any kind whether the image, picture, or message is moving or stationary. This type of sign includes any sign that uses LED technology of any kind whether conventional (using discrete LEDs), surface mounted, (otherwise known as individually mounted LEDs), transmissive, organic light emitting diodes (OLED), light emitting polymer (LEP), organic electro polymer (OEL), or any other similar technology. For purposes of this Article, a LED sign may be considered a changeable copy sign where the manner of altering the face or surface of the sign is consistent with the applicable provisions herein.

*Sign, monument.* A freestanding sign which forms a solid structure from the ground to the top of the sign.

*Sign, non-conforming.* Any sign which does not conform to the provisions of this ordinance that was legal at the time of its erection.

*Sign, portable.* Any sign which is not permanently attached to the ground or other permanent structure, or a sign designed to be transported by wheels or trailer; signs converted to A-frames or T-frames; umbrellas used for advertising, and signs attached to or painted on vehicles parked and visible from the public right-of-way, unless said vehicle is used in the normal day-to-day operation of the business or organization for purposes other than signage.

*Sign, roof.* Any sign erected, constructed, or maintained in whole or a part upon, against, or above the eave of a peaked roof or parapet line of a flat roof.

*Sign, stanchion.* A freestanding sign that is mounted on one (1) or more poles or posts, or other vertical support, such that the bottom of the sign face is elevated above ground level and there is no visual obstruction other than the vertical support between the ground and the bottom of the sign face.

*Sign, standard informational.* A sign with an area not greater than four and one-half (4 ½) square feet, with a sign face made for short term use, containing no reflective elements, flags or projections and which, when erect, stands at a height not greater than three (3) feet and is mounted on a stake or metal frame with a thickness or diameter not greater than one and one-half (1 ½) inches.

*Sign, temporary.* A sign not permanently attached to the ground or other structure, excluding signs meeting the definition of and standards for "standard informational signs" and located on a residential property.

*Sign, tri-vision.* A sign designed with a series of slats that mechanically rotate in sequence with one another to show multiple sign messages in sequence. For purposes of this Article, a tri-vision sign is an animated sign and is not a changeable copy sign.

*Sign, window.* Any writing, pictures, symbols, or combination thereof, attached to, placed upon, or painted on the interior of a door or window or upon the window panes or glass and visible from the exterior of the window or door.

*Sign face: single* means any advertising sign having a single face or board for advertising display. Such sign is positioned so that the display face is parallel to the public thoroughfare.

*Sign face: multi* means any advertising sign having two separate or independent faces or boards for advertising display. Such double face signs shall have the advertising boards facing in opposite or nearly opposite directions and positioned so that the display faces are roughly perpendicular to the public thoroughfare.

### **SECTION 7.3      APPLICABILITY AND ADMINISTRATION.**

The regulations and requirements of this Article apply to all signs that may be or are intended to be viewed from private and public street rights-of-way, or from other public property. Such signs shall only be allowed in conformance with the provisions of this Article regardless of whether or not the sign is subject to the issuance of a permit, or was erected prior to the adoption of these provisions.

#### ***Section 7.3.1      Permit Required***

Unless otherwise provided in this Article, no sign or other advertising device shall be erected, constructed, replaced, modified, relocated, or structurally altered within the municipal limits of Dearing without first obtaining a permit from the land development officer.

#### ***Section 7.3.2      Applications***

All applications for sign permits shall be submitted to the land development officer on an application form prescribed by the city, and shall be accompanied by a detailed illustration of the dimensions, design, structure, and location of each sign in the format prescribed within such application form. Each sign on a single lot shall be subject to a separate application form and corresponding fee. The applicant for a sign permit must be the property owner or lessee of the lot on which the sign will be located, or an agent or representative thereof verified through the written consent of the owner or lessee.

#### ***Section 7.3.3      Fees***

Each application for a sign permit shall be accompanied by an applicable fee based on a fee schedule fixed from time to time by resolution of the Town Council of the Town of Dearing.

#### ***Section 7.3.4      Permit Procedures***

Within 15 business days of the submission of a completed application for a sign permit, including all required and accompanying materials and fees as provided in Sections 7.3 (2 and 3) of this Article, the land development officer shall take either of the following actions:

- A. Issue the permit where it is found that such sign application is complete and the proposed sign adheres to the standards of this Article and other applicable ordinances and state laws regulating the proposed sign; or,
- B. Deny the permit where the application contains false material statements, is incomplete, or where the proposed sign would violate standards of this Article and other applicable ordinances and state laws regulating the proposed sign. Any denial of a permit shall be in writing and shall specify the section(s) of this Article, or applicable provision of other ordinances or state laws with which the sign is inconsistent. The denial shall be based upon and shall cite to the specific articulated standards in this ordinance [article], or other law, and shall not be based or cited to the general concerns contained in Section 7.1 herein. A denied application later resubmitted in conformity with this ordinance shall be deemed to have been submitted on the date of resubmission, rather than on the date of original submission. A decision to deny a permit shall be in writing and shall be served on the permit applicant either by hand delivery or by first class mail to the address provided by the applicant no later than 15 business days after initial receipt of the application.

#### ***Section 7.3.5      Permit Expiration***

The land development officer shall inspect the lot for which each permit for a new sign or for modification of an existing sign is issued, within three (3) months after issuance of such permit or at such earlier date as the owner may request. A sign permit shall become null and void if the sign for which the permit was issued has not been completed and installed within three (3) months of the date of issuance. No refunds shall be made of permit fees for permits that expire due to failure to erect a permitted sign; provided that where an applicant can demonstrate that a commercial entity was timely engaged to construct the permitted sign but the fabrication has not yet been completed, one (1) 30-day extension may be granted by the land development officer on the duration of the permit. Where a permit has expired for failure to erect a sign, and an individual subsequently desires to erect a sign at the same location, a new application must be processed and another fee paid in accordance with the fee schedule in effect at the time of resubmission.

#### ***Section 7.3.6      Display and Assignment of Permits***

The permit holder shall be responsible for maintaining the permit for every sign constructed, erected, or maintained for which a permit is required by this Article. Such permit shall be kept on the premises served by the sign and shall be exhibited promptly upon request of town officers and employees.

#### ***Section 7.3.7      Work Without a Permit***

Application fees shall be double that normally required under the permit fee schedule where any person, owner, authorized agent or contractor commences work on an activity identified within this Article as subject to a permit, prior to the issuance of said permit. Such fees shall be in addition to any other remedy resulting from enforcement of this Article as provided in Section 7.10.

**Section 7.3.8 Appeals**

An individual whose permit application has been denied, request for permit extension has been denied, or permittee whose permit has been revoked may appeal the decision to the Town Council of the Town of Dearing, provided such appellant files a written notice of appeal to the Town Clerk within 10 business days of the issuance of the Land Development Officer's notice. Such appeal shall be considered by the Mayor and Town Council at the next regularly scheduled meeting occurring at least seven (7) days after such notice is received. At the appeals hearing, the sole issues to be considered are:

- A. Whether any permit application in question is complete and free from false material statements; and,
- B. Whether the proposed or existing sign in question complies with the standards of this Code, and other ordinances and state laws regulating the proposed sign.

Where the Mayor and Town Council find the application to be complete and true, and that the proposed or existing sign complies with all the provisions of governing law, the permit shall be issued, order of revocation rescinded, or citation rescinded, such as the case may be.

**Section 7.3.9 Revocation**

In the event it is determined that a permit was issued in violation of this Article or other applicable ordinance or state law regulating the sign at issue or where the sign has been erected in violation of such standards, the land development officer shall issue a written notice of revocation of the permit, stating the grounds for such revocation action. The notice of revocation shall be in the same form as notices of denial and delivered to the permit holder in the same manner as a notice of denial. Within 10 business days of receipt of a notice of revocation, a permit holder may appeal the notice by filing a written notice of revocation with the Town Clerk in the same manner as provided for in Section 7.3 (8). Where no appeal is taken within 10 business days of giving notice, the revocation shall be considered final. Hearing on an appeal of revocation shall also be conducted within the same time frames and the same manner as appeals of denial as provided for in Section 7.3 (8).

**Section 7.3.10 Variances.**

No variances shall be permitted from the terms of this Article; nor, shall the terms for variances established in Article 12 of this Code be applicable to the standards contained within this Article.

**SECTION 7.4 EXEMPT SIGNS.**

The permit requirements of this Article shall not apply to the signs listed within this Section, provided that the signs or devices erected or placed are located on property of the person who erects such signs or on property whose owner has given written permission for such placement. Some of the signs listed herein may be subject to additional standards of this Article concerning dimensions or physical placement – including the prohibition of some of these sign types based on location as provided in Section 7.6 and/or Table 7.1.

- A. Address numerals.
- B. Ancillary signs.
- C. Awning and canopy signs meeting the applicable provisions of Section 7.8.
- D. Flags.
- E. Incidental signs on private property directing traffic that adhere to Georgia Department of Transportation standards.
- F. Official traffic control signs and devices meeting the standards of the Manual of Uniform Traffic Control Devices.
- G. Portable signs for individual businesses meeting the applicable provisions of Section 7.8.
- H. Public notices or warnings required by a valid applicable law, regulation, or ordinance.
- I. Seasonal or holiday lights and decorations.
- J. Standard informational signs meeting the applicable provisions of Section 7.8.
- K. Temporary signs and banners meeting the applicable provisions of Section 7.8.
- L. Window signs.

**SECTION 7.5 NON-CONFORMING SIGNS.**

A building or free-standing sign that lawfully existed on the effective date of the adoption of this Article, and any subsequent and applicable amendments, may continue to be used except under the following conditions:

- A. Non-conforming signs shall not be repaired, rebuilt or altered in any manner that changes the shape, size, or design of the structure – including the sign face and/or display - except to make the non-conforming sign comply with all requirements of this ordinance.
- B. A non-conforming sign may not be replaced by another non-conforming sign.

## SECTION 7.6 PROHIBITED SIGNS.

The signs listed within this Article are prohibited within the Town of Dearing.

- A. Air and gas filled devices.
- B. Animated signs.
- C. Beacons.
- D. Fluttering ribbons, pennants, or other wind-blown devices, excluding flags, or banners unless permitted on a temporary basis as allowed per the applicable provisions of Section 7.8.
- E. Marquee signs.
- F. Portable signs, except those meeting the applicable provisions of Section 7.8.
- G. Roof signs.
- H. Signs attached to, drawn, or painted on trees, rocks, other natural feature, or utility poles.
- I. Signs emitting or utilizing in any manner any sound capable of being detected on any adjacent public or private property by a person of normal hearing; or emitting any smoke, vapor, particles or odors.
- J. Signs displaying any obscene message or obscenity as defined by U.S. Supreme Court decisions.
- K. Signs from which direct rays of light are projected onto property other than the lot or parcel from where the illumination occurs.
- L. Signs imitating warning signals; including those displaying lights resembling flashing lights customarily used in traffic signals or by police, fire, ambulance, or rescue vehicles; signs using words, slogans, dimensional shape or size, or colors of governmental traffic signs in such a manner as to be confused with official traffic control signage or devices.
- M. Signs incorporating reflective surface materials which may obstruct, impair, or interfere with the vision of the public.
- N. Signs placed within the public street right-of-way, or on any other public property, by any person or organization not authorized by the applicable public authority owning such property to engage in such placement.
- O. Strings of light not permanently mounted to a rigid background.
- P. Tri-vision signs.

## SECTION 7.7 SIGN REGULATION BY LAND USE AND ZONING DISTRICT

### Section 7.7.1 Computation of Sign Face and Sign Structure Dimensions

Sign face and structure placement, number, area, height, and other associated dimensional and spatial standards shall adhere to the provisions of this Section. Computation of these standards shall adhere to the following:

- A. Area of Individual Sign Faces. The area of a sign face shall be calculated by means of the smallest square or rectangle that surrounds the extreme limits of writing or other display (**Figure 7.1**), together with any material or color forming an integral part of the background of the display or used to differentiate the sign from the backdrop or structure against which it is placed, but not including any supporting framework. (**Figure 7.2**)



Figure 7.1: Sign area is calculated by the extent of the writing or other display

Figure 7.2



Figure 7.2: Sign Area also includes any material or color forming an integral part of the display or used to differentiate the sign from the backdrop



- B. Arrangement of Multi-faced Signs. Multi-faced signs shall be arranged so that sign faces project and may be viewed in no more than two (2) directions. Sign faces projecting toward, and viewed from, opposite directions shall be arranged that their surfaces are flush (i.e. back-to-back), (**Figure 7.3**) or where the interior angle formed by the faces is less than 45 degrees. All other independent sign faces that may be viewed at one (1) time from any given location shall be arranged so that their faces are parallel and aligned. (**See Figure 7.4**)

Figure 7.3 (A)



Figure 7.3 (B)

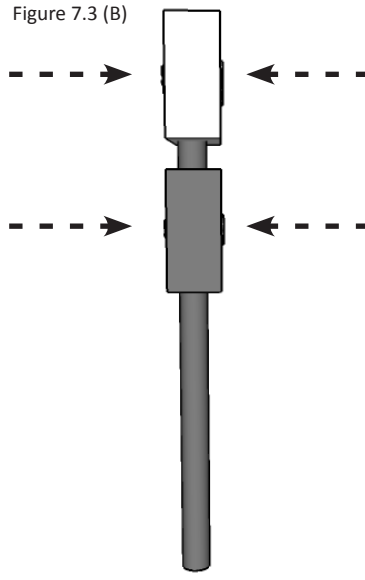


Figure 7.4 (A)

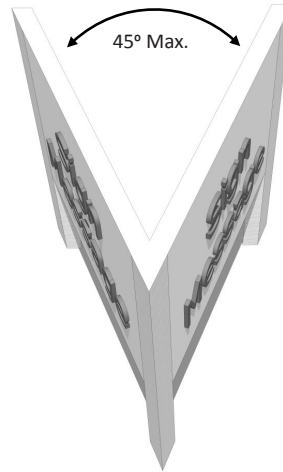


Figure 7.4 (B)

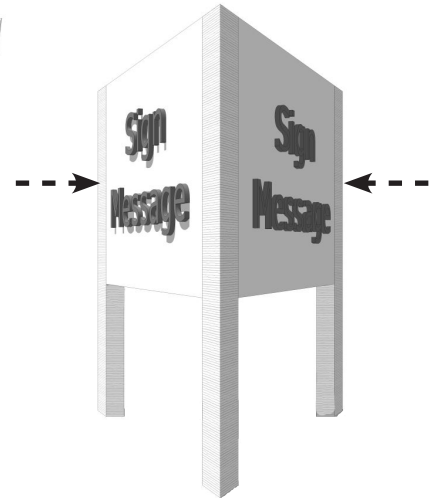


Figure 7.3 : Multi-faced signs (A) that can be viewed from more than one (1) direction should be flush (back-to-back) (B).

Figure 7.4 : Multi-faced signs shall not have an interior angle that exceeds 45 degrees (A) so that each independent face may not be viewed at the same time from most perspectives (B).

- C. Area of Multi-faced Signs. The area of a sign with more than one (1) face which are parallel and aligned shall be calculated by means of the smallest square or rectangle that surrounds the extreme limits of writing or other display of all such sign faces, together with any material or color forming an integral part of the backdrop of the displays or used to differentiate the sign faces from the backdrop or structure against which they are placed, and incorporating any space separating the independent sign faces. (**See Figure 7.5**) When sign faces are arranged back-to-back, or where the interior angle formed by the faces is less than 45 degrees, the sign shall be computed by the aggregate measurement of the larger sign face or grouping of parallel and aligned sign faces.

Figure 7.5 (A)



Figure 7.5 (B)



Figure 7.5 :Space between signs is calculated as part of sign face for signs with multiple faces (A)(B).



- D. Area of Sign Structure. The area of the sign structure shall be calculated by means of the smallest square or rectangle that envelopes the structure's tallest height and widest width including structural components, the sign face, and open areas between faces or structural components. **(Figure 7.6)**

Figure 7.6 (A)

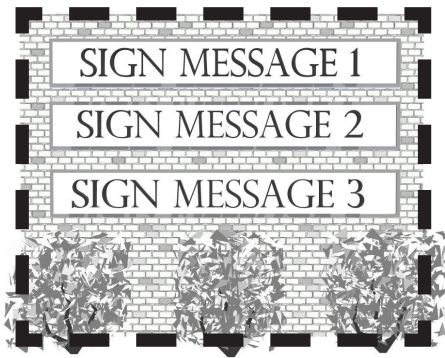


Figure 7.6 (B)



Figure 7.6 (C)

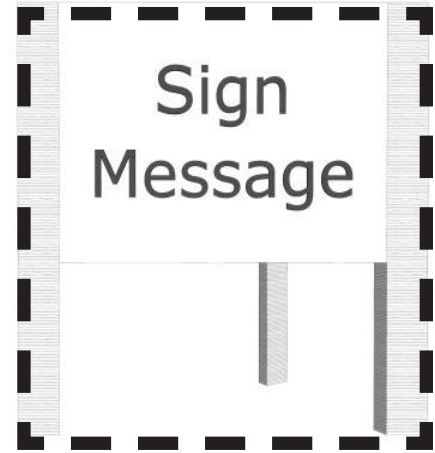


Figure 7.6 (A),(B), and (C) The dashed lines represent the sign structure

- E. Height. The height of a sign is calculated as the distance from the base of the sign at normal grade to the top of the highest attached component of the sign. **(Figure 7.8)**

Figure 7.7 (A)

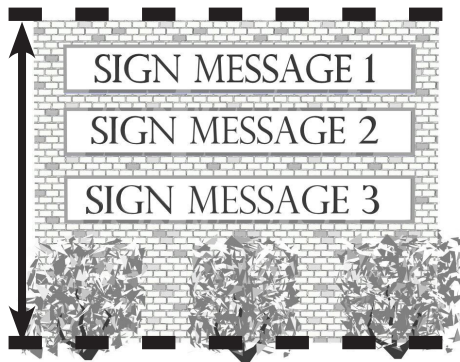


Figure 7.7 (B)



Figure 7.7 (C)

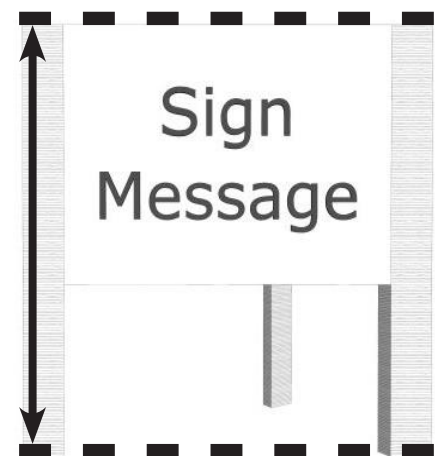


Figure 7.7 (A),(B), and (C) The dashed lines represent the sign structure

**Section 7.7.2 Sign Allowance by Type.**

Table 7.1 identifies those sign types for which a permit must be procured from the Town of Dearing. The placement of building and free-standing sign types shall be limited to the specific zoning districts and land uses provided herein (Table 7.1). Nothing within or omitted from Table 7.1 shall be inferred to supersede those permit exemptions or sign prohibitions established within Section 7.4 or Section 7.6, respectively. Signs listed herein may be subject to additional standards of this Article.

TABLE 7.1: SIGN ALLOWANCE BY TYPE<sup>1</sup>

	Non-Residential Zoning Districts (TC,GC, I)				Residential Zoning Districts (RA, R-SF-1, R-SF2, R-MF)			
	Principal Use of Property							
	Non-Residential (Single Lot)	Residential (Single Lot)	Unified Development	Unified Development (Individual Tenant²)	Non-Residential (Single Lot³)	Residential (Single Lot)	Unified Development (Residential)	Unified Development (Non-Residential)
A. BUILDING SIGNS								
Projecting	A	P	P	A	P	P	P	P
Suspended	A	P	P	A	P	P	P	P
Wall	A	P	P	A	A	P	P	A
B. FREE STANDING SIGNS								
Monument	A	P	A	P	A	P	A	A
Stanchion	A	P	A	P	A	P	P	P
Notes: A= Allowed, subject to permit; P= Prohibited. 1 Nothing within or omitted from Table 7.1 shall be inferred to supersede those permit exemptions or sign prohibitions established within Section 7.4 or Section 7.6, respectively. 2 “Individual tenant” refers to a single leasable space within a common building. 3 Residential properties upon which a “home enterprise” is operating shall be considered “non-residential” for the sole purpose of applying sign allowance by type standards.								

**Section 7.3.3 Sign Allotment and Dimensions.**

Tables 7.2 and 7.3 establish provisions managing allowances, distribution, and dimensions for permanent building and free-standing signs requiring a permit by land use and zoning district. The provisions within this Subsection must be used in conjunction with those sign allowances by type established in Subsection 7.7 (2) and Table 7.1.

TABLE 7.2: SIGN ALLOTMENT & DIMENSIONS NON-RESIDENTIAL ZONING DISTRICTS (TC, GC, I)

	<b>Principal Use of Property</b>			
	Non-Residential (Single Lot)	Residential (Single Lot)	Unified Development	Unified Development (Individual Tenant <sup>2</sup> )
<b>A. BUILDING SIGNS</b>				
Maximum Number Allowed (Per Building Frontage <sup>1</sup> ).	2	0	0	1
Maximum Total Square Feet (SF) Sign Face Area (Per Building Frontage).	100 or 10% of wall area - Whichever is less	N/A	N/A	100 or 10% of wall area - Whichever is less
<b>B. FREE STANDING SIGNS</b>				
Maximum Number of Structures Allowed <sup>3</sup> (Per Street Frontage <sup>4</sup> ).	1	1	1	0
Minimum Setback (Feet) of Sign Structure <sup>5</sup> .	5	5	5	N/A
Maximum Height (Feet) of Sign Structure.	15	3	20	N/A
Maximum Total Square Feet (SF) Sign Face (Per Sign Structure).	100	4 1/2	150	N/A
<b>Notes:</b> <sup>1</sup> "Per building frontage" for an individual business or tenant within a unified development shall refer to only those portions of a building frontage that form the outside wall of the business or tenant's occupied space. <sup>2</sup> "Individual tenant" refers to a single leasable space within a common building. The presence of more than one (1) business, tenant, or use within a shared "Individual tenant" space shall not grant each shared entity rights to additional building signage beyond that provided for within this Table. <sup>3</sup> A free-standing sign structure is considered an accessory use and placement of such a structure on a lot or parcel is contingent upon the existence of a principal building on the property; except, where otherwise permitted by Subsection 7.7 (4) for certain types of unified developments. <sup>4</sup> "Per Street Frontage" shall be defined as a street from which access may be directly gained to the property. <sup>5</sup> Sign structures shall be located along the street frontage for which it qualifies, and shall be located between the minimum setback line established herein and the building line; except, where otherwise permitted by Subsection 7.7 (4) for certain types of unified developments				

TABLE 7.3: SIGN ALLOTMENT & DIMENSIONS RESIDENTIAL ZONING DISTRICTS (RA, R-SF-1, R-SF2, R-MF)

	Principal Use of Property <sup>1</sup>				
	Non-Residential (Single Lot)	Residential (Single Lot)	Unified Development (Residential)	Unified Development (Non-Residential)	
				Option A: Integrated Signage	Option B: Signage Serving Individual Uses
<b>A. BUILDING SIGNS</b>					
Maximum Number Allowed (Per Building Frontage <sup>1</sup> ).	1	0	0	1	1
Maximum Total Square Feet (SF) Sign Face Area (Per Building Frontage).	40	N/A	N/A	40	30
<b>B. FREE STANDING SIGNS</b>					
Maximum Number of Structures Allowed <sup>3</sup> (Per Street Frontage).	1	1	1	0	2
Minimum Setback (Feet) of Sign Structure <sup>5</sup> .	5	5	5	5	5
Maximum Height (Feet) of Sign Structure.	8	3	12	12	8
Maximum Total Square Feet (SF) Sign Face (Per Sign Structure).	100	4 1/2	150	N/A	
<i>Notes: 1 Residential properties upon which a "home enterprise" is operating shall be considered "non-residential" for the sole purpose of applying sign allotment and dimension standards.</i>  <i>2 Unified developments serving principal uses that are institutional in nature uses such as churches, schools, etc. may utilize Option A or Option B for purposes of adhering to building sign allotment and dimensions; and, independently utilize Option A or Option B for purposes of adhering to free standing sign allotment and dimensions. In no case will more than two (2) free standing signs be permitted on the property of an institutional unified development. All other non-residential unified developments shall be limited to Option A for purposes of free standing signage</i>			<i>3 A free-standing sign structure is considered an accessory use and placement of such a structure on a lot or parcel is contingent upon the existence of a principal building on the property; except, where otherwise permitted by Subsection 7.7 (4) for certain types of unified developments.</i>  <i>4 Sign structures shall be located along the street frontage of a parcel, and shall be located between the minimum setback line established herein and the building line; except, where otherwise permitted by Subsection 7.7 (4) for residential unified developments.</i>		

#### Section 7.7.4 Unified Development Entry Signage

Notwithstanding the sign allotment and dimensional requirements established within Tables 7.2 and 7.3, a free-standing sign serving a unified development may be placed within a landscaped entryway feature located within the new street right-of-way serving the development where such provision is approved as part of the applicable site plan and subdivision review process, and where such placement will not obstruct the site distance of drivers entering or exiting the development.

### SECTION 7.8 SUPPLEMENTAL SIGN REGULATION BY TYPE.

#### Section 7.8.1 Awning and Canopy Signs

Individual businesses and individual commercial tenants within a unified development that are located in the TC, GC and LI zoning districts, and approved home enterprises, may utilize awnings and canopies as signage. Signs incorporated as part of awnings and canopies may only be permitted where the placement of the awning or canopy structure is clearly intended to serve the principal purpose of providing shade or shelter from the weather at entry points to a building or structure, or at window openings, and where the signage display is a secondary objective. Awning and canopy signs may be incorporated into the structure solely as part of the fabric or other material that covers the framing, and may not include additional projections. For purposes of this section, umbrellas used as an integral part of outdoor seating shall be considered an awning or canopy sign. Awning and canopy signs are not subject to sign allotment and dimension provisions provided in Section 7.7 of this Code.

### Section 7.8.2 Changeable Copy Signs

Changeable copy sign faces are allowed as an integral part of certain permanent building and free-standing signs for which a permit must be procured, meet all other requirements of this Article, and shall further adhere to the following:

- A. Changeable copy sign faces are not allowed as stand-alone elements, but shall be integrated into the overall sign face panel. A changeable copy portion of the sign shall not exceed 50 percent of the overall display surface area of the sign, or 20 square feet, whichever is less.
- B. The total display area of any sign containing changeable copy panels shall not exceed the size limitations imposed elsewhere in this Article.
- C. Only static changeable copy displays are permitted. Changes will be limited to the instant replacement of unrelated text, incorporating no transitional sequence between messages, such as dissolves, fades, scrolling, or other similar actions.
- D. Messages displayed on changeable copy signs shall change no more frequently than every eight (8) seconds.
- E. Changeable copy signs will only be allowed as part of the original construction and erection of a sign which complies with the requirements of this Article, or as part of a significant structural alteration to an existing sign - and thus being an integral part of that sign; and, in the case of an existing non-conforming sign such structural alteration will otherwise bring the sign into compliance with the dimensional requirements of this Article.
- F. Changeable copy signs shall be limited to the specific zoning districts and land uses provided within Table 7.4.

TABLE 7.4: CHANGEABLE COPY FACES BY SIGN TYPE<sup>1</sup>

	Non-Residential Zoning Districts (TC, GC, LI)				Residential Zoning Districts (RA, R-SF1, R-SF2, R-MF)			
	Non-Residential Residential (Single Lot)	Residential (Single Lot)	Unified Development	Unified Development (Individual Tenant <sup>2</sup> )	Non-Residential Residential (Single Lot)	Residential (Single Lot)	Unified Development (Residential)	Unified Development (Non-Residential <sup>3</sup> )
<b>A. BUILDING SIGNS</b>								
Projecting	P	P	P	P	P	P	P	P
Suspended	P	P	P	P	P	P	P	P
Wall	A	P	P	A	P	P	P	P
<b>B. FREE STANDING SIGNS</b>								
Monument	A	P	A	P	A	P	P	A
Stanchion	A	P	A	P	A	P	P	P
<b>Notes:</b> A= Allowed, subject to permit; P= Prohibited. <sup>1</sup> Nothing within or omitted from Table 7.1 shall be inferred to supersede those permit exemptions or sign prohibitions established within Section 7.4 or Section 7.6, respectively. <sup>2</sup> "Individual tenant" refers to a single leasable space within a common building. <sup>3</sup> Residential properties upon which a "home enterprise" is operating shall be considered "non-residential" for the sole purpose of applying sign allowance by type standards.								

### Section 7.8.3 Portable Signs

Individual businesses and individual commercial tenants within a unified development that are located in the TC, GC and LI zoning districts, and approved home enterprises, may display a single non-illuminated portable signs of an A-frame or easel construction during business hours. Such signs shall not exceed six (6) feet in height nor 10 square feet of sign face area. Such signs shall not be permitted within the public right-of-way except that those located within the TC district may be located in unimproved right-of-way and on the public sidewalk so long as such location does not inhibit pedestrian flow or the safety of motor vehicle operators by inhibiting sight distance at street or driveway intersections. All allowable portable signs shall be removed from by the owner at the end of each business day.

### Section 7.8.4 Standard Informational Signs

Each owner and/or occupant of residential property in the town shall be allowed at all times to erect one (1) standard informational sign on that owner/occupant's property. During the time period between the opening of qualifying for any election through the date on which all offices and issues in that election have been finally determined, an unlimited number of standard informational signs may be posted on residential property by the owner and/or occupant. All standard informational signs shall be maintained in accordance with the provisions of Section 7.9.

### Section 7.8.5 Temporary Signs and Banners

Temporary signs or banners, excluding portable signs and standard informational signs that meet all other requirements of this Article, may be erected on private property subject to the following:

- A. Temporary signs or banners shall adhere to the applicable provisions of this ordinance which would otherwise apply to a sign intended to be erected on a permanent basis including but not limited to: size, height, setback, placement on a building elevation, etc.
- B. Temporary signs or banners shall not include any illumination, reflective material, or any feature or characteristic which would also meet the definition of a changeable copy sign.

- C. Temporary signs and banners shall not be erected on individual lots where the principal use is a single-family dwelling (attached or detached), or a manufactured home; except for those properties upon which an approved home enterprise is operating.
- D. Where allowed, up to three (3) temporary signs or banners may be erected on a private property within any 12 month period. Each such temporary sign or banner may be displayed for up to 30 days. The display period shall commence from the date that the sign of banner is first erected until the conclusion of 30 days regardless of whether or not such sign or banner was displayed continuously during the intervening time frame.
- E. Temporary signs or banners shall pose no significant threat to a person or property in the event of inclement weather.

## **SECTION 7.9 DESIGN AND MAINTENANCE**

### ***Section 7.9.1 Conformance to Codes***

Any sign that requires a sign permit shall be designed, constructed, and maintained in accordance with the applicable provisions of the Building Code of the Town of Dearing, and the National Electrical Code. If plans are required for the issuance of a sign permit, such plans shall be certified as to conformance with all structural and wind-load resistive standards of the Building Code by a structural engineer registered in the State of Georgia, or be prepared using standard drawings prepared by a structural engineer or other qualified professional meeting or exceeding all requirements of the Building Code.

### ***Section 7.9.2 Minimum Maintenance Requirements***

All signs in the town of Dearing shall be maintained in good condition in order to retain structural integrity and an aesthetically pleasing appearance. Examples of maintenance deficiencies that reflect a lack of care include but are not limited to the following: rust spots; loose materials; flaking or peeling paint, faded or mis-aligned lettering; inoperable lights; broken, faded, damaged, or missing panels; broken, cracked, dented, or warped, framing or structural elements; detached or mis-aligned bricks, stones, or other structural base materials; corroded or deteriorating structural supports, braces, guys, or anchors; or, any condition that may constitute a derelict sign.

## **SECTION 7.10 VIOLATIONS AND ENFORCEMENT.**

### ***Section 7.10.1 Violations and Remedies.***

The installation, creation, erection, maintenance, or operation of any sign in a manner inconsistent with the provisions of this Article shall constitute a violation, and shall be subject to the enforcement procedures and remedies contained within this Section.

- A. Fines. The Town of Dearing may issue a citation for the violation of this Article. Any person violating this Article shall be subject to a minimum fine of one hundred and fifty dollars (\$150.00) for each violation. Each day such violation occurs shall constitute a separate offense.
- B. Abatement Expenditures. In instances where abatement of a violation of this Article occurs through the action of the Town of Dearing or through the expenditure of public funds, rather than by the actions of the violator, the cost of such expense may be charged by the Town of Dearing to the responsible party.

### ***Section 7.10.2 Enforcement Procedures.***

The Land Development Officer shall cause to be removed any sign that is determined to endanger the public safety, such as a derelict sign, or other abandoned, dangerous, or electrically or structurally defective sign, or a sign for which no permit has been issued or which is otherwise in violation of this Article. The method of removal shall adhere to the following procedures:

- A. The Land Development Officer shall prepare a written citation that shall describe the sign and specify the violation involved. The citation shall state that if the sign is not removed or the violation is not corrected within 20 calendar days, the sign shall be removed in accordance with the provisions of this Section.
- B. All notices by the Land Development Officer shall be personal served or sent by certified mail, return receipt requested. Any time periods provided in this Section shall be deemed to commence on the date received - if hand delivered, or three (3) days after the date mailed.
- C. The notice shall be mailed to the owner of the property on which the sign is located, the owner of the sign, and the occupant of the property. Where the land development officer has cause to believe that the installer is complicit in the alleged violation, then such individual or entity shall also be subject to the notice of violation. If any such person is unknown or cannot be found, notice shall be mailed to such person's last known address, if any, and posted on the sign or premises.
- D. Any person having a financial interest in the sign or property may appeal the determination of the land development officer ordering removal or compliance by filing a written notice of appeal with the Town Clerk in the same manner as provided for in Section 7.3. Hearing on an appeal of a citation shall also be conducted within the same time frames and the same manner as appeals of denial as provided for in Section 7.3.
- E. If the person(s) to whom notice is directed pursuant to subsection (C) above fails to take corrective action within the time period prescribed, or if on appeal the Mayor and Town Council affirms the decision of the land development officer and the person(s) fail to take corrective action or remove the offending sign within the time period prescribed, then the land development officer shall proceed to have the sign removed or corrected to bring such sign into compliance with this Article or to remove any unsafe condition.

- F. Notwithstanding the other procedural standards established within this Section for the removal of signs, the Land Development Officer may immediately remove or cause to be removed the following types of signs with no written notice having been served prior to removal:
  - i. Any sign placed within the public street right-of-way, or on any other public property, by any person or organization not authorized by the applicable public authority owning such property to engage in such placement.
  - ii. Any derelict sign that is structurally insecure, in danger of falling, or otherwise hazardous or unsafe, and thus in the opinion of the land development officer constitutes an imminent danger to public safety.
- G. Any sign removed by the Town of Dearing pursuant to the provisions of this Section shall become the property of the town and may be disposed of in any manner deemed appropriate by the town. The cost of removal shall be subject to the remedies provided in Section 7.10.
- H. Removal of a sign as prescribed within this Section shall not prevent the Town of Dearing from seeking other remedies as a result of the violation of this Article.

# ARTICLE 8 (RESERVED)

## ENVIRONMENTAL PROTECTION

# ARTICLE 9

## SUBDIVISION & LAND DEVELOPMENT REQUIREMENTS



## SECTION 9.1 PURPOSE

### Section 9.1.1 Purpose and Objectives

In addition to the general purposes of the Dearing Land Development Code, the town of Dearing has determined to provide for basic rules and regulations to guide the development of land within the municipal limits, while providing for a consistent and predictable development process. For these purposes, the provisions of this Article are hereby intended to meet the following objectives:

1. To promote the orderly, planned, and efficient development of the Town of Dearing and to guide future growth in accordance with the *McDuffie County Joint Comprehensive Plan 2009 - 2029*.
2. To ensure that land developments and their associated activities do not present a danger to the health and safety of residents; and, to secure developments from hazards such as fire and flood.
3. To prevent the pollution of air, land, streams, and ponds, as well as encourage the wise use and management of natural resources throughout the Town of Dearing, while also preserving the beauty of the community and the value of land.
4. To ensure the proper provision of improvements such as drainage, water, sewerage, and capital improvements such as schools, parks, playgrounds, recreational facilities, and transportation facilities.
5. To provide for the proper monumenting of subdivided land and proper legal descriptions.
6. To help eliminate maintenance problems that may otherwise occur when streets and lots are established without proper consideration given to various public purposes.
7. To protect the interests of lot purchasers who generally lack the specialized knowledge needed to evaluate subdivision improvements and design.

## SECTION 9.2 DEFINITIONS

### Section 9.2.1 Interpretations.

For the purpose of this Article, the following interpretations shall apply to the use of the following specific words or phrases:

1. The word “developer” shall include the term “subdivider” and where the former is used the requirements of this Article shall be construed to apply to both unless otherwise determined by the Land Development Officer.
2. The word “subdivider” does not include “developer” and the requirements of this Article referring specifically to the former term shall not apply to the latter.

### Section 9.2.2 Definitions.

For purposes of this Article, certain terms and words are hereby defined, and shall have the meaning ascribed to them as provided herein. All words and other phrases shall be given their common, ordinary meaning, unless the context clearly requires otherwise, or a specific definition has been ascribed to them as provided within a separate Article of this Code.

*Land Development or Development:* means a project involving the construction of streets, utilities, buildings, or other improvements required for the habitation or use of property, such as a subdivision, a residential neighborhood, an apartment complex, a store, a shopping center, employment centers, other residential and non-residential unified developments and other similar examples; and, any man-made change to improved or unimproved real estate, including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials; and, the act of carrying out a land development project, including the alteration of land or vegetation in preparation for construction activity.

*Multi-use trail:* An element of the active transportation network which accommodates principally non-motorized transportation options such as walking, cycling, skating, jogging, etc. Multi-use trails are an element of the off-street transportation network that can be utilized for travel and for recreational purposes and are typically not located within a public or private street right-of-way.

*Plat:* means a land survey drawing by a state certified land surveyor showing the layout of a proposed development site or subdivision indicating the location and boundaries of properties and the proposed land development activities.

*Plat – Preliminary:* Drawing or chart indicating the proposed layout of the major subdivision initially required in the subdivision process.

*Plat – Final:* The final map, drawing or chart on which the sub-divider’s major subdivision plan is presented for approval, and which, if approved, will be submitted to the County Recorder for recording.

*Plat – Record:* Drawing or chart indicating a property condition or arrangement not constituting a major or minor subdivision, or activity which is otherwise exempt from the provisions of his Code.

*Plat – Summary:* Drawing or chart submitted for administrative approval in order to process miscellaneous subdivision activities such as: create a minor subdivision, or amend an existing subdivision plat where the plat is being changed (ex. consolidate lots of record, adjust the location of an existing lot line between two (2) properties, correct a technical surveying error, etc.)

*Public improvement:* The construction, enlargement, extension, provision or other construction of a facility intended for dedication to the Town, or other governmental agency or public utility.

*Publicly dedicated:* Land or improvements that has or have been, or will be, transferred by plat and/or deeded to and accepted by the Town for public use and maintenance.

*Sidewalk:* An element of the active transportation network utilized primary for pedestrian use and typically located parallel to and within a street right-of-way. Sidewalks may also be suitable for other principally non-motorized transportation options consistent with the provisions of this Code.

*Subdivision:* means all divisions of a tract or parcel of land into two (2) or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, lease, or building development and includes all divisions of land involving a new street or a change in existing streets and includes re-subdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided; provided, however, that the following are not included within this definition:

1. The combination or recombination of portions of previously platted lots where the total number of lots is not increased and the resultant lots are equal to the standards set forth in this Code.
2. The division of land into parcels of five (5) acres or more where no new street is involved.

*Subdivision – Major:* Division of land into two (2) or more lots that will require the construction or extension of public, streets, water or sanitary sewerage (other than the direct connection of buildings to existing facilities); or, the platting of any public right-of-way or easement for purposes of dedication to the Town of Dearing or other public entity.

*Subdivision – Minor:* Division of land into two (2) or more lots, but no more than five (5) lots that will be adequately served by existing public streets, water and sanitary sewerage and that does not involve public dedication.

*Walkway:* An element of the active transportation network similar to a sidewalk and utilized primarily for pedestrian use. Walkways may also be suitable for other principally non-motorized transportation options such as cycling, skating, etc., unless otherwise prohibited by other provisions of this Code. Walkways provide access between adjacent streets, residential developments, shopping or employment centers, parks, schools or other public facilities and are typically not located within a public or private street right-of-way.

### **Section 9.3      *General Provisions***

#### **Section 9.3.1      *Subdivision of Land Requires Plat Approval***

No person shall subdivide land located within, or partially within, the municipal limits of Dearing except in conformance with this Article. It shall hereafter be unlawful for any person to sell, advertise, transfer, or offer to sell, by deed, map, plat or other instrument any parcel of land not subdivided and recorded in accordance with the provisions of this Code. The description of such land by metes and bounds in the instrument of transfer shall not exempt the transaction. No plat of land subdivision shall be entitled to be recorded in the Office of the Clerk of the Superior Court of McDuffie County, and it shall be unlawful to record such a plat of land subdivision, unless and until it shall have been approved in accordance with the requirements of this Code.

Any person subdividing land within the municipal limits of Dearing shall adhere to the requirements of this Article, unless the proposed activity is specifically exempted, and the applicable review procedures provided in Article 10 (Subdivision and Land Development Procedures) of this Code.

#### **Section 9.3.2      *Development of Land Requires Plan Approval***

No person shall disturb or develop land or engage in development except in accordance with this Code. It shall hereafter be unlawful for any person to disturb or develop any land until development plans, if required, have been submitted and approved in accordance with the provisions of this Code; nor, until corresponding subdivisions plats have been approved by the Town. The Land Development Officer shall not authorize or permit the clearance of trees and vegetative materials, except for grubbing, outside approved construction limits.

Any person developing land within the municipal limits of Dearing shall adhere to the requirements of this Article, unless the proposed activity is specifically exempted, and the applicable review procedures provided in Article 10 (Subdivision and Land Development Procedures) of this Code.

#### **Section 9.3.3      *Land is One Tract until Subdivided***

Until property proposed for subdivision has received final plat approval and been properly recorded, the land involved in the subdivision shall be considered as one (1) tract, or as otherwise legally recorded.

#### **Section 9.3.4      *Reference to State and Federal Land Subdivision Laws***

The subdivision of land shall comply, as applicable, with federal and state full disclosure requirements for land sales. All subdivision plats shall also comply with applicable state law regarding accuracy and content of all such subdivision plats.

*Section 9.3.5 Special Review of Subdivisions along State Routes*

No major or minor subdivision plat containing land that abuts a state route shall be approved until such plat has been submitted for review and comments have been received from the Georgia Department of Transportation. When the Land Development Officer receives such a plat on behalf of the Town of Dearing, it shall submit two (2) copies of the proposed subdivision plat to the Georgia Department of Transportation, if such proposed subdivision includes or abuts on any part of the state highway system. The Georgia Department of Transportation, within 30 days of receipt of the plat, shall recommend approval and note its recommendation on the copy to be returned to the Land Development Officer or recommend rejection. Failure of the Georgia Department of Transportation to act within this 30 day period shall constitute approval according to O.C.G.A 32-6-151. If the plat is recommended for rejection, the reasons for rejection and requirements for approval shall be given to the Land Development Officer in writing. A recommendation for rejection shall be binding on the Land Development Officer and the Town Council unless the Town Council, by official action recorded in its minutes, overrules the recommendation for rejection.

*Section 9.3.6 Lot Must Comply with Zoning Requirements*

No person shall subdivide or reconfigure land, and the Land Development Officer shall not approve any subdivision of land or endorse any other reconfiguration of the boundaries of existing parcels of land, unless the lots are created pursuant to said subdivision, meet or exceed all applicable zoning requirements of the zoning district as applicable, and as may be amended from time to time.

*Section 9.3.7 Public Streets and Lands*

No land dedicated as a public street or for other public purpose shall not be opened, extended, or accepted as a public street or for other public land unless such improvements are constructed in accordance with the specifications of this Code and said land and/or improvements are formally approved and accepted as public improvements by the Dearing Town Council in accordance with procedures established in this Code.

*Section 9.3.8 Permits for Construction*

No certificate of compliance or other permit shall be issued for a building, structure, or use, nor shall any excavation, grading, or land disturbance applications be approved, on any parcel of land regulated by this Article that has not been approved in accordance with the provisions of this Code.

*Section 9.3.9 Recordation and Transfer of Land*

The Clerk of Superior Court of McDuffie County shall not file or record a plat that would result in the division of property into two (2) or more lots, or result in the combination of lots or reconfiguration of lot boundaries, that does not have the approval of the Land Development Officer as required by this Article. The Clerk of the Superior Court of McDuffie County shall not file or record a plat for a subdivision, whether evidenced as a plat or as an attachment to a deed, unless such plat is a final plat, or summary plat, approved for recording by the Land Development Officer and contains the Land Development Officer's signature thereon.

All plats prepared for recording at the office of the Clerk of the Superior Court of McDuffie County shall only be approved by the Land Development Officer where consistent with the design requirements and platting specifications of this Article.

*Section 9.3.10 Delegation of Authority to Land Development Officer*

Consistent with those general duties assigned within Section 11.2 (Administrative Authority) of this Code, the Town Council hereby delegates to the Land Development Officer the authority to administratively approve, conditionally approve, or disapprove preliminary plats, summary plat, final plats, record plats, and development plans as provided for in this Article; provided however, such delegation does not authorize the Land Development Officer to accept public improvements for the Town Council.

The authority delegated by the Town Council to the Land Development Officer for purposes of administering this Article shall be inferred upon, and ascribed to, any and all designees of the Land Development Officer.

**SECTION 9.4 LAND DEVELOPMENT ACTIVITIES REQUIRING REVIEW**

Land development and subdivision activity within the Town of Dearing shall be subject to review and approval prior to the issuance of applicable certificates of compliance or other permits. Requirements regarding the content of plats and plans necessary to process land development and subdivision applications, and the associated review procedures, shall vary by type of activity as provided in this Section.

Plat and plan content requirements, and associated submittal and review procedures relative to the corresponding activities presented in this Section, are provided in Article 10 (Subdivision and Land Development Procedures.)

*Section 9.4.1 Activities Subject to Plat Approval*

Subdivision of land, and similar activities involving the reconfiguration of parcel boundaries shall be subject to administrative or legislative review and approval depending on the type or scope of activity involved. Activities subject to plat approval within this Section shall be subject to the corresponding review process and specifications provided in Article 10 (Subdivision and Land Development Procedures).

*Section 9.4.1.1 Activities Requiring Preliminary and Final Plat Approval.*

Major subdivisions shall be subject to the review and approval of the Town Council of the Town of Dearing. The applicable procedures for the submittal, review, and approval of major subdivisions; as well as the specifications and certifications required for preliminary and final subdivision plats; is provided in Article 10, Section 4, and Article 10, Section 6 of this Code.

*Section 9.4.1.2 Activities Requiring Summary Plat Approval.*

Minor subdivisions and other specific activities shall be subject to the review and approval of the Land Development Officer through the preparation and submittal of a summary plat. Summary plats shall be required for the following activities:

1. Minor subdivisions
2. Amend an existing major subdivision plat, where the total number of lots is not being changed, location of streets and other rights-of-way is not being altered, or other prior conditions of Town approval are not being modified or inhibited.
3. Lot combinations and boundary line adjustments adhering to the provisions of Section 9.4.1.3.
4. Correct a surveying error or other plat notation.
5. Other similar activity, not constituting a major subdivision or an activity subject to the provision of a record plat, as determined by the Land Development Officer.

Summary plats approved for recording at the office of the Clerk of the Superior Court of McDuffie County, shall be subject to the applicable specifications and certifications provided in Article 10, Section 3 of this Code.

*Section 9.4.1.3 Lot Combination and Boundary Line Adjustments*

An existing lot line forming the boundary between two (2) conforming platted lots located within the same subdivision or a lot line between lots or parcels that have merged to form one (1) building lot may be removed or eliminated through a final plat revision process which conforms to the final plat requirements of Section 10.6. Where separate lots of land are proposed to be combined, they shall be submitted to the Land Development Officer as a summary plat for review, approval and recording. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat depicting all lots involved in the lot combination shall be required to be approved by the Land Development Officer and recorded as a summary plat. Such combination plat shall be titled with the same name as that of the original subdivision, if applicable, and shall indicate thereon that the re-plat is for the purpose of removing the lot lines between specific lots.

*Section 9.4.1.4 Exemptions from Plat Approval.*

The following types of land subdivisions, transfers, and sales are specifically exempted from the plat approval requirements of this Article; provided, however, that such exemptions shall not apply to land development requirements and improvement requirements of this Article or compliance with other applicable requirements of this Code. The following activities shall not constitute a subdivision:

1. The creation and sale of cemetery plots
2. The sale of lots consistent with previously approved and recorded plats or deeds.
3. The creation of leaseholds for space within a multiple-occupancy buildings or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use.
4. The creation of leaseholds (but not for sale) for the agricultural use of property where the use does not involve the construction of a building to be used as a residence or for other purposes not directly related to agriculture use of the land or crops or livestock raised thereon.
5. Any division of land to heirs through a judicial estate proceeding, or any division of land pursuant to a judicial partition, or any division of land occurring from the foreclosure of a deed of trust; provided, however, that such exemption shall not require the Town to issue permits if the resulting lots of parcels fail to meet any applicable zoning provisions regarding lot size, lot width, or other dimensional requirement.

Where a plat is prepared for any of the items listed within this Subsection, and for the purpose of recording at the office of the Clerk of the Superior Court of McDuffie County, and certification of the plat by the Town of Dearing is requested by the property owner or other authorized party, such plat shall be considered a record plat and shall be subject to the applicable specifications and certifications provided in Article 10 of this Code. The Town of Dearing is not obligated to approve or process record plats related to the activities listed in this Section.

**Section 9.4.2      *Activities Requiring a Land Development Permit***

A land development permit shall be required for the authorization of all activities associated with the development of land including, but not limited to, clearing and grubbing, grading, and the construction of such improvements as streets, surface parking areas and drives, storm-water drainage facilities, sidewalks, or other structures permanently placed on or in the property except for signs, or other structures requiring the issuance of a building permit. Any person seeking to initiate any development activity on land within the Town of Dearing shall first submit, to the Land Development Officer, an application for a Land Development Permit with all requirements set forth in this section.

**Section 9.4.3      *Exemptions From Land Development Permit***

A land development permit shall not be required for detached, fee-simple, single-family dwellings, or for their associated customary residential accessory structures; nor, for any activity specifically exempted by this Code from receiving a certificate of compliance. All other forms of residential development, including but not limited to attached dwellings in the form of townhouses and apartments shall require a land development permit. Exemptions from the submittal, review, and approval of a development plan under the provisions of this Article does not constitute exemption of any land development activity from the prior review and approval of a subdivision plat, were applicable and required by the provisions of this Article; nor, from the review and approval of a site plan associated with, and as required by, any of the applicable activities listed in Article 11 (General Administration) of this Code.

**SECTION 9.5      GENERAL LAND DEVELOPMENT DESIGN REQUIREMENTS.**

All subdivisions and other types of land development hereafter established, and all proposed public improvements, shall be developed and improved in accordance with the minimum design standards set forth in this Section. Final approval shall not be given to a development until all appropriate land development and design regulations have been met and until all appropriate required improvements have either been installed or an appropriate bond has been posted to secure installation of such improvements.

**Section 9.5.1      *Self Imposed Restrictions***

If the owner places restrictions on any of the land contained in the subdivision greater than those required by this Code, such restrictions or references thereto should be indicated on the subdivision plat.

**Section 9.5.2      *Subdivision Name***

The proposed name of a subdivision or other land development shall not duplicate nor too closely approximate phonetically the name of any other land development in the Town of Dearing or within McDuffie County. The Town Council shall have final authority to approve the name of major subdivisions which shall be a part of the preliminary plat approval process.

**Section 9.5.3      *Land Suitability***

Land physically unsuitable for subdivision or development because of flooding, poor drainage, steep slopes, rock formations or other such features that may endanger health, life, or property due to erosion or increased flood hazard, or necessitate excessive expenditures of public funds for supply and maintenance of services, shall not be approved for subdivision or development unless adequate methods are formulated by the developer for solving problems.

**Section 9.5.4      *Block Length***

Intersecting streets shall be provided as such intervals so as to provide adequate cross traffic. Blocks in residential subdivisions should not exceed 1800 feet nor be less than 400 feet in length, except where topography or other conditions justify a departure from these standards.

**Section 9.5.5      *Block Width, Depth, and Size***

The width of each block shall be sufficient to allow two (2) tiers of lots of appropriate depth. Blocks intended for businesses or industrial use shall be of such width as to be considered suitable for their respective use, including adequate space for off-street parking, if necessary, and deliveries. Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended. Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements or required setback lines.

**Section 9.5.6      *Lot Lines***

All side lot lines shall be perpendicular to street lines, and all rear lot lines shall be parallel or radial to street lines, unless not practicable because of topographic or other natural features.

**Section 9.5.7      *Corner Lots***

Corner lots shall have adequate width to meet the front building setback requirement from all rights-of-way.

**Section 9.5.8      *Flag Lots***

Flag lots are not allowed under any circumstances for residential developments.

## SECTION 9.6 STREET SYSTEM REQUIREMENTS

For purposes of this Code, streets are classified in relation to the transportation function which they are to serve - including the speed, and volume of traffic they will carry, and the required standards of design. The functional classification of individual existing and future street segments within the municipal limits of Dearing; however, is largely moot if new land development activities result in additions to the street system which lack interconnectivity between existing roads and adjacent parcels.

It is the intention of the Town of Dearing that new streets be aligned and arranged in a manner that promotes the extension of existing streets, and interconnectivity between developable tracts of land and existing thoroughfares. Street patterns which result in isolated pockets of development or with relatively little interconnectivity shall be largely prohibited (i.e. cul-de-sacs, hammerhead turnarounds, etc.,) In situations in which cul-de-sacs or hammerhead turnarounds are unavoidable (due to topography of the area) linkages to nearby streets shall be provided through pedestrian linkages to other nearby streets, community facilities or other components of the Town's active transportation system.

### Section 9.6.1 Street Classification System

The street classification system within the Town of Dearing shall be arranged according to the categories and general descriptions provided in Table 9.1.

### Section 9.6.2 Consistency with the Major Thoroughfare Map

Consistent with the provisions of Section 3.7 (Major Thoroughfares) of this Code, the classification of existing streets within the municipal limits of Dearing is established on the Town's major thoroughfare map which has been incorporated by reference as a component of the Official Zoning Map. Improvement to existing streets, required by this Code as a result of land development activity on abutting property, shall be subject to the applicable design requirements for the specific street type illustrated on the major thoroughfare map, and in the case of local streets, according to the predominant land use served.

Where a proposed street is illustrated on the Town of Dearing's adopted major thoroughfare map, and on property where a land development activity is proposed, such street shall be platted by the subdivider in the location and to the dimensions required by this Article.

### Section 9.6.3 Continuation of Existing Streets and Connections

Existing streets, and their right-of-way, shall be continued at the same or greater width, but in no case less than the required width. The Dearing Town Council may require that a subdivision provide one (1) or more future connections to adjoining subdivisions or un-subdivided tracts

TABLE 9.1: STREET CLASSIFICATIONS

Street Type	Description
Arterial	State and federal highways and those Town streets which my design, traffic volume, and speed (45+ mph), or specifically designated as a primary arterial by the Town Council.
Collector	Town streets which are, by traffic volume and speed (35 – 45 mph) or specifically designated as a collector street.
Local	Streets which facilitate the movement of traffic directly from land lots to collector streets, and which require the lowest traffic speed (15 – 35 mph). There exist differing dimensional standards within this Code for local streets serving primarily residential, commercial, and industrial uses.

### Section 9.6.4 Street Plans for Future Phases of Tract

Where the plat or site plan includes only part of the tract owned or intended for subdivision or development, a tentative plan of a future street system for portion not slated for immediate subdivision consideration may be required by the Land Development Officer.

### Section 9.6.5 Dead-End Streets and Cul-De-Sacs

Streets that dead-end shall terminate in a cul-de-sac. The maximum length of such streets shall be 600 feet. Streets that are planned to continue at some future date shall provide a temporary cul-de-sac as required by the Land Development Officer.

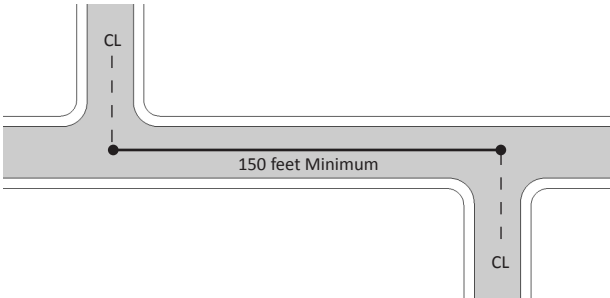
### Section 9.6.6 Street Alignment, Intersections and Jogs

Streets shall be aligned to join with planned or existing streets. Streets shall be laid out so as to intersect as nearly as possible at right angles (90 degrees), but in no case shall such a street intersection be less than 75 degrees. Where street offsets or jogs cannot be avoided, offset "T" intersections shall be separated by a minimum center line offset of 150 feet. (See Figures 9-1 through 9-3)

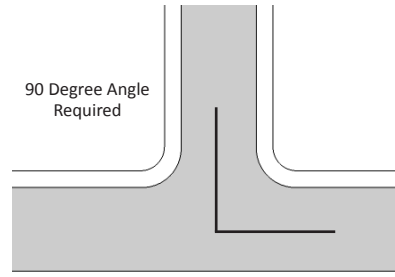
### Section 9.6.7 Marginal Access Streets

Whenever a major subdivision is proposed abutting the right-of-way of a U.S. or State Highway, a marginal access street approximately parallel and adjacent to such right-of-way may be required by the Town Council at a distance suitable for the appropriate use of land between such marginal access street and highway right-of-way

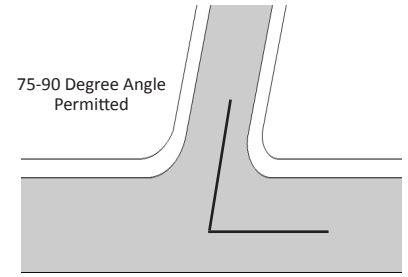




**Figure 9-1:** Intersection shall be off-set by a minimum of 150 feet between street center lines.



**Figure 9-2:** The angle of an intersection should be 90 degrees where practicable



**Figure 9-3:** No intersection shall be less than 75 degrees

#### Section 9.6.8 Alleys and Service Access

Town Council may require alleys be provided. If they are provided, they must be paved. Dead-end alleys shall be avoided. Service access shall be provided to commercial and industrial developments for off-street loading, unloading, and parking consistent with and adequate for the uses proposed.

#### Section 9.6.9 Bridges

Bridges on public rights-of-way shall meet current American Association of State Highway and Transportation Officials standards.

### SECTION 9.7 DESIGN REQUIREMENTS FOR STREETS

#### Section 9.7.1 Grading and Stabilization of Street Rights-Of-Way

When a new public street is proposed, all trees, brush, stumps, rocks, or other debris shall be cleared from the street right-of-way, except in cases where trees are required to be preserved by the Land Development Officer. All streets shall be graded to lines, grades and cross sections approved on plans. All unsurfaced, disturbed portions of street rights-of-way shall be stabilized by seeding, fertilizing, and mulching or by another equally effective method.

#### Section 9.7.2 Radius at Street Intersections

The right-of-way radius at street intersections shall be a minimum of 15 feet, with larger radii for streets serving nonresidential development, as approved by the Land Development Officer. The minimum pavement (curb) radius at street intersections shall be 25 feet.

#### Section 9.7.3 Street Grades

No street grade shall be less than one (1) percent. No street grade for an arterial or collector street shall exceed eight (8) percent. No other local street grade shall exceed 12 percent, unless the Land Development Officer finds that due to topographic conditions, a steeper grade is necessary, in which case the street grade shall not exceed 15 percent. Grades between 12 percent and 15 percent shall not exceed a length of 150 feet.

#### Section 9.7.4

##### Minimum Right-Of-Way and Pavement Widths

Street right-of-way and pavement widths shall meet the standards provided in Table 9.2:

#### Section 9.7.5

##### Street Horizontal Alignment and Reverse Curves

Street horizontal alignments and reverse curves shall meet the standards provide in Table 9.3

#### Section 9.7.6 Entrance Improvements Specifications

Roadway entrances and improvements, including necessary acceleration and/or deceleration lane(s) and right/left turn lanes, shall be designed, installed, and maintained as approved by the GDOT, as applicable, or the Land Development Officer, in accordance with applicable State specifications. All entrances or exits of any street or driveway, public or private from or to any state highway shall be approved by the GDOT and the Land Development Officer

TABLE 9.2: STREET RIGHT OF WAY & PAVEMENT WIDTHS

Street Type	Minimum Right-of-Way Width in Feet	Minimum Pavement Width in Feet
Arterial street	80	40
Collector Street	60	30
Local Street		
Residential	50	24 (Back of Curb)
Industrial	60	30
Commercial	60	30
Cul-de-sac turn around radius	60	40 (Back of Curb)
Alley	20	16

prior to the construction of such entrances or exits and prior to the issuance of any land use permit or building permit for any improvement to be served by such entrances or exits. All entrances or exits of any street or driveway, public or private, from or to any Town street shall be approved by the Land Development Officer prior to the construction of such entrances or exits and prior to the issuance of any land use permit or building permit for any improvement to be served by such entrances or exits.

#### Section 9.7.7 Curb Cut Specifications

No curb cut or access driveway shall be permitted to be located closer than 100 feet to the nearest existing or proposed right-of-way of an intersecting roadway. Curb cuts or access driveways shall be no narrower than 24 feet from back of curb to back of curb. Strict adherence to these requirements may not be practical in all instances as determined by the Land Development Officer. The Land Development Officer may limit the maximum width of a curb cut and/or the number of curb cuts to a parcel as necessary when it is deemed to be of benefit to the safety and welfare of the public.

The following factors may be considered during the review and approval of a specific location of an entrance: the

location of existing or planned median breaks; separation requirements between the entrance and major intersections; separation requirements between other entrances; the need to provide shared access with other sites; the need to align with previously approved or constructed access points on the opposite side of the street; and the minimum number of entrances needed to move traffic onto and off the site safely and efficiently.

#### Section 9.7.8 Inter-Parcel Connections

New development that contains or is intended to contain more than one (1) building or use on site shall provide connections so that automobile trips between and among such buildings or uses can be accomplished without using the highway. Where possible and practical, new developments and substantial improvements to existing developments shall provide for pedestrian and automobile access connections between adjacent properties under different ownership when the uses of the properties are of such compatibility that patrons may frequent both buildings or uses in the same vehicle trip.

#### Section 9.7.9 Street Lighting

Street lights shall be provided in accordance with Town specifications by the developers of a subdivision prior to the approval of a final plat. Fixtures and standards/poles installed or used shall be approved by the Land Development Officer and by the utility company that will be responsible for the maintenance of the facilities. The fixtures shall be mounted no more than thirty (30) feet above the ground and shall have appropriate arm length or power to place light over the street. Post top luminaries may be permitted when approved by the Land Development Officer. Fixtures shall be located no more than five hundred (500) feet apart, unless approved by the Land Development Officer, and, when provided, at least one (1) light shall be located at each public street intersection within the subdivision or land development.

The developer shall pay all costs for poles, fixtures and any other related items or materials necessary for the installation of street lights, as well as arrange an agreement with the utility company for complete maintenance of all installations. The Town may assume the responsibility and make the monthly payments to the power company for electrical energy for each street light only after these requirements have been accomplished and improvements accepted by the Town Council. Maintenance and operation costs of street lights will be assumed by the Town no earlier than two (2) years after lights have been installed.

#### Section 9.7.10 Street Signs

Signs for street names, directions of travel, traffic control, and hazards shall be provided as directed by the Land Development Officer. Street signs on exterior/boundary streets shall be installed by the Town with the developer paying a proportionate share determined by the Town. Street signs for interior streets of a subdivision or land development shall be installed at the subdivider or developer's expense by the subdivider or developer, subject to the approval of the Land Use Officer.

Unless otherwise provided in standards and specifications adopted by the Town Council, street signs shall meet the following specifications:

1. Signs shall be constructed of aluminum sheets with reflective backgrounds.

TABLE 9.3: HORIZONTAL ALIGNMENTS & REVERSE CURVES

Street Type	Minimum Horizontal Radii of Center Line Curvature in Feet	Minimum Tangents Between Reverse Curves in Feet
Arterial street	80	40
Collector Street	60	30
Local Street		
Residential	50	24 (Back of Curb)
Industrial	60	30
Commercial	60	30
Cul-de-sac turn around radius	60	40 (Back of Curb)
Alley	20	16



2. Information on the street name signs shall be readable from both sides of the sign.
3. Signs shall be installed on a steel post.
4. The vertical distance from the road elevation to the bottom of the sign face shall be seven feet with a minimum burial depth of three (3) feet.

**Section 9.7.11 Curbs and Gutters**

Curbs and gutters shall be installed in accordance with standards and specifications of the Town. Subdivisions consisting totally of lots intended for single-family residential use containing a minimum of two (2) acres shall not be required to have curbs and gutters, provided, that proper drainage facilities are developed and curbs and gutters are required for all roads when sidewalks are required by Town Council. All commercial and industrial subdivisions and land developments must have curbs and gutters, regardless of the size of the lots. When property fronting on an existing Town street is subdivided or developed, and the subdivision or land development uses said existing street for access, then curb and gutter shall be required along said street along the entire property frontage of said street. Curbs and gutters shall be approved by the Land Development Officer prior to installation.

All streets and roads not required to include curbs and gutters shall be graded, paved, and drained to meet all construction and drainage standards for ditches, slopes, and grassing according to specifications established by the Town.

**Section 9.7.12 Private Streets Prohibited**

Private streets are prohibited within the municipal limits of the Town of Dearing.

**SECTION 9.8 PEDESTRIAN FACILITIES**

**Section 9.8.1 Sidewalks.**

Sidewalks shall be installed along at least one (1) side of all new streets unless provided for in this Code. Town Council may require sidewalks be installed on both sides of any new arterial or collector streets. In addition, Town Council may require the subdivider or land developer to install, along the entire property frontage, minimum five foot (5') wide sidewalks on existing streets. Where sidewalks are required on only one (1) side of a proposed street shall be sited in a manner that best promotes current and future extensions of the pedestrian facility network as determined by Town Council.

Sidewalks shall be constructed of concrete and shall be a minimum of five (5) feet in width, located not less than one foot (1') from the property line to prevent interference or encroachment by fencing, walls, hedges or other plantings or structures placed on the property line at a later date and located no less than 3 feet (3') from the back of the curb. All sidewalks shall be constructed to conform to requirements of the Americans with Disabilities Act. The Land Development Officer, may administratively vary the width and location of the sidewalk based on existing and surrounding site conditions. Sidewalks shall be designed so that the pedestrian system does not terminate at a motor vehicle driveway, but provide defined pedestrian facility linkages onto a development site that is separated from the motor vehicle access.

**Section 9.8.2 Walkways**

Town Council may require that a developer or subdivider construct additional pedestrian facilities outside of the street right-of-way to facilitate pedestrian interconnectivity between and within developments

**9.8.2.1 Interconnectivity To and Between Developments/Parcels.**

Town Council may require the developer to provide walkways to provide interconnectivity between developments or parcels in the following instances and as illustrated in Figure 9.4:

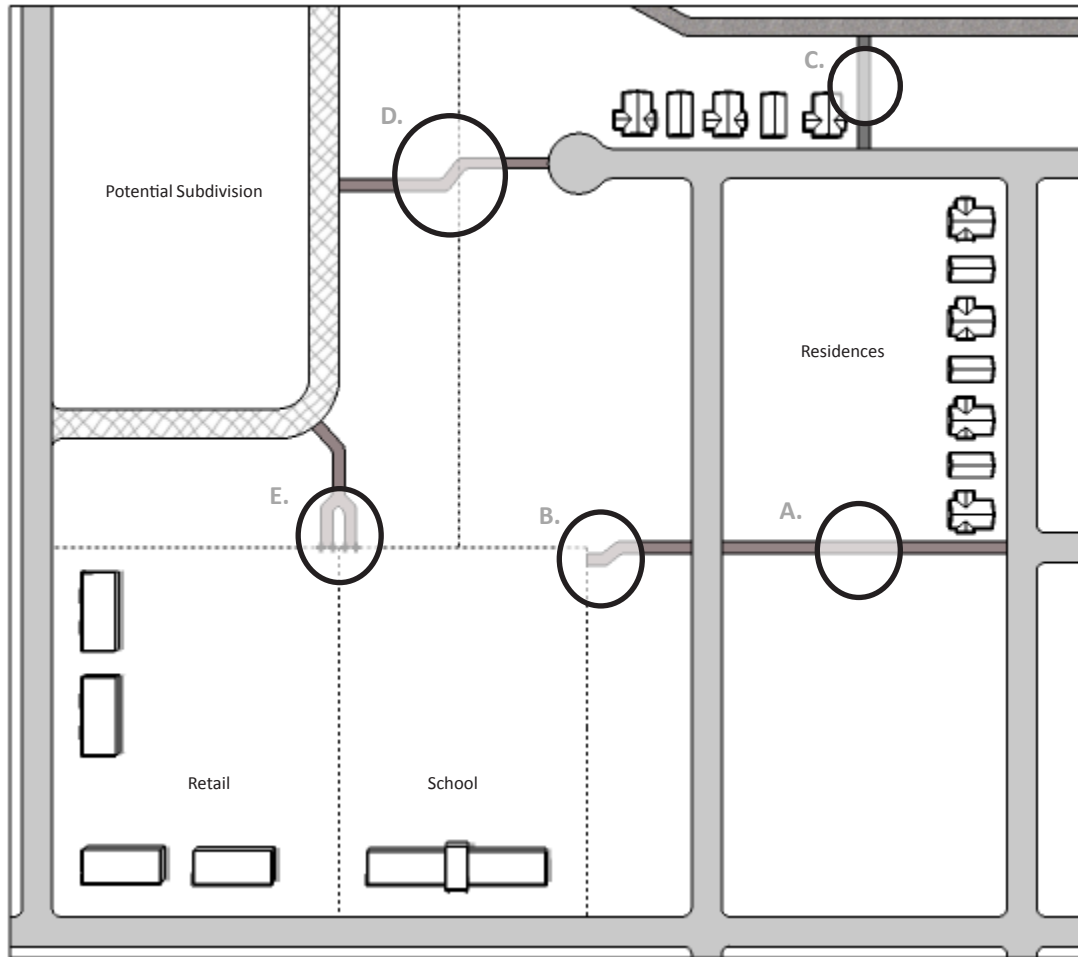
1. To provide access to schools, parks, and other public facilities;
2. To provide access to existing or future adjacent streets, residential subdivisions, multifamily developments, PUDs, or commercial developments;
3. To provide access to adjacent parcels that provide, or are projected to provide, walkways to those facilities identified in items (1) and (2) herein; or,
4. To provide for the extension of a pre-existing walkway from an adjacent tract or parcel.

**9.8.2.2 Connectivity Within Developments.**

Town Council may require a developer to incorporate a system of walkways providing connections between buildings, parking areas and the public street right-of-way within multi-family and commercial developments, and the community recreation facilities of a residential subdivision. The provisions of this subsection may be applied by Town Council to out-parcels that are subsequently subdivided from the principal development tract.

**9.8.2.3 Walkway Design.**

Walkways which provide interconnectivity to and between developments and parcels as outlined in subsection 9.8.2.1 shall be located in a minimum twenty foot (20') right-of-way or public pedestrian access easement shall be a minimum of five (5) feet in width, and shall be constructed of concrete, or an alternative all-weather hard-surface material such as asphalt, pavers, etc., subject to the approval of the



**Figure 9-4:** Walkway connections may be required (A) whenever a block exceeds 1320 feet in length; (B) to provide access to a public facility; (C) to access a multi-use trail; (D) to connect with future developments; and (E) to provide access between two (2) or more future developments.

Town Council.

Walkways that are required to provide connectivity within developments as outlined in subsection 9.8.2.2 are not required to be located within a right-of-way or pedestrian access easement. Such walkways shall meet the following standards:

1. Walkways shall be a minimum five feet (5') in width and may be constructed of alternative all-weather hard-surface materials such as concrete, asphalt, pavers, etc., subject to the approval of the Town Council.
2. Walkways shall be located on-site in a manner that maximizes the separation of pedestrian movement from motor vehicle movement through their location within landscape areas, curb extensions, and other methods of grade separation; and/or, otherwise delineated by combining pavement markings and alternative paving materials with planters, bollards or other similar form of vertical barrier.
3. Walkways should intersect vehicular use areas at the narrowest possible point and only where necessary to cross driveway aisles.
4. Where walkways intersect vehicular use areas, design shall emphasize and place priority on pedestrian access and safety. Resulting crosswalk segments shall adhere to the applicable design requirements established in subsection 9.8.3.

### *Section 9.8.3 Crosswalks.*

Marked crosswalks shall be located at all signalized intersections, all intersections within a quarter ( $\frac{1}{4}$ ) mile (1,320 feet) of a school, and intersections located on or containing access to an arterial or collector street. Crosswalks shall incorporate diagonal lines or longitudinal lines except that Town Council may allow the provision of crosswalks incorporating stamped and dyed asphalt, pavers, or similar combination of other materials and textures that alert motorists to the possible presence of pedestrians in the roadway.

Crosswalks may be located at mid-block locations on streets where intersections are more than a half a mile apart and in other instances where the Town Council determines that existing or projected pedestrian traffic patterns will necessitate their need. Mid-block crosswalks may be required to include pedestrian refuge islands when mid-block crossing are located on arterial streets.

## **SECTION 9.9 STORM WATER MANAGEMENT**

### *Section 9.9.1 General Requirements*

An adequate drainage system, separate and independent of any sanitary sewer system and including any necessary ditches, pipes, culverts, inter sectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water for all subdivisions and land developments. Sizing and location of all drainage structures shall be the responsibility of a registered professional engineer or land surveyor. The Town of Dearing may require the use of on-site control methods such as retention or detention to mitigate the storm water and drainage impacts of the proposed subdivisions and land developments. The Dearing Town Council shall not approve any preliminary plat of subdivision that does not make adequate provisions for storm and flood water runoff channels or basins as determined by the Land Development Officer. No building permit shall be issued for any building within a subdivision or development permit issued for the development of land, if there is not present throughout the subdivision or to the land development an adequate system of drainage and storm water management.

### *Section 9.9.2 Design and Capability*

Capacity for a 10-year storm or rain shall be provided for all street drainage structures such as catch basin, inlets cross drains, etc. Capacity for a 100-year frequency storm event shall be provided for all main drainage structures such as retention basins, principal storm sewers, and all types of flood protection works. A copy of design computations may be required by the Land Development Officer prior to approval.

### *Section 9.9.3 Location*

Drainage facilities shall be located in the road right-of-way where feasible, and shall be constructed in accordance with standards and specifications of McDuffie County. Catch basins shall be located at low points of streets. Where topography or other conditions are such as to make impractical the inclusion of drainage facilities within road rights-of-way, perpetual, unobstructed easements at least fifteen (15) feet in width for drainage facilities shall be provided across property outside the road right-of-way and with satisfactory access to the road.

### *Section 9.9.4 Discharge*

Drainage shall be designed so as to avoid concentration of storm drainage water from each lot or land development site to adjacent lots, land development sites, or vacant properties. It shall be directed toward natural drainages.

### *Section 9.9.5 Grading and Site Drainage*

Lots or land development sites shall be laid out so as to provide positive drainage away from all buildings, and drainage for individual lots or land development sites shall be coordinated with the general storm drainage patterns for the area. Buildings and parking lots shall be appropriately drained so as to prevent damage to abutting properties or public streets. All disturbed or graded ground areas of a building site not used for buildings or open storage areas shall be appropriately stabilized and grassed or covered with plants or landscaping materials.

### *Section 9.9.6 Drop Inlets*

Drop inlets shall be generally three-foot by three-foot boxes with two-foot by three-foot grates unless otherwise specified by the Land Development Officer or Dearing Town Council.

### *Section 9.9.7 Easements*

A 20 foot easement shall be provided for all drainage facilities as approved by the Dearing Town Council.

## **SECTION 9.10 PUBLIC WATER SYSTEM AND SANITARY SEWERAGE SYSTEM**

### *Section 9.10.1 Generally*

All habitable buildings and buildable lots shall be connected to a water system capable of providing water for health and emergency purposes, including adequate fire protection and served by an approved means of wastewater collection and treatment. Each subdivision and land development shall be served by adequate sewage disposal facilities. No permit shall be issued for any building within a subdivision or for the development of land, if there is not present throughout the subdivision or to the land development an adequate water supply and an adequate system of wastewater collection and treatment. The McDuffie County Water and Sewer Department must approve the equipment used for connections to the water and sewerage system.

### *Section 9.10.2 Public Water Systems*

**Water System:** When a public water main is accessible, the developer shall install adequate water facilities, including fire hydrants, according to specifications of the Fire Department. Water mains within the subdivision and land developments must be provided with connections to each lot in the subdivision and each land development, except as otherwise specifically provided.

**Future Water Lines:** When it has been confirmed that water lines will be installed, by the municipality, in certain areas, any new subdivisions developed within these areas may be required to install capped "dry lines" within the development. Dry lines shall be required to tap into the new water line upon instillation and activation.

**Community Water Systems:** Private community or group water systems are prohibited.

**Wells:** Private individual water systems (including wells) are prohibited.

**Sewerage System:** When a public sanitary sewerage system is reasonably accessible, as determined by the County, the subdivider or land developer shall connect with it and provide sewers accessible to each lot in the subdivision or to each land development.

1. When a public sanitary sewer is reasonably accessible, it shall be unlawful for any person to maintain upon any such property an individual sewage disposal system.
2. When a public sanitary sewerage system is not immediately accessible but is anticipated by the County to be available within a period of three years, the applicant shall install sanitary sewer lines, laterals, and mains from the street curb to a point in the subdivision or land development boundary so that a future connection with the public sewer main can be made.
3. Sanitary sewers shall be located within street right-of-way unless topography dictates otherwise.
4. Minimum 20-foot wide easements shall be provided for all sanitary sewer lines.

# ARTICLE 10

## SUBDIVISION & LAND DEVELOPMENT PROCEDURES

## ARTICLE 10 - SUBDIVISION AND LAND DEVELOPMENT PROCEDURES

### SECTION 10.1 PRE-APPLICATION REVIEW OF PROPOSED LAND DEVELOPMENT

#### *Section 10.1.1 Pre-application Review Encouraged*

All individuals considering any type land disturbance, land development, subdivision, or building development activity are encouraged to contact the Land Development Officer prior to engaging in such activity in order to first determine whether or not a corresponding plat or plan must be submitted, reviewed and approved by the Town. Exempt activities or activities that are considered minor in nature may merely warrant informal advanced communication with the Land Development Officer. Potential applicants whose activities will trigger a formal plat or plan review process however, are encouraged to schedule a formal pre-application review meeting with the Land Development Officer in order to ensure that pending submittal packages are complete and correct prior to submittal in order to avoid potential administrative delays.

Notwithstanding the provisions of this Article, pre-application conferences shall be required for specific administrative tasks identified in Article 11 (Administration) of this Code.

#### *Section 10.1.2 Duty of the Developer*

Whenever land development within the Town of Dearing is proposed, the developer or developer's agent shall consult with the Land Development Officer early and often during the process to avoid delays or unforeseen issues. The developer shall submit a sketch plan and data showing existing conditions within the site and in its vicinity and the proposed layout and configuration of the development (including future phases if applicable).

### SECTION 10.2 RECORD PLATS

#### *Section 10.2.1 Purpose*

Record plats are used for the purpose of indicating ownership of existing recorded lots and represents a recording of specific properties by a new survey with the intent to allow for individual properties under one ownership to be recorded by the McDuffie County Clerk of Court without the owner conforming to the strict definition of a subdivision. This will also apply to mortgage plats or those plats used for financial purposes only and not used to transfer property from one owner to another, and to other activities otherwise exempted from plat approval as provided in Article 9 (Subdivision and Land Development Requirements).

#### *Section 10.2.2 Record Plat Certifications*

Record plats for which Town certification is sought by a property owner shall be drawn to comply with the submittal package and platting specifications provided in Tables 10.2 and 10.3. Record plats submitted to the Land development Officer for Town certification shall include the surveyor's "certificate of accuracy" as required for final plats in Section 10.6.6 (Final Plat Certifications,) and shall be signed by the property owner(s.) Such plats shall be clearly labeled as a "Record Plat," shall include a notation clearly stating that the action depicted on the plat is "Not a subdivision as defined by the Town of Dearing, Georgia, Land Development Code," and shall include notations clearly identifying the type of action being depicted.

#### *Section 10.2.3 Review Process for Record Plat*

Record plats may be presented to the Land Development Officer who may accept and document the receipt of the plat and note changes to the lot(s) (if any). The Land Development Officer may sign the record plat at which time the record plat is ready to be recorded by the McDuffie County Clerk of Court. These provisions do not obligate the Land Development Officer to receive, process, or certify any record plat as the actions triggering such plats are typically exempted from plat approval by this Code.

### SECTION 10.3 SUMMARY PLATS

#### *Section 10.3.1 Application for Summary Plat*

A submittal package for the review and approval of a summary plat shall be submitted for those applicable subdivision activities identified in Section 9.4 (Land Development Activities Requiring Review). Submittal packages shall be prepared and submitted to the Land Development Officer by the applicable owner, developer, or representative of the owner or developer, and shall include those items found in Table 10.2.

#### *Section 10.3.2 Summary Plat Certifications*

The summary plat shall be drawn to comply with the specifications provided in Table 10.3 for summary plats. Summary plats shall include those certifications required of a final plat as provided in Section 10.6.6 (Final Plat Certifications.)

**Section 10.3.3 Connection of a Summary Plat to a Land Development Permit**

A summary plat must be first approved by the Land Development Office prior to the issuance of any associated permit or certificate of compliance allowing the disturbance of land or any construction activity. A submittal package for a summary plat approval may be processed independently or in conjunction with a submittal package for issuance of a land development permit. Summary plat approval is discretionary with regard to consistency with the comprehensive plan and design requirements of the Land Development Code, and therefore, simultaneous processing of summary plat and land development permit submittal packages may result in the revision of the plat and associated construction plans if the layout of the plat requires significant modifications.

**Section 10.3.4 Review Process for Summary Plat**

The Land Development Officer is responsible for the review and approval for summary plats in accordance with the provisions of this Article. The following minimum procedures herein may be supplemented when necessary by the Land Development Officer when additional information or considerations are required.

1. **Review for Completeness and Application Acceptance:** The Land Development Officer shall review the submittal package for completeness at the time of submission. Incomplete applications may be accepted, however, the processing of the application shall not begin until the Land Development Officer has received all required materials. The Land Development Officer may allow one (1) week for the submission of all materials after which, if all materials have not been submitted, received materials may be returned to the applicant and this process is terminated.
2. **Review by Land Development Officer:** The Land Development Officer shall review the summary plat submittal package to ensure that, among other considerations, all lots have access to and frontage on a public right-of-way, and acceptable water and sewer service is available and documented. Drainage information may also be required. The review period shall be 21 days or less but may be extended by the Land Development Officer by a period of no more than seven (7) days at which point a decision must be rendered.
3. **Action:** Once the Land Development Officer has determined that the summary plat shows compliance with the requirements of this Code, the summary plat may be approved with their signature.
4. **Recording of the Plat:** Once the Land Development Officer has approved the summary plat, the plat shall be eligible for recordation by the McDuffie County Clerk of Court.

**SECTION 10.4 PRELIMINARY PLATS**

**Section 10.4.1 Purpose**

The purpose of this Section is to ensure compliance of all proposed major subdivisions with the basic design concepts and improvement requirements for land development established by this Code through the submittal and review of a preliminary plat to the Town of Dearing.

**Section 10.4.2 Connection of a Preliminary Plat to a Land Development Permit**

A preliminary plat must be first approved by the Town Council prior to the issuance of any permit, allowing the disturbance of land or any construction activity. A submittal package for preliminary plat approval may be processed independently or in conjunction with a submittal package for issuance of a land development permit. Preliminary plat approval is discretionary with regard to consistency with the comprehensive plan and design requirements of the Land Development Code, and therefore, simultaneous processing of preliminary plat and land development permit submittal packages may result in the revision of the plat and associated construction plans if the layout of the preliminary plat of the proposed subdivision must be significantly modified.

**Section 10.4.3 Requirements for Submittal of a Preliminary Plat**

A submittal package for preliminary approval of a subdivision plat shall be submitted to the Land Development Officer by the owner, developer, or agent of owner or developer and shall adhere to those submittal package requirements and platting specifications found in Tables 10.2 and 10.3.

**Section 10.4.4 Review Process for Preliminary Plat**

The Land Development Officer is responsible for the review of preliminary subdivision plats in accordance with the provisions of this Article. The following minimum procedures herein may be supplemented when necessary by the Land Development Officer when additional information or considerations are required.

1. **Review for Completeness and Application Acceptance:** The Land Development Officer shall review the submittal package for completeness at the time of submission. Incomplete applications may be accepted, however, the processing of the application shall not begin until the Land Development Officer has received all required materials. The Land Development Officer may allow two (2) business days beyond any submittal deadlines established by the Town for the submission of all required materials after which, if all materials have not been submitted, received materials will be returned to the applicant.
2. **Distribution and Department Review:** The Land Development Officer shall forward a copy of the preliminary plat to the appropriate Town and County Departments, the Georgia Department of Transportation if the proposed subdivision has frontage on or proposes access to a state or federal road, or others as appropriate for their review or comment.

3. *Time Period for Completion of Review:* Thirty (30) days following the receipt of the preliminary plat application, the Land Development Officer shall indicate on the preliminary plat or in writing all comments received from Town and County Departments, and any other state or federal departments as necessary, related to the compliance of the plat with the policies of each department and the Dearing Land Development Code. The Land Development Officer shall provide all comments to the applicant for resolution and the applicant shall work with each department, as necessary, to resolve all issues.
4. *Action:* Once the Land Development Officer has determined that the preliminary plat shows compliance with the requirements of the Land Development Code and met the requirements of all applicable departments, it shall be sent to the Mayor and Town Council for consideration and approval, conditional approval, or denial. The property owner shall be held responsible for compliance with all codes, regulations, and zoning requirements.
5. *Duration of Approval:* Approval of a preliminary plat by Town Council shall remain in effect for a period of one (1) consecutive year after which time it shall become null and void and the project must go through the approval process again.

#### **Section 10.4.5 Notification of Approval**

The Land Development Officer shall provide the applicant with a preliminary plat with a signature of the Mayor. Two (2) copies will be provided to the applicant and one (1) copy kept on file.

#### **Section 10.4.6 Amendments to Approved Preliminary Plats**

The Land Development Officer is authorized to approve minor amendments to preliminary plats which do not affect the public street configuration, or reconfigures lots, or does not increase the number of lots. Any proposed amendment to an approved preliminary plat which affects the public street configuration, increases the number of lots by five (5) or more or reconfigures lots shall be deemed a major amendment to the preliminary plat and must be approved by Town Council. Procedures for considering a major amendment to a preliminary plat shall be the same as required for an initial application for preliminary plat approval. Town Council shall approve, conditionally approve, or deny the proposed major amendment to a preliminary plat.

### **SECTION 10.5 LAND DEVELOPMENT PERMIT**

#### **Section 10.5.1 Submission Requirements for a Land Development Permit**

No person may perform any development regulated by this Code without first receiving approval of a corresponding summary or preliminary plat as may be required; and, submitting to the Land Development Officer such plans, or construction drawings as may be required by this Code and obtaining the Land Development Officer's approval to perform the development.

A submittal package for the approval of a land development permit shall be submitted to the Land Development Officer by the owner, developer, or agent of owner or developer and adhere to the submittal package requirements and platting specifications found in Tables 10.1 and 10.2. The submittal package shall be checked for completeness at the time of submission. Incomplete applications will not be considered and returned to the applicant.

#### **Section 10.5.2 Types of Plans Required**

Persons seeking to engage in development activity on land in Dearing shall not commence or proceed until civil design and construction drawings are approved and a land development permit is issued by the Land Development Officer. The civil design and construction drawings for a project shall conform in all respects with the approved preliminary plat, if applicable, and all other requirements of this Chapter. Applications for approval of civil design and construction drawings shall include each of the plans described in this Section as appropriate to the project and summarized below (which shall not be considered limiting):

- a. Erosion and sediment control plan. Plans must be prepared to meet the erosion and sedimentation control requirements using best management practices and as required by this Article. Conformance with the minimum requirements may be attained through the use of design criteria in the current issue of the Manual for Erosion and Sediment Control in Georgia, published by the Georgia Soil and Water Conservation Commission as a guide; or through the use of alternate design criteria which conform to sound conservation and engineering practices. The erosion and sediment control plan shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and storm-water management facilities, local ordinances and State laws.
- b. Storm-water Management Report. The location and size of all proposed drainage improvements shall be designed in accordance with and meet all standards relating to storm-water management as specified in this ordinance.
- c. Street Improvement Plan. When new public streets are provided, or when an existing public or private street is modified, a street improvement plan shall be provided. Such plan must demonstrate compliance with this Dearing Land Development Code.
- d. Flood Plain Permit. When a flood plain permit is required by this Dearing Land Development Code, a flood plain permit application shall be submitted as a part of the land development permit application and as provided in this Article.
- e. Sewage Disposal Plan. Sanitary sewerage plans shall include profiles of all mains and outfalls, lift station and force main details, typical manhole construction details, and other information as may be required by the Director of Public Utilities.
- f. Domestic Water Supply Plan. The domestic water supply plan shall depict all water system improvements, water mains, fire hydrants, valves and other appurtenances, and other information as may be required by the Director of Public Utilities.



### Section 10.5.3 Specifications for Submitted Plans

Unless otherwise specifically provided, each certified civil design plan and construction drawing required by this Article to conform to the following:

Plans and drawings shall show existing and planned contours for the property and all land within fifty (50) feet of the proposed project boundaries, at a map scale of 1 inch = 100 feet or larger scale, with contour lines drawn with an interval in accordance with the minimum contour intervals indicated in Table 10.1. The procedure or method used at arriving at the contour interval shall be indicated on the plans.

1. Adjacent areas and features such as streams, lakes, residential areas, etc. which might be affected should be indicated on the plan.
2. Proposed structures or additions to existing structures and paved areas.
3. Delineate the required buffer width adjacent to state waters.
4. A site location drawing of the proposed project indicating its location in relation to roadways, jurisdictional boundaries, overlay zones, streams and rivers, as well as the delineation of the 100-year flood plan and administrative floodplain, if existing, and the reference data used in making the 100-year administrative flood plan determination.
5. Computations, timing schedule and other supportive data required for review of the applicant's plan

TABLE 10.1: GROUND SLOPE & CONTOUR INTERVALS

<i>Ground Slope</i>	<i>Contour Interval in Feet</i>
Flat 0-2 percent	.5 or 1
Rolling 2-8 percent	1 or 2
Steep 8 percent	2, 5, or 10

#### Section 10.5.3.1 Specifications for Erosion and Sediment Control

Erosion and sediment control plans shall meet the following minimum requirements:

1. Narrative or notes to be located on the site plan in general notes or in erosion and sediment control notes
2. Description of existing land-use at the project site and description of the project
3. Name and phone number of 24-hour local contact that is responsible for erosion and sedimentation controls.
4. Size of project, or phase under construction, in acres.
5. Activity schedule showing anticipated starting and completion dates for the project. Include the statement in bold letters, that "the installation of erosion and sediment control measures and practices shall occur prior to or concurrent with land-disturbing activities."
6. Storm-water and sedimentation management systems-storage capacity, hydrological study, calculations including off-site drainage areas and other information as may be needed to satisfy the requirements of this article.
7. Location of erosion and sediment control measures and practices using coding symbols from the Manual for Erosion and Sediment Control in Georgia, chapter 6, and meeting the requirements of this ordinance. Practices may include, but are not limited to:
  - a) Construction exit
  - b) Sediment barrier
  - c) Sediment basin
  - d) Grassed waterway
  - e) Storm-drain outlet protection
  - f) A plan for temporary and permanent vegetative and structure erosion and sediment control measures
8. Detail drawings for all structural practices. Specifications may follow guidelines set forth in the Manual for Erosion and Sediment Control in Georgia.
9. Maintenance statement. "Erosion and sediment control measures will be maintained at all times. Additional erosion and sediment control measures and practices will be installed if deemed necessary by on-site inspection."
10. A description of the sediment control program and sediment control practices.
11. An adequate description of general topographic and soil conditions of the tract as available from the McDuffie County Soil and Water Conservation District.
12. A description of the maintenance program for sediment control facilities including inspection programs, vegetative establishment of exposed soils, method and frequency of removal and disposal of solid waste material removed from control facilities and disposition of temporary structural measures.

#### Section 10.5.3.2 Specifications for Street Improvement Plans

Street improvement plans shall meet the following requirements:

1. Center line profiles and typical street sections at 50-foot intervals of all proposed streets. Profiles shall be drawn on standard plan and profile sheet with plan section showing street layout, pavement and right-of-way width, curvature, and required drainage facilities. Typical street sections shall be provided for street widening.
2. Where sanitary sewer or storm-water sewers are to be installed within a street, the grade, size, location and bedding class of pipe, and the location and invert elevation of manholes shall be indicated on the road profile.
3. Center line profiles covering streets that are extensions of existing streets shall include elevations at 50-foot intervals for such distance as may be adequate to provide continuity consistent with the standards required by this Code for street improvements, but no less than two hundred (200) feet.
4. All plan elevations shall be coordinated and sited into U.S. Coast and Geodetic Survey or state department of transportation benchmarks where

*Section 10.5.4 Preparation by a Professional*

All civil design and construction plans and supporting studies must be prepared by or under the supervision of a registered professional engineer and stamped by said registered professional engineer. All other maps, drawings and supportive computations required to be submitted by this Article shall bear the signature/seal of a registered or certified professional in engineering, architecture, landscape architecture, land surveying or erosion and sediment control as applicable to the type of plan submitted.

*Section 10.5.5 Separate Requirements for Phased Development*

If a tract of land is to be developed in phases, then a separate land development permit shall be required for each phase.

*Section 10.5.6 Review Process for Land Development Permit*

The Land Development Officer shall be responsible for administering the review and approval process for issuance of land development permits. This process shall not be inconsistent with the provisions of this Article. The following procedures may be supplemented when necessary by the Land Development Officer when additional specifications are required.

1. *Review for Completeness and Application Acceptance:* The Land Development Officer shall review the submittal package for completeness at the time of submission. Incomplete submittal packages may be accepted, however, the processing shall not begin until the Land Development Officer has received all required materials. The Land Development Officer may allow one (1) extra week for the submission of all materials after which, if all materials have not been submitted, received materials will be returned to the applicant.
2. *Distribution and Department Review:* The Land Development Officer shall forward a copy of all materials related to the land development permit application to all appropriate Town and County departments, and other government agencies as appropriate, for review and comment. The applicant may be required to secure development approval from other agencies due their jurisdiction being affected by or such agency has jurisdiction over a portion of the development. The Land Development Officer shall not approve a land development permit until all necessary approvals have been documented. Land development permits shall not be issued unless the erosion and sediment control plan has been approved by the Soil and Water Conservation District Region II office and the local designee of the Town.
3. *Time Period for Completion of Review:* Thirty (30) days following the receipt of the submittal package for a land development permit, the Land Development Officer shall indicate in writing all comments received from Town, County departments, and other agencies related to compliance with the policies of each department and the Dearing Land Development Code. The Land Development Officer shall provide all comments to the applicant for resolution and the applicant shall work with each department or agency, as necessary, to resolve all issues.
4. *Action:* Once the Land Development Officer has determined that all required development plans show compliance with the requirements of the Land Development Code and meet the requirements of all applicable departments, the submittal package shall be approved or approved with conditions. In such instances, the Land Development Officer shall issue a land development permit. Issuance of a land development permit shall constitute authorization for the applicant to begin land-disturbing activities and the construction of improvements in accordance with approved plans.
5. *Duration of Approval:* A land development permit shall be valid for a period of one (1) year after its issuance, after which time it shall become null and void unless the proposed development activity has begun.

*Section 10.5.7 Permits for Annexed Lands*

If the tract of land, for which a land development permit is being sought, is in the process of being annexed into the Town of Dearing, then a land development permit may not be issued until the date the annexation becomes effective pursuant to state law. No application for land development shall be accepted on a newly annexed property until the first day of the month following the annexation.

*Section 10.5.8 Responsibilities Limited*

Approval of plans by the Town of Dearing shall not imply or transfer acceptance of responsibility for the application of the principles of engineering, architecture, landscape architecture, or any other profession, from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

The completion of inspections by the Town and County departments and authorization for work continuation shall not transfer responsibility for the quality of the work performed or materials used from the owner, nor imply or transfer acceptance of responsibility for project design or engineering from the professional, corporation, or individual under whose hand or supervision the plans were prepared.

The approval of an erosion and sediment control plan or other plans under the provisions of this Article and the Dearing Land Development Code, the issuance of a land development permit, or the compliance with the provisions of this Article and the Dearing Development Code shall not relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the Town or the Soil and Water Conservation Commission District for damage to any person or property.

The fact that any activity for which a land development permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this Article and the Dearing Land Development Code or the terms of the permit.

*Section 10.5.9 Suspension, Revocation, or Modification of Land Development Permit*

The Mayor of Dearing individually, or Town Council through majority vote, may suspend, revoke, or modify an issued land development permit as to all or any portion of land affected by the plans associated with the permit, upon finding that the holder or holder's successor in title is in violation of this Code. A holder of a land development permit shall notify any successor in title as to all of any portion of the land affected by the approved plan or conditions contained in the land development permit.

*Section 10.5.10 Land Development Inspections*

The Land Development Officer shall be authorized to inspect premises proposed for a subdivision or land development, including any improvements within such subdivision or land development, to determine compliance with the requirements of this Code and other laws and regulations of the Town of Dearing. No person shall refuse entry or access to any person authorized to conduct inspections who presents the appropriate credentials, nor shall any person obstruct, hamper or interfere with any such person while in the process of carrying out his official duties. The Land Development Officer is authorized to establish procedures for inspection of land development activity at various intervals in the development process, including without limitation inspection procedures for erosion control, the initiating of grading or land-disturbing activity, installation of on-site sewage disposal systems or sanitary sewer, installation of storm drainage pipe, detention, or other storm water facilities, and installation of street curbing and gutter, road sub-grade, base, or paving.

**SECTION 10.6 FINAL PLAT**

*Section 10.6.1 Purpose*

In the case of a subdivision, after approval of a preliminary plat and upon completion of required improvements, the subdivider may then submit a submittal package for final plat approval. The final plat is the map prepared for recordation which formally subdivides tracts of land into individual parcels and rights-of-way for formal conveyance to private individuals, or public authorities as the case may be. Submittal packages for final plats shall be processed in accordance with the provision of this Section.

*Section 10.6.2 Conformance with the Preliminary Plat*

The final subdivision plat shall conform substantially to the preliminary plat and may only constitute the portion of the approved preliminary plat that the owner proposes to record at any one time, provided that such portion conforms to the requirements of this Article and other applicable provisions of the Dearing Land Development Code.

*Section 10.6.3 Installation of Improvements*

Prior to submission of submittal package for final subdivision plat approval, all public and private improvements shall have been properly installed and completed in accordance with all requirements and standards of this Article and the Dearing Land Development Code.

*Section 10.6.4 Requirements for Submittal of a Final Plat*

An application for the final approval of a subdivision plat shall be submitted to the Land Development Officer by the owner, developer, or agent of owner or developer and adhere to the submittal package requirements and platting specifications found in Tables 10.2 and 10.3.

*Section 10.6.5 Preparation by Professional*

The final plat must be prepared by or under the supervision of a registered professional engineer and stamped by said registered professional engineer. The final subdivision plat shall be drawn on an appropriate material and sheet size, and using minimum line weights and letter heights as required by Georgia law for the recordation of maps and plats (O.C.G.A § 15-6-67, as amended) and as acceptable by the McDuffie County Clerk of the Superior Court.

**Section 10.6.6 Final Plat Certifications**

The final plat shall be drawn to comply with the specifications provided in Table 10.3 for final plats, including the following certifications:

1. *Certificate of Accuracy.*

***Certificate of Accuracy***

***I hereby state that this plat is true and correct and was prepared from an actual survey of the property made by me or under my supervision; that all monuments shown hereon actually exist and their location, size, type and material are correctly shown; and that this plat meets all requirements of the Town of Dearing, Georgia, Land Development Code.***

***Date:*** ***Georgia Registered Land Surveyor:***

***Georgia Registration Number:***

2. *Certificate of Ownership and Dedication.*

***Certificate of Ownership and Dedication***

***The undersigned hereby acknowledge that I am (we are) the owner(s) of the property shown and described and that I (we) hereby adopt this plan of subdivision with my (our) free consent and that I (we) hereby dedicate to public use as roads, streets, and easements, forever all areas so shown or indicated on said plat.***

<b><i>Print:</i></b>	<b><i>Signed:</i></b>	<b><i>Date:</i></b>
<b><i>Print:</i></b>	<b><i>Signed:</i></b>	<b><i>Date:</i></b>
<b><i>Print:</i></b>	<b><i>Signed:</i></b>	<b><i>Date:</i></b>
<b><i>Print:</i></b>	<b><i>Signed:</i></b>	<b><i>Date:</i></b>

3. *Certification of Approval for Recording.*

***Certificate of Approval for Recording***

***I hereby certify that the subdivision plat shown hereon has been shown to comply with the Town of Dearing, Georgia, Land Development Code, with the exception of such variances, if any, as are noted in the minutes of the Town Council; and, that this subdivision plat has been approved for recording in the McDuffie County Clerk of the Superior Court.***

***Date:*** ***Authorized Representative,***  
***Town of Dearing:***

**Section 10.6.7 Review Process for Final Plat**

The Land Development Officer is responsible for administering the review and approval process for final subdivision plats. This process shall not be inconsistent with the provisions of this Article. The following procedures may be supplemented when necessary by the Land Development Officer when additional specifications are required.

1. ***Review for Completeness and Application Acceptance:*** The Land Development Officer shall review the submittal package for completeness at the time of submission. Incomplete submittal packages may be accepted, however, processing shall not begin until the Land Development Officer has received all required materials. The Land Development Officer may allow one (1) week for the submission of all materials after which, if all materials have not been submitted, received materials will be returned to the applicant.
2. ***Distribution and Department Review:*** The Land Development Officer shall forward a copy of the final plat to the appropriate Town and County departments, the Georgia Department of Transportation if the proposed subdivision has frontage on or proposes access to a state or federal road, or others as appropriate for their review or comment.
3. ***Time Period for Completion of Review:*** Thirty (30) days following the receipt of the final plat application, the Land Development Officer shall indicate on the final plat or in writing all comments received from Town and County departments related to the compliance of the plat with the policies of each department and the Dearing Land Development Code. The Land Development Officer provide all comments to the applicant for resolution and the applicant shall work with each department, as necessary, to resolve all issues.
4. ***Action:*** Once the Land Development Officer has determined that the final subdivision plat is in compliance with the requirements, purpose, and intent of this Article and the Dearing Land Development Code, the Land Development Officer may sign the plat for purposes of recording. The signature of the Land Development Officer may be substituted by that of the Mayor. Final plats not in compliance with the requirements of this Code, approved by other reviewing entities, or not consistent with any conditions of preliminary plat approval shall be denied. If revisions to a final plat are required, the applicant shall resubmit all revised drawings to the Land Development Officer. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the noted and written comments.

**Section 10.6.8 Approval for Final Plat**

No final subdivision plat shall be recommended for approval by the Land Development Office until:

1. All improvements have been installed and certification of their acceptability has been submitted to the Land Development Officer by the appropriate departments and agencies.
2. The Land Development Officer has received affidavits from donor(s) of roads and the contractor(s) who have constructed roads stating that all construction cost have been paid and the road is free of all encumbrances.
3. Certificates of acceptability and affidavits of final payment have been received by the Land Development Officer.
4. The Land Development Officer has received a copy of the dedication of private easements to appropriate agencies.

TABLE 10.2: SUBMITTAL PACKAGE REQUIREMENTS

	Record Plat	Summary Plat	Preliminary Plat	Land Development Plan	Final Plat
Application Form Completed		Required	Required	Required	Required
As-Built Drawings of Public Improvements				Required	
Data on Existing Conditions			Required		
Description of type of water supply and sewerage system and utilities to be provided			Required	Required	Required
Filing fee as determined by the Fee Schedule	Required	Required	Required	Required	Required
Number of copies of plat/plans	3 Copies	3 Copies <sup>1</sup>	8 Copies	4 Copies	3 Copies
Digital Copy		Required	Required	Required	Required
Soil Erosion and Sedimentation Control Plan and Specifications				Required	Required
Soil Test for Each Lot Proposed for On-Site Septic Tank and Drainfield		Required <sup>2</sup>		Required	Required
Subdivision Improvement Guarantee <sup>3</sup>					Required
Warranty Deed for the Dedication of Roads and Other Public Places					Required
<sup>1</sup> Eight (8) copies required for a Minor Subdivision <sup>2</sup> For Minor Sub-division only <sup>3</sup> If financial guarantees are applicable please see Section??.?					

TABLE 10.3: PLAT AND PLAN SPECIFICATIONS

<b>Specifications</b>	<b>Record Plat</b>	<b>Summary Plat</b>	<b>Preliminary Plat</b>	<b>Land Development Plan</b>	<b>Final Plat</b>
Acreage to be dedicated to the public					Required
Block boundaries lettered and each lot numbered consecutively counterclockwise without repetition	Required	Required	Required		Required
Certificate of ownership and dedication					Required
Certificate of title					Required
Date of plat or plan drawing and revision date(s) if any			Required	Required	Required
Dimensions and acreage of all lots			Approximate	Exact	Exact
Drainage Easements	Required	Required			
Environmental conditions (streams, wetlands, watershed supply watersheds, groundwater recharge areas, flood hazard areas, etc.)			Required	Required	Required
Exact boundaries of the tract to be subdivided or developed by bearings and distances, tied to one or more benchmarks			Required	Required	Required
Existing buildings and structures on or encroaching on the tract to be subdivided or developed			Required	Required	Required
Existing roads, utilities and easements on and adjacent to the tract	Required	Required	Required	Required	Required
Existing and proposed zoning	Required	Required	Required	Required	Required
Land surveyor's or professional engineer's stamp, certificate, and signature, when the subdivision or land development involves a new road				Required	Required
Land surveyor's stamp, certificate, signature, including field survey and closure statement	Required	Required	Required	Required	Required
Location and description of all monuments	Required	Required			Required
Locations of roads, alleys, lots, open spaces, and any public use reservations and/or common areas			Required	Required	Required
Locations, widths and purposes of easements	Required	Required		Required	Required
Minimum building setback/yard lines for all lots drawn on plat or plan	Required	Required	Required	Required	Required
Municipal, County and land lot lines inside the property or within 500 feet.			Required	Required	Required
Name, address and telephone of preparer of plat or plans	Required	Required	Required	Required	Required
Name, address and telephone of subdivider or land developer	Required	Required	Required	Required	Required
Name, address, and telephone of owner of record	Required	Required	Required	Required	Required
Names of owners of record of all abutting land	Required	Required	Required	Required	Required
North Arrow and Graphic Engineering Scale	Required	Required	Required	Required	Required
Plat Certificates					Required
Plat recording and signature block	Required	Required			Required
Political boundaries	Required	Required	Required	Required	Required
Professional engineer's stamp, certificate, and signature, when the subdivision or land development involves a water system or sewer system or storm water improvements				Required	Required
Proposed name of subdivision or project and phases, if any			Required	Required	Required
Reference to North Point (magnetic true north, or grid north)					Required

TABLE 10.3: PLAT AND PLAN SPECIFICATION (CONT.)

<i>Specifications</i>	<i>Record Plat</i>	<i>Summary Plat</i>	<i>Preliminary Plat</i>	<i>Land Development Plan</i>	<i>Final Plat</i>
Reference to North Point (magnetic true north, or grid north)					Required
Right-of-way widths and pavement widths for abutting roads and existing and proposed roads within the subdivision or development	Required	Required		Required	Required
Road centerlines showing angles of deflection, angles of intersection, radii, and lengths of tangents and arcs, and degree of curvature and curve data				Required	Required
Road Names	Required	Required			
Road names (as proposed)				Required	Required
Scale (minimum)	1" = 100 ft	1" = 100 ft	1" = 100 ft	1" = 100 ft	1" = 100 ft
Schedule of construction for all proposed projects with particular attention to development planned for the first year			Required	Required	
Sheet Size (maximum)	17.5" x 23"	17.5" x 23"	24" x 36"	24" x 36"	24" x 36"
Statement of and reference to private covenants, if any					Required
Current tax parcel number(s) for each lot	Required	Required			Required
Topography as required by this Ordinance (see footnote 1)			Required	Required	Not Shown
Total acreage of the property being subdivided or developed	Required	Required	Required	Required	Required
Vicinity Map			Required	Required	Required

**SECTION 10.7 FINANCIAL GUARANTEE REQUIREMENTS**

*Section 10.7.1 Purpose*

Financial guarantees shall be required for any development involving the division of land into multiple ownerships with lots or units where the actual sale of such lots may commence prior to the fulfillment of all requirements of this Code and all conditions of approval and permits. Financial guarantees shall be required for the purposes of maintaining the condition and function of infrastructure improvements installed in accordance with the provisions of this Code.

For purposes of this Article and Code “financial guarantee” shall refer to a Town approved instrument and arrangement undertaken by and at the expense of the developer, established to provide a financial guarantee in favor of the Town. Where proposed for the purposes of facilitating the sale of lots prior the completion of infrastructure improvements, Town of Dearing shall have no obligation to allow developers to provide financial security instruments instead of completed infrastructure improvements; however, it may permit developers to provide such financial security if it so desires.

*Section 10.7.2 Financial Guarantee for Completion of Improvements*

All guarantees shall be conditioned upon the faithful completion and performance by the developer of all work required for completion of all amenities, improvements and installations that are part of a subdivision of land in order to fulfill the requirements of this Article for an approved portion of the development, when such installations are to be completed within a specified period of time. A delay in installation is subject to approval by the Land Development Officer because of unusual weather, site conditions or construction phasing situations where it is in the ultimate interests of the Town, and the purchaser of the subject lots or units that installation and construction be delayed.

The Land Development Officer shall have the authority to require the developer to establish a performance guarantee for incomplete improvements prior to the recording of a final plat, or the issuance of a land development permit. Such guarantee shall be presented in a form acceptable to the Town of Dearing in order to guarantee timely installation of required project improvements; such as; but not limited to, erosion and sedimentation control facilities, streets, utilities, storm-water management facilities, and sidewalks within the subject development. Said performance guarantee shall be in an amount equal to 125% of the estimated construction cost and be for a term not to exceed 12 months, with one 12-month extension, subject to approval by the Land Development Officer.

The developer shall provide the Land Development Officer with a certified copy of a properly executed improvement agreement covering all of the work to be done to complete all improvements. This agreement shall include the following:

1. A condition requiring that all improvements, whether required by this Code or constructed at the developer’s option, shall be constructed in accordance with the standards and provisions of this Code.
2. A condition requiring that all required improvements shall be constructed satisfactorily within the period stipulated.
3. The projected total cost for each improvement. Cost for construction shall be determined by either of the following:
  - a. An estimate prepared and provided by the applicant’s engineer and approved by the Land Development Officer.
  - b. A copy of an executed construction contract with a bona fide and qualified contractor.
4. Specification of the public improvements to be made and dedicated including a timetable for making such improvements.
5. A condition requiring that, upon failure of the applicant to make required improvements (or to cause them to be made) according to the schedule for making those improvements, the Town shall utilize the financial guarantee provided in connection with the agreement to complete the improvements.

*Section 10.7.3 Financial Guarantee for Maintenance of Improvements*

Prior to approval of a final plat, a maintenance agreement and financial guarantee shall be provided by the developer to the Town of Dearing to ensure the continued function and good condition of public improvements being constructed as part of a subdivision to fulfill all requirements of this Article for a specified time until such financial security instrument is released by the Town. The developer shall be responsible for maintenance of all such public improvements for 18 months from the date of final plat approval. Where the final plat is recorded prior to the completion of all required public improvements as a result of the posting of a financial guarantee for the purpose of completing improvements, the maintenance guarantee shall be posted in conjunction with, but prior to, the release of the improvement guarantee. In such instances the maintenance agreement shall still be provided in conjunction with recording of the final plat, but the 18 month term of maintenance guarantee shall commence at only such time as the guarantee is posted by the developer and approved by the Town.

The amount of the maintenance guarantees shall be equal to 10% of the actual cost of construction of the public improvements shown on the as-built surveys. The cost of construction shall be determined by copies of contractor agreements or actual invoices paid, or as otherwise determined by the Land Development Officer.

*Section 10.7.4 Type of Surety*

Financial guarantees permitted by the Town of Dearing for the completion of required infrastructure improvements, and those required by the Town of Dearing for the maintenance of improvements, shall be executed by the subdivider in the form of an irrevocable letter of credit from an FDIC accredited bank or institution, cash, or a certified check deposited in a Town escrow account properly securing the amount of the guarantee.



Appropriate lending instruments shall be limited to a FDIC accredited bank or institution. Letters of credit must be issued by a financial institution with a full service branch within the state of Georgia, such branch being located within a 150 mile radius of the town limits, at which the letter of credit may be presented for payment. The letters themselves may be processed from the bank or institution's main office located in another city or state. All instruments and agreements used under this Article are subject to the approval of the Town.

*Section 10.7.5 Release of Improvement Guarantee*

Financial guarantees accepted by the Town of Dearing related to the completion of infrastructure improvements shall not be released until compliance, with the requirements listed below, has been achieved:

1. Final inspection - The Land Development Officer shall perform a final inspection of the facilities and determine that they have been constructed in compliance with the requirements of this Dearing Land Development Code.
2. Execution - The Land Development Officer shall determine that all provisions of the associated approved development plans have been executed faithfully.
3. Maintenance Guarantee – A maintenance agreement and corresponding financial guarantee for the maintenance of improvements has been posted by the developer and accepted by the Town in accordance with the provisions of this Article.

*Section 10.7.6 Partial Release of Improvement Guarantee*

A provision may be made for partial release of the amount of the financial guarantee, pro rata, upon completion and acceptance of various stages of development as specifically delineated, described and scheduled in the associated approved development plans. The applicant shall notify the Land Development Officer upon completion of each stage that is ready for inspection.

*Section 10.7.7 Release of Maintenance Guarantee*

It shall be the responsibility of the developer to petition the Town for release of any maintenance guarantee. During the 18-month period, the Land Development Officer or representative of the appropriate department will inspect the improvements randomly, listing any defects. The owner shall have 30 calendar days to correct any specified deficiencies. Failure to perform said corrections shall result in the forfeiture of the surety.

*Section 10.7.8 Collection of Financial Guarantees*

In the event of default or failure by the developer to complete or maintain improvements for which a financial guarantee has been posted with the Town, the Town reserves the right with the term of the guarantee to collect and apply such funds for the completion of all required infrastructure improvements, or maintenance of such facilities that have deteriorated. It shall be at the sole discretion of the Town to determine what action, or inaction, on behalf of the developer constitutes a default or failure to perform, and warrants the collection of guaranteed funds by the Town, and application of such funds for subsequent corrective measures.

*Section 10.7.9 Dedications*

The Town or other public authority shall not accept, lay out, open, improve, grade, pave, or light any street; or authorize the laying of water mains, sewers, connections, or other facilities or utilities in any street within the municipal limits of Dearing unless such street has been accepted, opened, or shall have otherwise received the legal status of a public street prior to the attachment of the Town of Dearing's subdivision jurisdiction, or unless such street corresponds in its location and lines with a street shown on a subdivision plat approved by the Town. Town Council may locate and construct or may accept any other street pursuant to Town ordinances and policies.

No subdivision shall be granted final approval until the Land Development Officer has received a statement duly acknowledged before some officer authorized to take acknowledgment of deeds and signed by each owner of the property to the effect that: (1) the subdivision plan shown on the preliminary plat or a reasonable revision thereof is made with his or their free consent and in accordance with their desires; (2) the dedication of streets or roads shown on the plat and the road dedication form is freely offered; (3) the property shown on the plat is not encumbered by a recorded deed of trust or mortgage or by a judgment rendered by any court.

# ARTICLE 11

## ADMINISTRATION

## ARTICLE 11 - ADMINISTRATION

### SECTION 11.1 GENERALLY

The Town of Dearing hereby establishes common parameters and procedures for the effective administration of the Dearing Land Development Ordinance. It shall be inferred that the parameters and procedures set forth within this Article apply to all types of land development applications unless alternative or conflicting administrative provisions are provided within specific sections of this Article, or another section of this Code, in order to account for unique issues related to a specific type of land development or activity.

### SECTION 11.2 ADMINISTRATIVE AUTHORITY

The Town Council of the Town of Dearing is established as the governing body for the Dearing Land Development Code. In exercising its authority, the Town Council may delegate select administrative powers related to this Code to other designees, including appointed boards or commissions. The delegation of powers shall be consistent with the Constitution of the State of Georgia, all other applicable laws enacted by the Georgia General Assembly, and with the rules of various departments of the Georgia State Government; and, such delegated powers may be amended or rescinded by the Town Council consistent with the applicable procedures as set forth within this Code.

#### *Section 11.2.1 Land Development Officer*

Provisions of this Code shall be administered by the person designated by the Town Council as the Land Development Officer. The Land Development Officer or designee shall have all the necessary powers explicitly provided or reasonably implied in connection with the administration of the Dearing Land Development Code, including but not limited to those listed in this section. Where provisions indicate that the Land Development Officer has the authority to review and approve a given application or activity, said authority shall also include the denial of such activity or application.

At a minimum, the Land Development Officer shall have the authority to:

1. Adopt schedules of dates, times and places as appropriate and necessary for the processing of applications established by the Dearing Land Development Code.
2. Accept applications for text amendments, zoning map amendments, annexations, variances, and special use requests, and other processes which require an application.
3. Provide applicants with administrative deadlines necessary for the processing of applications.
4. Prepare administrative procedures, guidelines, application forms, and to tend to other administrative details not inconsistent with the provisions of the Dearing Land Development Code.
5. Review and approve preliminary plats and final plats.
6. Review and deny land development plans and issue or refuse to issue zoning approval.
7. Review and approve home occupations and home enterprises as specifically provided in Article 5, Section 5.1.
8. Review, authorize, and issue permits for temporary uses specifically provided in Article 5, Section 5.3.
9. Provide notices or require notice of applications submitted.
10. Provide recommendations on text amendments, zoning map amendments, annexations, variances, and special use applications to the Town Council as may be appropriate.
11. Waive certain requirements, and to require additional information be submitted, for applications.
12. Conduct investigations as reasonably deemed necessary to assure or compel compliance with the requirements and provisions of the Dearing Land Development Code, even if such responsibilities are delegated to other enforcement officers.
13. To enforce the provisions of the Dearing Land Development Code.
14. Delegate the functions and responsibilities of the Officer's position to other qualified personnel.
15. Interpret the provisions of the Dearing Land Development Code as provided in Article 1, Section 1.5 of this Code.
16. Maintain and update the Official Zoning Map of the Town of Dearing, and provide determinations as to the zoning district boundaries represented thereon.
17. Review requests for administrative variances and either approve or deny the request.

### SECTION 11.3 BOARDS AND COMMISSIONS [RESERVED]

### SECTION 11.4 CERTIFICATES OF COMPLIANCE

#### *Section 11.4.1 Certificate of Compliance Required*

No new, altered, or reinstated land use shall be established; and, no building or structure, not otherwise exempted from review under the provisions of this Code shall be erected, moved, expanded or structurally altered; without first having received a certificate of compliance issued by the Town of Dearing. Certificates of compliance to this Code must be obtained prior to the issuance of any land development permit, building permit or business license by the Town.

For purposes of administering this Code, the Town of Dearing may consider a “certificate of compliance” and a “permit” as synonymous terms where an application for such permit has been submitted and approved in accordance with the applicable provisions of this Code. Such instances shall be clearly delineated within the applicable sections of the Dearing Land Development Code. Certificates of compliance are valid only for the period within which the corresponding land development permit or decision/determination, building permit, or business license remains valid, and within the terms of said permit, license or determination. Activity conducted before the issuance of, or in a manner inconsistent with, any certificate of compliance and/or corresponding permit shall be ruled invalid, as a violation of this Code, and shall be subject to the enforcement procedures and remedies contained in this article; unless alternative enforcement provisions are provided within another section or article of this Code in order to account for unique issues related to a specific type of activity or land development.

#### *Section 11.4.2 Categories of Compliance Certification*

The certification of compliance of proposed land development and use activities that are subject to the provisions of the Dearing Land Development Code shall be reviewed in accordance with one (1) of the following methods:

1. Administrative Certification. Includes applications, certifications, or determinations for land development, building or use activities that require the review and approval of the Land Development Officer or designee; but, do not require the approval of any elected body, or appointed board or commission; and, do not require a public hearing.
2. Legislative or Quasi-Judicial Certification. Includes applications for land development, building and use activities; or instances where determinations rendered in accordance with this Code require a quasi-judicial review; where the Town Council of the Town of Dearing retains final review authority; and, where public notice and a public hearing are required.

#### *Section 11.4.3 Exemptions from Certificate of Compliance*

It is not the intent of this Code to inhibit or restrict those basic and common activities of building or property improvement or maintenance which, the performance of which by a homeowner, business owner or property owner, would be reasonably expected and anticipated by neighbors and citizens to enhance property value or aesthetics; and, would not otherwise change the physical characteristics or use of the property, would have an apparent impact on adjacent property, nor would otherwise be contrary to the purpose and provisions of this Code.

Exemptions from certification of compliance to the provisions of this Code shall not be deemed to grant authorization for any work to be done in any manner that would serve as a direct violation of this Code, or any other laws or ordinances of the Town of Dearing; nor, which would indirectly allow for or facilitate a subsequent activity that would result in a violation of said Code, laws or ordinances.

Certificates of compliance shall not be required for at least the following:

1. One-story detached accessory structures such as tool and storage sheds, playhouses, tree houses and similar uses, not in excess of 120 square feet.
2. Pre-fabricated above-ground swimming pools, porches and patios, gazebos, carports or other similar unenclosed structures.
3. Structures that do not include vertical elements extending above ground level such as patios, retaining walls, in-ground swimming pools, etc.
4. Swings, slides and other playground equipment.
5. Utility meters, heating and cooling units, chimneys, antennas, and other similar features which are appurtenant to the use and enjoyment of the principal building or structure on the property.
6. Fencing, including fencing material used to create enclosures such as kennels, and walls extending above the ground, unless such fencing or wall is erected in order to adhere to a particular provision of this Article.
7. Renovation or maintenance activities to buildings or structures that are contained within said building or structure, does not increase the size of said building or structure, and is not specifically subject to review or approval by a provision of this Code.
8. Preparation or resurfacing of driveways serving single-family residential or manufactured housing use.
9. Temporary sales such as yard sales or garage sales, or other temporary activities on a property used for residential purposes consistent with the provisions of Subsection 5.2.11 (Yard Sales) this Code.
10. Tree removal, grading, or other land disturbance related to any of the other activities contained within this list.

Exemptions listed herein that meet the definition of a “building” as provided within this Code must adhere to the dimensional requirements of the zoning district within which it is located. Nothing within this list of exemptions shall be construed as exempting an activity of similar nature that is specifically subject to a review and approval process as established within the provisions of this Article. It shall be at the discretion of the Land Development Officer to determine whether or not a specific activity in question warrants a review and approval under the provisions of this Code.

## SECTION 11.5 GENERAL ADMINISTRATIVE PROCESSES

General administrative provisions are hereby established by the Town of Dearing for the purpose of standardizing, to the extent feasible, the method by which actions requiring certification of compliance with the Dearing Land Development Code are processed.

Additional and unique procedural steps for varying land development or use activities, not otherwise addressed herein, and following submission of the applicable submittal packages are provided in Sections 11.6 through 11.13. These unique procedural steps generally address the method of review for the particular activity, criteria necessary to formulate a determination, the effect and scope of determination on a particular request, and other factors.

### *Section 11.5.1 Applicability*

The applicability of the general administrative processes enumerated within this section may be limited by either of the following two (2) factors:

1. Where an alternative or conflicting administrative process is provided within another section or article of this Code in order to account for unique issues related to a specific type of land development or activity, the alternative administrative provisions of such section shall take precedence.
2. Where alternative, conflicting, or more detailed administrative parameters are provided for in a subsequent section of this article, the alternative, conflicting, or more detailed parameters shall take precedence.

### *Section 11.5.2 Fees*

Reasonable fees shall be charged by the Town of Dearing to cover all or a portion of the costs incurred by the Town for the effective administration of this Code. Activities for which is determined that a fee should be assessed, shall be incorporated into a fee schedule fixed from time to time by resolution of the Town Council of the Town of Dearing.

### *Section 11.5.3 Requirements for Submittal*

A) Submittal Package Required. Persons seeking a certificate of compliance for a land development, building or use activity through administrative, legislative or quasi-judicial means shall adhere to the requirements for submittal as provided within this section. Required submittal packages shall vary depending on type of land development activity for which approval is being requested. Submittal packages shall consist of those items presented in **Tables 11.1**; except that the Land Development Officer reviewing the submittal package is authorized to require any additional and supporting information necessary to provide clarity to the request, and to substantiate any subsequent determinations or decisions thereon by the Town of Dearing.

B) Submittal Package Parameters. Specific components of a submittal package necessary for the review of land development and use activities requiring a certification of compliance, and exhibited within Table 11.1 are subject to the following general parameters:

1. Application Form. Completed applications shall be in the form provided by the Town of Dearing.
2. Application Fee. Fees shall be non-refundable fee unless otherwise provided within the fee schedule established by the Town Council of the Town of Dearing. A fee shall not be charged if Town Council initiates the application.
3. Letter of Authorization. Authorized agent(s) of property/properties owner(s) shall submit a notarized letter of authorization which has the signature of the property/properties owner(s) permitting the applicant to submit the submittal package and be responsible for the request. A notarized letter of authorization which has the signature of the property/properties owner(s) is also need if the applicant is one of multiple owners of property/properties which authorizes the applicant to submit the submittal package and assume responsibility for the request.
4. Plat or Boundary Survey. A plat or boundary survey of the property or properties involved in the application shall be prepared by, and bear the stamp of, a Registered Land Surveyor.
5. Proposed Conceptual Site Plan. Proposed conceptual site plans of the subject property shall reference and be based on a boundary survey of the exterior boundaries of the property prepared by a Registered Land Surveyor, and shall include the following:
  - a. Name, address, and telephone number of the property owner.
  - b. Name, address, and telephone number of the applicant.
  - c. Date of survey, north point and graphic scale, source of datum, date of plan drawing, and revision dates, as appropriate.
  - d. Proposed use of the property.
  - e. Location (Land District and Land Lot) and size of the property in acres (or in square feet if less than an acre).
  - f. Location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets or railroads. Location maps must be drawn at a scale sufficient to show clearly the information required.
  - g. Zoning district classification of the subject property and all adjacent properties, and zoning district boundaries as appropriate.
  - h. Natural features within the property, including drainage channels, bodies of water, wooded areas and other significant natural features. On all water courses entering or leaving the property, the direction of flow shall be shown. The 100-year flood plain, if any, shall be outlined.
  - i. Man-made features within and adjacent to the property, including existing streets and names, city and county political boundary lines, and other significant information such as location of utility lines, existing buildings to remain, and other features as appropriate to the nature of the request.

- j. The proposed project layout including:
  - i. For subdivisions, approximate lot lines and street right-of-way lines, along with the front building setback line on each lot.
  - ii. For multi-family and nonresidential development projects, the approximate outline and location of all buildings, and the location of all minimum building setback lines, outdoor storage areas, buffers, parking areas and driveways.
- k. The proposed phasing of the development if it is proposed to be built in sections.
- l. A statement as to the impact on local utilities, public facilities, and public services.
- m. The approximate location of proposed storm water detention facilities.
- n. Such additional information as may be useful to permit an understanding of the proposed use and development of the property.

The Town of Dearing shall only process full, complete, and accurate submittal packages according to the applicable provisions of this article. The Town of Dearing shall not process requests where the submittal package is incomplete, or contains information that is improper or erroneous. The Land Development Officer is further authorized to establish administrative deadlines for receipt of submittal packages and other material directly related to the submittal.

#### *Section 11.5.4 Public Notice Requirements.*

A. Public Hearings Required. Land development, building or use activities for which a certificate of compliance is required through a legislative or quasi-judicial process, including text amendments, zoning map amendments, annexations, special use permits, variances, and appeals, shall be subject to a public hearing, and to the public notice requirements provided in this section – such requirements being consistent with the authority and duties provided to the Town of Dearing the state of Georgia Zoning Procedures Law (by O.C.G.A. § 36-66-1 et. seq.)

- 1. Notice of Public Hearing – Newspaper. A minimum of fifteen (15) days, but not more than forty-five (45) days, prior to the public hearing considering the application before the Town Council, a notice shall be published in a newspaper of general circulation within the town limits. The published notice shall be prepared by the Land Development Officer and shall state the time, place and purpose of the hearing.
- 2. Notice of Public Hearing – Sign. A minimum of fifteen (15) days, but not more than forty-five (45) days, prior to the public hearing considering an application before the Town Council, a sign or signs shall be posted in a conspicuous location along each street frontage of each property for which a hearing is scheduled for the purposes of considering a zoning map amendment, annexation, special use permit or variance. In cases in which the property has no street frontage the sign or signs shall be placed on each street from which access is gained to the property. Required signs shall state the time, place and purpose of the hearing; and, shall include the property's present and proposed zoning classifications if the hearing is to consider a zoning map amendment. Requirements for the placement of signage for public hearings shall not apply to amendments to the text of this Code, or zoning map amendments, that have been initiated by the Town Council, or to appeals.
- 3. Notice of Public Hearing - Adjacent Property Owners. A minimum of ten (10) days prior to the public hearing, a written notice shall be mailed to all persons owning property located abutting or across any street from the property that is the subject of a zoning map amendment, annexation, special use permit or variance. The written notice shall be mailed to the property owners as such names appear on McDuffie County Tax Records. Written notices to property owners shall include all that information required for public hearing advertisement in a newspaper, all additional and applicable information required on signs advertising public hearings; and, shall be accompanied by a location map showing the extent of the property subject to the public hearing.

B. Special Public Hearings for Drug Treatment Facilities. Actions requiring a certificate of compliance through a legislative process, and that relate to or will allow for the location or relocation of a halfway house, drug rehabilitation center, or other facility for treatment of drug dependency, shall be subject to a special public hearing. The special public hearing shall be held at least six (6) months and not more than nine (9) months prior to the date of final action on the zoning decision by Town Council, and shall be in addition to that required by Subsection 11.5.4 (A.) Special public hearings required by this subsection shall be advertised in a newspaper of general circulation, with signage on the subject property, and through mailings to adjacent property owners consistent with the provisions of Subsection 11.5.4 (A.)

#### *Section 11.5.5 Public Hearing Requirements.*

Town Council shall adopt policies and procedures which govern the manner in which public hearings are called and conducted. Printed copies of such policies and procedures shall be available for distribution to the public, and shall at a minimum specify such information as required by the state of Georgia Zoning Procedures Law (O.C.G.A. § 36-66-5.)

## **SECTION 11.6 TEXT AMENDMENTS**

The text of the Dearing Land Development Code may be amended from time to time by the Town Council of the Town of Dearing. Text amendments shall be initiated and considered by the Town Council under the provisions of this section, and the applicable provisions of Section 11.5 (General Administrative Processes.)

### ***Section 11.6.1 Initiation and Submittal.***

A text amendment of the Dearing Land Development Code may be initiated solely by the Town Council. Text amendments shall be subject to the applicable requirements of Section 11.5.3 (Requirements for Submittal) of this Code – such submittal being prepared by the Land Development Officer.

### ***Section 11.6.2 Public Hearing and Action by Governing Body.***

Text amendments of this Code shall be subject to the public notice and public hearing provisions of Section 11.5.5 (Public Notice Requirements) and 11.5.6 (Public Hearing Requirements.) In rendering a decision on a text amendment, the Town Council shall consider information supplied by the Land Development Officer, and any information presented at the public hearing. The Town Council shall approve or deny the application, including or excluding any modification it recommends, or table the item until the subsequent meeting of the Town Council. In cases where the amendment has been proposed to be modified by Town Council, and it deems that such modification substantially changes the intent or scope of the original proposed text amendment, the Town Council may direct that a new public hearing be advertised by the Land Development Officer.

Approval, approval with modifications, or denial of an amendment to the text of this Code must be rendered by a vote of the Town Council within 60 days of the last public hearing at which the text amendment was considered; or, such proposed amendment shall automatically have been determined to be denied.

### ***Section 11.6.3 Criteria for Consideration of Text Amendments.***

The Town Council shall consider at least the following standards for text amendments - prioritizing those standards that are appropriate to the circumstances of each proposal:

1. Extent to which the proposed text amendment is consistent with the purpose and intent of the Dearing Land Development Code.
2. Extent to which the proposed text amendment is compatible with the purpose and intent of the comprehensive plan.
3. Effectiveness of proposed text of addressing new or changing conditions in the Town of Dearing.
4. Extent to which the proposed text amendment promotes the public health, safety, and general welfare of The Town of Dearing.

### ***Section 11.6.4 Effective Date.***

A text amendment shall be in full force and effect upon its approval or upon stated effective date and shall, from that point in time apply to all property within the municipal limits of the Town of Dearing unless otherwise excepted by Section 11.12 (Nonconformities.)

### ***Section 11.6.5 Reapplication.***

There shall be no waiting period for the reapplication of text amendments.

## **SECTION 11.7 ZONING MAP AMENDMENTS (REZONINGS)**

The Official Zoning Map of the Town of Dearing may be amended from time to time by the Town Council of the Town of Dearing. Zoning map amendments (rezonings) shall be initiated and considered by the Town Council under the provisions of this section, and the applicable provisions of Section 11.5 (General Administrative Processes.)

### ***Section 11.7.1 Initiation and Submittal.***

An application for the rezoning of any property in the Town of Dearing may be initiated by the Town Council, the owner(s) of the property, or an authorized agent of the property owner(s). Text amendments shall be subject to the applicable requirements of Section 11.5.3 (Requirements for Submittal) of this Code.



**Section 11.7.2 Pre-Application Conference.**

Applicants or potential applicants seeking a zoning map amendment that is associated with the annexation of property into the municipal limits of the Town of Dearing shall first be required to attend a pre-application conference with the Land Development Officer. No zoning map amendment application associated with the annexation of property into the municipal limits of the Town of Dearing shall be submitted, or accepted by the Land Development Officer for processing, unless the applicant has participated in a pre-application conference.

**Section 11.7.3 Review and Staff Recommendation.**

The Land Development Officer shall review the zoning text amendment submittal package for completeness, and prepare the application for the consideration of the Town Council. The Land Development Officer may, but shall not be required to, distribute parts of, or the entire, zoning text amendment submittal package to other departments and external agencies for review and comment as appropriate. Written comments received as a result of, and in accordance with, the Town of Dearing's review process shall be included with the applicant's submittal package information submitted for consideration by the Land Development Officer to the Town Council. The Land Development Officer may render recommendations to the Town Council based on the criteria for consideration provided in Subsection 11.7.4, and any other relevant evidence that is applicable to a particular request.

**Section 11.7.4 Public Hearing and Action by Governing Body.**

Zoning map amendments shall be subject to the public notice and public hearing provisions of Section 11.5.5 (Public Notice Requirements) and 11.5.6 (Public Hearing Requirements.) In rendering a decision on a zoning map amendment, the Town Council shall consider information supplied by the Land Development Officer, and any information presented at the public hearing. The Town Council shall approve or deny the application, or it may approve the application with conditions, or table the item until the subsequent meeting of the Town Council. In cases where the public hearing process reveals that an alternative zoning designation than that originally requested by the applicant may be preferred, the application may be modified with no restriction or at no additional fee subject to the written agreement of the applicant; but, such modified application must be re-advertised and reviewed, and a new public hearing held, as if it were a new application and in accordance with the procedural requirements of this Article.

Approval, approval with conditions, or denial of a zoning map amendment must be rendered by a vote of the Town Council within 60 days of the last public hearing at which the text amendment was considered; or, such proposed amendment shall automatically have been determined to be denied.

**Section 11.7.5 Criteria for Consideration of Application.**

The Town Council shall consider at least the following standards for zoning map amendment requests - prioritizing those standards that are appropriate to the circumstances of each proposal:

1. Is the proposed zoning suitable in the view of the zoning and development of adjacent and nearby property?
2. Will the proposed zoning adversely affect the existing use or usability of adjacent or nearby property?
3. Is the proposed zoning compatible with the purpose and intent of the Comprehensive Plan?
4. Are there substantial reasons why the property cannot or should not be used as currently zoned?
5. Will the proposed zoning cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water or sewer utilities, and police or fire protection?
6. Is the proposed zoning supported by new or changing conditions not anticipated by the Comprehensive Plan or reflected in the existing zoning on the property or surrounding properties?
7. Does the proposed zoning reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

**Section 11.7.6 Withdrawal of Application.**

An application for a zoning map amendment may be withdrawn at any time at the discretion of the person or entity initiating such a request upon written notice to the Land Development Officer, up until one (1) day prior to the public hearing by Town Council. An applicant's request to withdraw the application on the day of or during the public hearing may only be granted by Town Council. Withdrawal of a zoning map amendment application will be subject to one (1) of the following three (3) provisions:

1. If the application is withdrawn by the applicant prior to the publication of notice of a public hearing before the Town Council, the application shall be withdrawn administratively by the Land Development Officer without restriction on the re-filing of a proposed zoning map amendment in the future.
2. If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the Town Council, the application shall be withdrawn administratively by the Land Development Officer and an application may not be resubmitted for a period of six (6) months from the date of withdrawal.
3. If the request for withdrawal is made on the day of or during the public hearing on the case, the request may be approved by a majority vote of the Town Council, but an application for a rezoning on the property may not be submitted for a period of six (6) months from the date of the withdrawal.

Withdrawal of an application for a zoning map amendment at any time during the submittal, review and public hearing process shall not entitle the applicant to a refund of their application fee.



**Section 11.7.7** *Effective Date.*

An approved zoning map amendment shall be in full force and effect upon its approval or upon stated effective date, including all provisions of the district that apply to the subject property and applicable district provisions that impact adjacent property, unless an existing use or activity on said properties is otherwise excepted by Section 11.12 (Nonconformities.)

**Section 11.7.8** *Reapplication.*

If a proposed zoning amendment is denied by the Town Council, or the application for said amendment is otherwise withdrawn following publication of a publication in accordance with Section 11.7.6 (Withdrawal of Application), no zoning map amendment may be considered for the property which was the subject of denial or withdrawn application for a period of six (6) months.

**SECTION 11.8 SPECIAL USE PERMITS**

Special uses of property may be permitted from time to time by the Town Council of the Town of Dearing. Requests for special uses shall be initiated and considered by the Town Council under the provisions of this section, and the applicable provisions of Section 11.5 (General Administrative Processes.)

**Section 11.8.1** *Initiation and Submittal.*

An application for a proposed special use of property listed in Table 4-1 of Article 4 (Permitted Land Uses by Zoning District,) may be initiated by the Town Council, the owner(s) of the property, or an authorized agent of the property owner(s). Special use applications shall be subject to, and processed in accordance with, Section 11.7 (Zoning Map Amendments) of this Code. A special use is not a use by right, and may be subject to approval, approval with conditions, or denial by action of the Town Council.

A conceptual site plan meeting the minimum parameters established within Subsection 11.5.3(B) (Submittal Package Parameters) may be required by the Town of Dearing as part of a special use application package that shall also be sufficient to illustrate a proposed special use's adherence to the unique dimensional requirements that are listed within the applicable subsection of Section 5.1 (Conditional and Special Uses.)

**Section 11.8.2** *Pre-Application Conference.*

Applicants or potential applicants seeking a special use that is associated with the annexation of property into the municipal limits of the Town of Dearing shall first be required to attend a pre-application conference with the Land Development Officer. No application for a special use on property proposed to be annexed into the municipal limits of the Town of Dearing shall be submitted, or accepted by the Land Development Officer for processing, unless the applicant has participated in a pre-application conference.

**Section 11.8.3** *Duration and Scope of Validity.*

The approval of the special use request on a property located in the Town of Dearing shall be in full force and effect upon its approval by the Town Council and shall be effective for a period of twelve (12) months, unless a shorter time frame is specifically established by the Town Council as a condition for variance approval. If no action is taken by the applicant to implement the purpose of the variance request within twelve (12) months from the date of approval, or other shorter time frame established by Town Council, said approval shall become null and void. A special use that is granted shall be specific to the request made only by the current applicant and shall not stay with the property.

**SECTION 11.9 ANNEXATIONS**

Annexations of property into the municipal limits of the Town of Dearing shall be processed in the appropriate method provided within the Official Code of Georgia Annotated (O.C.G.A. § 36-36-1 et. seq.).

**Section 11.9.1** *Pre-Application Conference Required.*

Applicants or potential applicants seeking the annexation of property into the municipal limits of the Town of Dearing shall first be required to attend a pre-application conference with the Land Development Officer. Among the purposes of the pre-application conference is for the Land Development Officer to advise potential applicants on whether or not their pending request may be consistent with the applicable provisions of state statute, and to clarify the applicant's options regarding the concurrent zoning of the property. No annexation application shall be submitted to the Town of Dearing, or accepted by the Land Development Officer for processing, unless the applicant has participated in a pre-application conference.

**Section 11.9.2** *Zoning Concurrent with Annexation.*

The zoning of property to be annexed into the municipal limits of the Town of Dearing shall be consistent with the applicable sections of the Georgia Zoning Procedures Law (O.C.G.A. § 36-66-1 et. seq.), and with Section 11.7 (Zoning Map Amendments) of this Code; except, that there shall be no waiting period for the reapplication of an annexation request for property for which a prior application was denied or withdrawn. Applications for a special use may also be considered concurrently with annexation applications. Where an application for annexation does not specify a preferred zoning district for the property to be annexed, the Town Council shall initiate a zoning map amendment of the subject property or properties as provided for in Subsection 11.7.1.

**Section 11.9.3** *Variance not a Condition of Annexation.*

No application for a variance, or administrative variance, for property from the provisions of this Code shall be submitted to the Town of Dearing, or accepted by the Land Development Officer for processing, while the applicable property is in the process of being annexed and until after the effective date of the pending annexation. The conditions of Town Council that may be applied to those zoning map amendment or special use applications submitted concurrent to an annexation being considered by the Town of Dearing shall not have the effect of granting a variance from the provisions of this Code.

**SECTION 11.10 VARIANCES**

Persons may seek relief, from compliance with certain requirements of the zoning-related requirements of the Dearing Land Development Code when the strict application of the Code would create a particular and unique hardship, by filing an application for variance in accordance with this Section with the Land Development Officer for consideration by the Town Council. This relief may be granted only to the extent necessary to alleviate such unnecessary hardship and not as a convenience to the applicant or to gain any advantage or interest over similarly zoned properties.

**Section 11.10.1** *Initiation and Submittal.*

An application for a variance of a provision of this Code for any property in the Town of Dearing may be initiated by the Town Council, the owner(s) of the property, or an authorized agent of the property owner(s). Variance applications shall be subject to the applicable requirements of Section 11.5.3 (Requirements for Submittal) of this Code. Each provision of this Code for which a variance is sought shall constitute a separate request and shall require the submittal of a separate application. Each property for which a variance is requested shall be considered a separate request and shall require the submittal of a separate application; except that the Town of Dearing may process a single application for multiple properties where such properties are being combined and developed as a single tract.

**Section 11.10.2** *Review and Staff Recommendation.*

The Land Development Officer shall review the variance application submittal package for completeness, and prepare the application for the consideration of the Town Council. The Land Development Officer may, but shall not be required to, distribute parts of, or the entire, variance application submittal package to other departments and external agencies for review and comment as appropriate. Written comments received as a result of, and in accordance with, the Town of Dearing's review process shall be included with the applicant's submittal package information submitted for consideration by the Land Development Officer to the Town Council. The Land Development Officer may render recommendations to the Town Council based on the criteria for consideration provided in Subsection 11.10.4, and any other relevant evidence that is applicable to a particular request.

**Section 11.10.3** *Public Hearing and Action by Governing Body.*

Variance requests shall be subject to the public notice and public hearing provisions of Section 11.5.5 (Public Notice Requirements) and 11.5.6 (Public Hearing Requirements.) In rendering a decision on a variance request, the Town Council shall consider information supplied by the Land Development Officer, and any information presented at the public hearing. The Town Council shall approve or deny the application, or it may approve the application with conditions, or table the item until the subsequent meeting of the Town Council. The action of Town Council shall be final.

Approval, approval with conditions, or denial of a variance request must be rendered by a vote of the Town Council within 60 days of the public hearing at which the request was considered; or, such request shall automatically have been determined to be denied.

**Section 11.10.4** *Criteria for Consideration of Application.*

The Town Council shall consider at least the following standards for variance requests - prioritizing those standards that are appropriate to the circumstances of each proposal:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question due to size, shape, or topography; and,
2. The strict application of the Dearing Land Development Code to this particular piece of property would create a unnecessary hardship; and,
3. There are conditions that are peculiar to the property which adversely affect its reasonable use or usability as currently zoned.
4. Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Code.
5. The applicant has illustrated beyond a doubt that a failure to approve the variance request will cause the inability to make any reasonable use of the land if the provision of the Code in question were applied literally.
6. The hardship is not self-created (e.g., a lot is purchased with the knowledge of an existing restriction)

**Section 11.10.5** *Provisions that Cannot be Varied.*

1. A condition was created by the applicant, including the result of an unwise investment or real estate decision
2. A change in conditions of approval was imposed through a rezoning application approved by the Town Council.
3. The reduction of a minimum lot size required by a zoning district.
4. The use of land or buildings or structures that is not permitted by the zoning district that is applicable to the property.

5. Any increase in the number of dwelling units or non-residential building floor area otherwise permitted by the zoning district that is applicable to the property.

***Section 11.10.6 Withdrawal of Application.***

An application for a variance from a specific provision of this Code may be withdrawn at any time at the discretion of the person or entity initiating such a request upon written notice to the Land Development Officer, up until one (1) day prior to the public hearing by Town Council. An applicant's request to withdraw the application on the day of or during the public hearing may only be granted by Town Council. Withdrawal of a variance application from a specific provision of this Code will be subject to one (1) of the following three (3) provisions:

1. If the application is withdrawn by the applicant prior to the publication of notice of a public hearing before the Town Council, the application shall be withdrawn administratively by the Land Development Officer without restriction on the re-filing of a proposed zoning map amendment in the future.
2. If the applicant withdraws the application after notice has been published or is irretrievably set for publication but the application has not been heard by the Town Council, the application shall be withdrawn administratively by the Land Development Officer and an application for a variance from the specific provision of Code in question may not be resubmitted for a period of six (6) months from the date of withdrawal.
3. If the request for withdrawal is made on the day of or during the public hearing on the case, the request may be approved by a majority vote of the Town Council, but an application for a variance from the specific provision of Code in question may not be submitted for a period of six (6) months from the date of the withdrawal.

Withdrawal of an application for a variance at any time during the submittal, review and public hearing process shall not entitle the applicant to a refund of their application fee.

***Section 11.10.7 Duration and Scope of Validity.***

The approval of the variance request on a property located in the Town of Dearing shall be in full force and effect upon its approval by the Town Council and shall be effective for a period of twelve (12) months, unless a shorter time frame is specifically established by the Town Council as a condition for variance approval. If no action is taken by the applicant to implement the purpose of the variance request within twelve (12) months from the date of approval, or other shorter time frame established by Town Council, said approval shall become null and void. A variance that is granted shall be specific to the request made only by the current applicant and shall not stay with the property.

***Section 11.10.8 Reapplication.***

If a variance application from a specific provision of this Code is denied by the Town Council, or the application for said request is otherwise withdrawn following publication of a publication in accordance with Section 11.7.5 (Withdrawal of Application), a variance application from said provision may not be considered for the property which was the subject of denial or withdrawn application for a period of six (6) months.

**SECTION 11.11 ADMINISTRATIVE VARIANCES**

The Land Development Officer shall have the authority to, upon application, to grant or deny administrative variances from certain provisions of the Dearing Land Development Code where in his or her opinion, the intent of the Dearing Land Development Code can be achieved and equal performance obtained by granting an administrative variance. The authority of the Land Development Officer to review and approve, approve subject to conditions, or deny administrative variances shall be limited only to those matters and provisions of the Code that are listed within this section.

***Section 11.11.1 Provisions Subject to Administrative Variance.***

The following provisions of the Dearing Land Development Code may be administratively varied by the Land Development Officer subject to the parameters of this section:

1. Setbacks. Front yards, Side yard, and rear yard setbacks may be reduced up to 10 feet as said footage is applied to the construction of improvement on an individual parcel.
2. Building Coverage. The maximum building coverage shall not exceed five (5) percent above the applicable maximum.
3. Maximum Height. The maximum height of a building shall not exceed eight (8) feet above the applicable maximum.
4. Paved Parking. An alternative paving material must be shown by the applicant to improve storm water run-off rates while providing the same or enhanced structural stability as those surfacing materials otherwise required by this Code.
5. Minimum Parking. A reduction in the rate of minimum required standard parking spaces shall not exceed 20 percent of the required amount and shall be considered based on the scale and impacts of the request, and the ability of the applicant to prove good cause. This Code does not permit administrative variances from minimum handicapped parking requirements.

*Section 11.11.2 Requirements for Processing Administrative Variances.*

Persons requesting an administrative variance from an eligible provision of the Dearing Land Development Code shall adhere to the requirements for submittal as provided within this section. The Town of Dearing shall process complete and accurate applications for administrative variances according to the provisions of this section; except, that the Town of Dearing shall not process requests where the submittal package is incomplete, or contains information that is improper or erroneous.

1. Submittal Package. Administrative variance requests shall be filed with the Land Development Officer. Submittal packages shall at a minimum contain an application form generated by the Town of Dearing and completed accurately, a written narrative explaining and justifying the request and any associated application fee required by the Town of Dearing.

The Land Development Officer reviewing the application is authorized to require any additional and supporting information necessary to for the applicant to justify the request for relief, whether or not such information is specifically required by the Town's administrative variance application form. The Town of Dearing reserves the right to require a separate submittal package for each provision of the Code for which an administrative variance is being sought.

2. Review for Completeness. The Land Development Officer shall review all administrative variance submittal packages within 10 business days of the receipt of the package for completeness. Initial completeness review shall not include additional and supporting information not required in writing by the Town of Dearing's application form but otherwise determined to be necessary by the Land Development Officer in order to render a fair and accurate decision. Five (5) additional business days from the initial receipt of the submittal package shall be provided for the receipt of the discretionary supporting information required by the Land Development Officer. Incomplete, improper or erroneous submittal packages, including those lacking the required discretionary information, will be returned to the applicant.
3. Decision. The Land Development Officer shall approve, with conditions, or deny administrative variance requests within 28 business days of the receipt of a completed submittal package, including required discretionary information. The decision of the Land Development Officer shall be provided in writing, and shall consider whether one (1) or more of the conditions necessary for the approval of variances exists as provided in Section 11.9 of this Code.

*Section 11.11.3 Effect of Decision.*

All administrative variances are considered on a case-by-case basis and evaluated on the individual merits of each case. The ruling of Land Development Officer on a request for an administrative variance shall not be considered a precedent substantiating future requests, and may differ between cases of perceived similarity due to a wide variety of factors, including but not limited to changing conditions of property and development, modifications of city policy, negative conditions resulting from prior grants of administrative variances, etc.

The decision of the Land Development Officer on a request for an administrative variance is final and may not be appealed to the Town Council of the Town of Dearing under the provisions of Section 11.14 (Appeals.) Any applicant that is denied an administrative variance, or who disagrees with any of the conditions set for as part of the approval of an administrative variance, may instead file a variance application under the provisions of Section 11.10 (Variances.)

**SECTION 11.12 NONCONFORMITIES**

The adoption of the Dearing Land Development Code, including subsequent amendments; or, other actions conducted under the provisions of this Code such as zoning map amendments, annexations, etc.; may deem existing uses, lots, buildings, and structures that were previously lawful before, prohibited under the terms of the Code. These nonconforming situations are declared to be incompatible with authorized and land uses, dimensional requirements, or other applicable provisions within the zoning district(s) in which they are located. The intent of the Town of Dearing is to allow these nonconformities to continue until they are otherwise removed or cease. Nonconformities shall not be used as grounds for adding other buildings, structures, or uses of land prohibited by the Dearing Land Development Code. No building, structure, or use of land shall be enlarged, expanded, moved, or otherwise altered, in any manner that will increase the nonconformity.

*11.12.1 General Parameters Related to Nonconformities*

Nonconformities of property, whether by land use, dimensional requirement, or other applicable provision of this Code shall be subject to the following and applicable general parameters:

1. Buildings or structures with nonconforming characteristics which are occupied by a nonconforming use shall not be enlarged, expanded, moved, or otherwise altered in any manner except in compliance with the Dearing Land Development Code.
2. Nonconforming uses, buildings, structures, or lots of record with nonconforming characteristics, shall not be extended or enlarged beyond the area of use either on the same lot or adjoining property or beyond the conforming size, height, or other dimension or characteristics of the building or structure as it existed on the date of the adoption of the Dearing Land Development Code or subsequent amendments.
3. No changes in plans, construction, or designated use of any building or structure for which a development or building permit was lawfully applied for or issued, or a preliminary or final subdivision plat was lawfully approved, prior to the effective date of the Dearing Land Development Code, or subsequent amendment, shall be required provided:
  - a. That the permit or approval has not expired on its terms prior to the effective date of this Code.

- b. Actual building construction is commenced prior to the expiration of such permit or approval.
  - c. Actual building construction is carried on pursuant to said permit or approval and limited to and limited to and in strict accordance with said permit or approval.
  - d. No renewals or extensions of said permit or approval shall be authorized.
4. A nonconforming use, structure, building, lot of record, or other nonconforming characteristic that is changed to a conforming state shall not be permitted to revert to a nonconforming situation.
5. No nonconforming situation shall be changed to another nonconforming situation.
6. It shall be the sole responsibility of the owner of a nonconforming lot, building or structure to prove to the Town of Dearing that such nonconformity of property was lawfully established and existed on the effective date of adoption or amendment of this Code.

#### *Section 11.12.2 Damage to Nonconforming Buildings and Structures.*

Nonconforming buildings and structures damaged by fire or other natural cause, and not as the result of unlawful activity, may be subject to re-establishment as provided within this section. Re-establishment of a nonconforming building or structure, and associated nonconforming land use, following damage by fire or other natural cause may only occur if reconstruction of the building or structure is completed within 18 months of the date of the damage.

1. Nonconforming buildings or structures with nonconforming characteristics that have been damaged by fire or other cause in an amount of less than 75 percent of the assessed value may be reconstructed according to its prior configuration; except, that the Land Development Officer may require that the situations of nonconformity be corrected as part of the permitting process, and as provided by Section 11.12.3 (Correction or Reduction of Nonconformities.) Where such nonconforming building or structure was used in whole in or part for a nonconforming land use activity or operation, such use may be re-established.
2. Nonconforming buildings or structures with nonconforming characteristics that have been damaged by fire or other cause in excess of 75 percent of the assessed value shall not be reconstructed except where such building or structure shall adhere to the dimensional requirements of this Code. Where such nonconforming building or structure was used in whole in or part for a nonconforming land use activity or operation, such use may be re-established.

Where the reconstruction of buildings and structures that are not in conformance with the dimensional requirements of this Code is permitted consistent with this Section, such reconstruction shall adhere to the most current building codes administered and enforced by the Town of Dearing, and shall not obligate the Town to approve the reconstruction of a building or structure that is structurally unsafe.

#### *Section 11.12.3 Correction or Reduction of Nonconformities.*

It is the desire of the Town of Dearing to reduce the frequency of nonconforming situations over time. To this end, the Land Development Officer is authorized to seek methods for the correction of the nonconforming use of building, land and structures during the land development or permitting approval processes provided in this Code. As part of the administrative approval of permits, or other determination or authorization process of the Town of Dearing as provided in this Code, efforts will be made to seek incremental compliance of nonconforming situations to the requirements of this Code.

As part of any land development review, whether through applications, site plan review, plats, etc., the Land Development Officer is directed to document and make note of where existing nonconforming situations exist on the property, and where such situations may be corrected or reduced through reasonable modifications to such application, plat, or plan. In determining where corrections or reductions of nonconforming situations are warranted, the Land Development Officer shall be guided by one (1) of two (2) options:

1. Strict Compliance. Conformity of the dimensional requirements of the Code can clearly be achieved through the permitting or land development approval process.
2. Proportional or Reasonable Compliance. Some degree of conformity can be achieved toward the dimensional standards of the Code.

#### *Section 11.12.4 Discontinuance and Abandonment of Nonconforming Uses.*

A nonconforming land use shall not be re-established on a property following the lapse of such nonconforming activity or operation for an extended period of time. Subject to the applicable parameters of this Section, a lapse in nonconforming land use activity shall be treated as a "discontinuance" or "abandonment." The mere issuance or re-issuance of a business license by the Town of Dearing during the period of time that would constitute a discontinuance or abandonment without additional supporting evidence provided by the owner that a tangible effort was made to re-establish the nonconforming land use on the property shall not serve as adequate justification to avoid loss of the nonconforming status.

1. Discontinuance. The lapse of the activity or operation of a non-conforming land use for a period of six (6) to 18 months shall constitute a condition of discontinuance. A nonconforming land use meeting the definition of discontinuance shall not be re-established unless the property owner proves to the Land Use Officer that a diligent effort has been made to re-establish the nonconforming land use in question prior to the expiration of the 18 month period in question through sale, rent, lease, or other similar means.
2. Abandonment. The lapse of the activity or operation of a non-conforming land use for a period of 18 or more months shall constitute a condition of abandonment. A nonconforming land use meeting the definition of abandonment shall not be re-established regardless of any prior effort of the property owner to re-establish the nonconforming land use in question during the 18 month period in question.

A condition of abandonment may also be summarily established where any nonconforming land use is conducted in an unlawful manner as provided in Section 11.12.5 (Abandonment of Nonconforming Uses for Unlawful Activity,) regardless of whether or not a lapse has occurred

in the nonconforming activity or operation.

A lapse in nonconforming land use activity for a period of time that is less than what would constitute a discontinuance or abandonment may be re-established as a legal nonconforming land use so long as all licenses and permits required by the Town of Dearing area maintained, and the use or activity is otherwise conducted in a lawful manner.

### **SECTION 11.13 APPEALS**

Persons aggrieved by the determination or action of the Land Development Officer or other designated administrative official rendered on administration or enforcement of this Code may request an appeal to the Town Council of the Town of Dearing. The appeal of determinations related to any and all of the provisions of this Code shall adhere to this section; except, where an alternative appeals process is provided within another section of this Code in order to account for unique issues related to a specific type of activity or land development.

#### *Section 11.13.1 Requirements for Processing Appeals.*

Persons appealing the determination of the Land Development Officer or other designated administrative official shall adhere to the requirements for initiation and submittal of appeals as provided within this section. The Town of Dearing shall process complete and accurate applications of appeal according to the provisions of this section; except, that the Town of Dearing shall not process appeals where the submittal package is incomplete, or contains information that is improper or erroneous.

1. Submittal Package. Appeals shall be filed with the Land Development Officer within 15 days of the decision or determination in question by a letter from the applicant stating the following:
  - a. Name of Applicant
  - b. Contact Information including: Mailing Address, Phone Number, and Email
  - c. Specific decision being appealed
  - d. Reason for requesting appeal (Including new relevant information)
  - e. Action desired by Town Council

The letter of appeal shall be accompanied by any other application form generated by the Town of Dearing for the purpose of processing appeals, completed accurately, and any associated application fee required by the Town of Dearing. A separate submittal package shall be completed and submitted for each provision, determination, and administrative action for which an appeal is being sought.

2. The filing of a full and completed submittal package of appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the Land Development Officer certifies to Town Council that by reason of the facts a stay would impede the abatement of a condition of urgent or imminent danger to the health and safety of the public.
3. The full submittal package, and all papers constituting the record upon which the determination or action appealed from was taken, shall be transmitted to the Town Council by the Land Development Officer.
4. The application of appeal shall comply with the public notice and public hearing requirements provided in Section 11.13 of this Code.
5. Appeals shall be heard by the Town Council at either the next regularly scheduled meeting or at a called meeting of the Town Council and must be held within 60 days following the acceptance of an appeals request.
6. The Land Development Officer and Town Council may call for further information to be provided at either the next scheduled meeting or called meeting of the Town Council within the next 30 days following the appeals hearing and may continue the hearing for the purpose of receiving such information, for further discussion among the Council members, or for such other proceeding as it deems appropriate.

#### *Section 11.13.2 Effect of Determination.*

The Town Council, in deciding on an appeal may in conformity with this article, affirm the Town's previous decision, reverse its previous decision, or modify the order, requirement, or decision or may return the matter to the Land Development Officer for further investigation or action as it directs.

Approval of an appeal by Town Council on an application filed in accordance of the provisions of this section shall nullify any prior and applicable administrative action taken in regard to a permit, citation, or determination on the property in question. The decision of Town Council shall be in full force and effect upon its approval and shall cause the applicable permit to be issued, citation to be revoked, determination to be reversed, other enforcement action to be rescinded, or cause to be modified any such determination or action, such as the case may be.



## **SECTION 11.14 VIOLATIONS AND ENFORCEMENT**

### *Section 11.14.1 Complaints and Violations*

Any activity conducted in a manner that is inconsistent with the provisions of this Code, including those conducted inconsistent with or in advance of receiving a permit, certification, determination, or other type of approval required herein, shall constitute a violation. Such activities shall be subject to the enforcement procedures and remedies contained in this section; unless alternative enforcement provisions are provided within another section of this Code in order to account for unique issues related to a specific type of activity or land development.

A violation, or alleged violation, of this Code may be filed by any person with the Land Development Officer either verbally or in writing; or, may be initiated by the Land Development Officer through observation. The Land Development Officer shall record such alleged violation, investigate, and undertake those activities necessary to enforce the provisions of the Code.

### *Section 11.14.2 Fines and Charges.*

1. Fines. Any person violating this Code shall be guilty of a misdemeanor and, upon conviction, shall be subject to a minimum fine of one hundred and fifty dollars (\$150.00) for each violation. Each day such violation occurs shall constitute a separate offense.
2. Abatement Expenditures. In instances where the abatement of a violation of this Code occurs through the action of the Town of Dearing, or otherwise through the expenditure of public funds, the cost of such expense may be charged by the Town of Dearing to the responsible party. The Town of Dearing shall retain discretion to determine on a case-by-case basis the method in which abatement expenditures are recovered, including through the application of a lien against the real property upon which such cost was incurred. Abatement expenditures charged to the responsible party shall be independent of, and in excess of, any fines levied as a result of conviction for the violation of this Code.

### *Section 11.14.3 Enforcement Techniques.*

The Town of Dearing may issue citations to prosecute violations of this Code before a court of competent jurisdictions; and further, shall have at their disposal the additional enforcement techniques provided within this section. The enforcement techniques listed in this section include remedies for violations or alleged violations of this Code which may be applied to responsible parties in addition to those provided in Section 11.14.2 (Fines and Charges.)

1. Stop Work Order. The Town of Dearing may upon notice order the cessation of work being performed in violation to the provisions of this Code or otherwise in a dangerous manner.
2. Injunction. The Town of Dearing may issue an injunction to cause a violation of this Code to cease or be corrected.
3. Revocation of Permit, License, or Certification. The Town of Dearing may suspend or invalidate existing land development permits, licenses, certifications, or other determinations previously issued in accordance with this Code.
4. Revocation of Legal Nonconformity. The Town of Dearing may revoke the legal nonconforming status of a building, structure, or use of land consistent with the provisions of Section 11.12 (Nonconformities.)
5. Bond Forfeiture. The Town of Dearing may deem that a person required to post a bond or other financial guarantee for performance or maintenance is in violation of the provisions of this Code, that the violator has forfeited such bond or financial guarantee, and may call the financing mechanism in order to use the proceeds for purposes of bringing the unlawful activity into compliance.
6. Withholding of Utility Service. The Town of Dearing may withhold, or request or direct an applicable utility service provider to withhold, utility service to any property on which a violation is alleged to have occurred.
7. Refusal of Plat Recording. The Town of Dearing may request or direct the Clerk of Superior Court to refuse or deny the recording of a plat that is found to be in violation of this Code, or would otherwise result in or enable the continuation of other violations of this Code upon the applicable property.
8. Summary Abatement. Notwithstanding the other enforcement techniques provided within this section, the Town of Dearing may through removal, demolition, clearance, or other similar action cause to be abated a building, structure, or property condition without prior notice having been served where in the opinion of the Town, the violation constitutes a condition of urgent or imminent danger to the health and safety of the public.
9. Other Necessary Actions. The Land Development Officer is authorized to take other appropriate or necessary action to ensure compliance with or to prevent the violation of the provisions of this Code.

The specific methods or processes utilized by the Town of Dearing for the purpose of enforcing violations or alleged violations of this Code shall vary according to the type of violation, and according to other factors which may include but not be limited to repetitive violations by a specific party, or on a specific property. The Town of Dearing shall seek to provide consistency in enforcement methods and processes where the nature of Code violations is similar.

