

CITY OF NICHOLSON, GEORGIA
ZONING ORDINANCE

Adopted October 4, 2010

AN ORDINANCE ADOPTING A NEW ZONING ORDINANCE
OF THE CITY OF NICHOLSON, GEORGIA,
TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES;
TO PROVIDE FOR SEVERABILITY; TO PROVIDE FOR AN EFFECTIVE DATE;
AND FOR OTHER LAWFUL PURPOSES

WHEREAS, the Constitution of the State of Georgia, effective July 1, 1983, provides in Article IX, Section II, Paragraph IV thereof, that the governing authority of a city may adopt plans and exercise the power of zoning; and

WHEREAS, Pursuant to Georgia Code Section 36-70-3, the governing bodies of municipalities and counties are authorized to develop, establish, and implement land use regulations which are consistent with the comprehensive plan of the municipality or county; and

WHEREAS, the Georgia General Assembly has enacted the Georgia Planning Act of 1989, (Georgia Laws, 1989, pp. 1317-1391, Act 634) which among other things provides for local governments to adopt plans and regulations to implement plans for the protection and preservation of natural resources, the environment and vital areas; and

WHEREAS, the Georgia Department of Community Affairs has promulgated Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989, said standards and procedures were initially ratified by the Georgia General Assembly, and said rules which have been amended from time to time require local governments to describe regulatory measures and land development regulations needed to implement local Comprehensive Plans; and

WHEREAS, the Nicholson City Council has adopted a Comprehensive Plan in accordance with the requirements of the Georgia Planning Act of 1989 and Rules of the Georgia Department of Community Affairs; and

WHEREAS, the Comprehensive Plan specifies a number of goals and policies that are not currently implemented by the city's land use regulations; and

WHEREAS, the Nicholson City Council desires to help assure the implementation of its Comprehensive Plan; and

WHEREAS, the Nicholson City Council desires to promote the health, safety, welfare, morals, convenience, order, and prosperity of the city and its citizens; and

WHEREAS, the Nicholson City Council desires to promote responsible growth, lessen congestion in the public thoroughfares, secure safety from fire and health dangers, and promote desirable living conditions; and

WHEREAS, the Nicholson City Council desires to regulate the height, bulk, and the size of buildings and structures; and

WHEREAS, the Nicholson City Council desires to regulate the distribution of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values; and

WHEREAS, the General Assembly of the State of Georgia enacted the Zoning Procedures Law, O.C.G.A. 36-66 et seq., so as to provide procedures for the exercise of zoning powers by cities and counties; and

WHEREAS, appropriate public notice and hearing have been accomplished; and

Now, therefore, THE COUNCIL OF THE CITY OF NICHOLSON HEREBY ORDAINS as follows:

Section 1.

The zoning ordinance of the City of Nicholson existing on the effective date of this ordinance is hereby repealed in its entirety and replaced with a new zoning ordinance which is attached to and hereby made a part of this ordinance.

Section 2.

All ordinances and resolutions or portions thereof in conflict with this ordinance are repealed to the extent of their conflict.

Section 3.

Should any section or provision of this ordinance be declared invalid or unconstitutional by any court of competent jurisdiction, such declaration shall not affect the validity of this ordinance as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

Section 4.

The effective date of this ordinance shall be upon approval by the Council of the City of Nicholson, Georgia.

Adopted, this 4th day of October, 2010.

ATTEST:

Mayor

City Clerk

Council Member

Council Member

Council Member

APPROVED AS TO FORM:

Council Member

City Attorney

Council Member

Council Member

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**ARTICLE I
GENERAL**

- Section 1.01. Short Title.
- Section 1.02. Authority.
- Section 1.03. Jurisdiction.
- Section 1.04. Purposes.

Section 1.01. Short Title.

This ordinance shall be known and may be cited as the Nicholson Zoning Ordinance.

Section 1.02. Authority.

This ordinance is adopted pursuant to authority provided as follows:

1. Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia, effective July 1, 1983, which provides that the governing authority of a city may adopt plans and exercise the power of zoning; and
2. Georgia Code Section 36-66-2, which recognizes and confirms the authority of local governments to exercise zoning powers, subject to minimum procedures governing the exercise of zoning powers; and
3. Georgia Code Section 36-70-3, which authorizes governing bodies of municipalities to develop, establish, and implement land use regulations which are consistent with the comprehensive plan of the municipality or county; and
4. Minimum Standards and Procedures for Local Comprehensive Planning (Chapter 110-3-2 of Rules of the Georgia Department of Community Affairs) to implement the Georgia Planning Act of 1989, which require local governments to describe regulatory measures and land development regulations needed to implement local Comprehensive Plans; and
5. The City Charter of the City of Nicholson, which establishes powers of the city.

Section 1.03. Jurisdiction.

The jurisdiction of this ordinance shall be the city limits of Nicholson, as established by city charter and including any such additions to the city limits as may have been made or may be made from time to time in the manner provided by local law and/or general state law.

Section 1.04. Purposes.

This ordinance serves the following purposes which shall not be considered exhaustive.

1. To prevent air and water pollution;
2. To regulate and/or to prohibit the keeping of animals and fowl;
3. To regulate the erection and construction of buildings and all other structures, and to regulate the height, bulk, placement and the size of buildings and structures;
4. To protect and preserve the natural resources, environment and vital areas of the City;

5. To regulate the operation of motor vehicles and exercise control over all traffic, including parking upon or across the streets, roads, alleys, and walkways of the city;
6. To establish a planning commission of the city; and to confer upon such commission the necessary and appropriate authority for carrying out all the powers conferred upon or delegated to the same;
7. To provide for the protection of property of the city;
8. To regulate or prohibit specific businesses and commercial activities which may be dangerous to persons or property; and
9. To regulate the transportation, storage, and use of combustible, explosive, and flammable materials; and
10. To implement the city's adopted comprehensive plan; and
11. To promote responsible growth, lessen congestion in the public thoroughfares, secure safety from fire and health dangers, and promote desirable living conditions; and
12. To regulate the distribution of uses on the land to avoid both the undue concentration of population and the inappropriate dispersion of population, prevent the encroachment of incompatible land uses within residential areas, and preserve property values; and
13. To provide procedures for the exercise of zoning powers pursuant to and consistent with the Zoning Procedures Law, O.C.G.A. 36-66 et seq.; and
14. To discourage sizes and types of development which would create excessive requirements and costs for public services; and
15. To discourage or prohibit uses in certain locations which because of their size or type would generate an abnormal amount of traffic on minor streets; and
16. To establish relationships between and among land uses that will ensure compatibility and maintain quality of life; and
17. To protect and promote suitable environments for family and household residences, institutions, commercial and other employment centers, and other uses; and
18. For the purpose of all other powers, functions, rights, privileges, and immunities necessary or desirable to promote or protect the safety, health, peace, security, good order, comfort, convenience, or general welfare of the city and its inhabitants.

**ARTICLE II
ESTABLISHMENT OF ZONING DISTRICTS AND OFFICIAL ZONING MAP**

- Section 2.01. Zoning Districts Established.
- Section 2.02. Official Zoning Map.
- Section 2.03. Amendment of Official Zoning Map.
- Section 2.04. Correction and Update of Property Lines on Official Zoning Map.
- Section 2.05. Rules Governing Boundaries.

Section 2.01. Zoning Districts Established.

The following zoning districts are hereby established:

- AG, Agricultural District
- RR, Rural Residential District
- SR, Suburban Residential District
- INST, Institutional District
- TC, Town Center District
- HB, Highway Business District

Section 2.02. Official Zoning Map.

1. The boundaries of zoning districts created by this ordinance are hereby established as shown on a map entitled the “Official Zoning Map” of the City of Nicholson, Georgia.
2. The official zoning map and all explanatory matter thereon accompany and are hereby made a part of this ordinance. The official zoning map shall indicate the date of adoption and most recent amendment. The original of the official zoning map shall be kept in the office of the City Clerk.
3. The official zoning map may be kept electronically in a geographic information system and such electronic data shall constitute an integral part of the official zoning map.
4. The city may make copies of the official zoning map available to the public for a reasonable fee.

Section 2.03. Amendment of Official Zoning Map.

If, in accordance with the provisions of Article VIII of this ordinance, the Nicholson City Council approves changes in the district boundaries or other subject matter portrayed on the official zoning map, such changes shall be made promptly after the amendment or change has been approved by the Nicholson City Council. Once an amendment to the official zoning map has been approved by the Nicholson City Council, it shall be considered an administrative action to amend the official zoning map to properly depict the map amendment approved by the Nicholson City Council, and additional approval or action by Council shall not be necessary.

Section 2.04. Correction and Update of Property Lines on Official Zoning Map.

1. The Zoning Administrator is authorized to correct or update property lines depicted on the official zoning map, as such changes to the tax records of the city are made through land subdivision and combination of lots, without a requirement to seek approval of the

Nicholson City Council, provided that such changes to property lines do not affect a zoning or overlay district boundary except as otherwise specifically provided in this section.

2. In any instance where the property lines as shown on a the official zoning map deviate from a boundary survey prepared by a registered land surveyor for the lot or tract in question, and such deviation is attributed by the Zoning Administrator to a drafting error or imperfection in the property parcel data base originally used in preparing the official zoning map, the Zoning Administrator is authorized to correct the official zoning map to show the boundaries of the zoning or overlay district to follow the boundaries as shown on said boundary survey. Any such correction shall be considered an administrative action, and additional approval or action by City Council shall not be necessary to correct the official zoning map.

Section 2.05. Rules Governing Boundaries.

This section shall govern administrative determinations by the Zoning Administrator in cases where there is uncertainty with regard to the zoning and/or overlay district boundaries shown on the official zoning map. Where such uncertainty exists, the following provisions shall apply:

1. **City limit lines.** Where boundaries are indicated as approximately following the corporate limit line of the city, such corporate limit line shall be construed to be such boundaries.
2. **Street centerlines and right of ways.** Where boundaries are indicated as approximately following the centerline of streets or highways, street right-of-way lines or such lines extended, such centerline, street right-of-way lines or such lines extended shall be construed to be such boundaries.
3. **Property lines.** Where boundaries are indicated as following property lines, such property lines shall be construed to be such boundaries. The boundaries shall be determined on the basis of the legal descriptions or boundary surveys associated with approved map amendments, where available.
4. **Stream and river beds.** Where boundaries are indicated as approximately following the centerline of stream beds or river beds, or the outer edge of such stream bed or river bed, such centerline or edge of stream or river bed shall be construed to be such boundaries.
5. **Abandonment.** Where a public street or other right-of-way is officially vacated or abandoned, and said street or right-of-way is also a zoning district or overlay district boundary, the regulations applicable to the property to which it reverted shall apply to such vacated or abandoned public street or right-of-way.
6. **Administrative determination.** In any case where the exact location of a boundary cannot be determined by the foregoing methods, the Zoning Administrator shall determine the location of the boundary. Any such administrative determination is subject to appeal as an administrative decision in accordance with Article VIII of this ordinance.

**ARTICLE III
GENERAL PROVISIONS**

- Section 3.01. Use, Occupancy and Erection.
- Section 3.02. Use Prohibited When Not Specified.
- Section 3.03. Specific Use Provisions.
- Section 3.04. Minimum Requirements.
- Section 3.05. Every Use Must Be Upon a Lot of Record.
- Section 3.06. One Single-Family Dwelling on a Lot.
- Section 3.07. Height Limitations.
- Section 3.08. Maximum Density, Minimum Lot Size, and Minimum Lot Width.
- Section 3.09. Minimum Floor Area Per Dwelling Unit.
- Section 3.10. Minimum Required Yards and Building Setbacks.
- Section 3.11. Principal Building Separation.
- Section 3.12. Maximum Building Coverage.
- Section 3.13. Minimum Landscaped Open Space.
- Section 3.14. Minimum Required Landscape Strips and Buffers.
- Section 3.15. Street Frontage Requirement.
- Section 3.16. Zoning of Annexed Lands.
- Section 3.17. Validity of Existing Conditions of Zoning or Use Approval.

Section 3.01. Use, Occupancy and Erection.

No building, structure, land, or water shall hereafter be used or occupied, and no building or structure or part thereof shall be erected, constructed, reconstructed, moved, or structurally altered except in conformity with the regulations of this ordinance or amendments thereto, including the use provisions for the zoning district in which it is located, and any specific use provisions, if applicable.

Section 3.02. Use Prohibited When Not Specified.

Any use not specifically permitted as a use by right or specifically indicated as a conditional use in any given zoning district as provided in Article IV of this ordinance shall be prohibited in that zoning district.

Section 3.03. Specific Use Provisions.

In cases where a use is a permitted use in the zoning district in which said use is located but there are specific use regulations for that use specified in Article V of this ordinance, such regulations shall also apply and must be complied with. It shall be unlawful to establish a use without conforming to the specific use provisions of this ordinance, when applicable.

Section 3.04. Minimum Requirements.

Within each zoning district, the regulations set forth shall be minimum requirements and shall apply uniformly to each class or kind of building, structure or land, except as may be altered through conditions of zoning applied to specific properties.

Section 3.05. Every Use Must Be 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 ordinance, except as otherwise specifically provided in this ordinance.

Section 3.06. One Single-Family Dwelling on a Lot.

Except as otherwise specifically provided in this ordinance, only one single-family dwelling and its accessory buildings may hereafter be erected on any one lot intended for such use. This provision shall not be construed to prevent the construction of more than one detached single-family condominium, or multiple-family dwelling on a single lot, in districts where permitted, subject to setbacks and separation as provided in this ordinance.

Section 3.07. Height Limitations.

Except as otherwise specifically provided in this section, no building or structure shall hereafter be erected, constructed, reconstructed, or altered, to exceed the maximum height of buildings and structures specified in this ordinance; provided, however, the Nicholson City Council may upon application and approval of a conditional use allow buildings and structures to exceed these height limitations, subject to procedures for conditional uses established in Article VIII of this ordinance.

The height limitations established herein shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, electricity transmission towers, utility poles, and similar structures.

Section 3.08. Maximum Density, Minimum Lot Size, and Minimum Lot Width.

No lot shall hereafter be developed with a number of housing units that exceeds the residential density for the zoning district in which the lot is located as established by this ordinance. No lot shall hereafter be developed that fails to meet the minimum lot size and minimum lot width for the zoning district in which the lot is located as established by this ordinance, except as otherwise specifically provided. No lot shall be reduced in size, and no principal building shall hereafter be constructed, so that the maximum density, minimum lot size, or minimum lot width of the zoning district, as the case may be, in which said lot and building are located are not maintained, except as otherwise specifically provided in this ordinance.

Section 3.09. Minimum Floor Area Per Dwelling Unit.

No new dwelling shall hereafter be constructed or occupied that fails to meet the minimum floor area for a dwelling unit as established by the zoning district in which the property is located as specified in this ordinance. No existing dwelling shall be reduced in size so that its floor area fails to meet the minimum floor area for a dwelling unit as established by the zoning district in which the property is located as specified in this ordinance.

Section 3.10. Minimum Required Yards and Building Setbacks.

1. No building or structure shall hereafter be erected in a manner to have narrower or smaller front yards, side yards, or rear yards than specified for the zoning district in which the property is located. Buffer requirements established by this ordinance, where applicable, supersede these minimum required yards.

2. No lot shall be reduced in size, and no principal building shall hereafter be constructed, so that the front, side, or rear yards of the zoning district in which said lot and building are located are not maintained.
3. This section shall not apply to portions of lots affected by public acquisition of part of the lot.
4. No part of a yard shall be included as a part of the yard required for another building.

Section 3.11. Principal Building Separation.

1. Except as otherwise provided in this section, on lots where more than one principal building is permitted, the building separation shall be a minimum of twenty (20) feet for one-story structures, and thirty (30) feet when one or both principal buildings are two-story or taller structures.
2. Individual dwelling units within attached single-family fee simple dwellings (townhouses, which are zero lot line on one or both sides) shall be exempt from this requirement, although this provision shall apply to townhouse buildings. Development in the TC, Town Center zoning district shall also be exempt from this building separation requirement.

Section 3.12. Maximum Building Coverage.

No lot shall hereafter be developed to exceed the maximum building coverage specified for the zoning district in which it is located, if applicable.

Section 3.13. Minimum Landscaped Open Space.

No lot shall be developed with less than the minimum landscaped open space specified for the zoning district in which said lot is located, if applicable, or as may be established by any other article or section of this ordinance, if applicable.

Section 3.14. Minimum Required Landscape Strips and Buffers.

No lot shall hereafter be developed, and no building or structure shall hereafter be erected or use established in a manner so that the minimum landscape strips and buffers required by this ordinance for the zoning district in which said building, structure, or use is located, or for the specific use if buffer and landscape strip requirements are established for said use.

Section 3.15. Street Frontage Requirement.

No building or structure shall hereafter be erected on a lot, and no lot shall hereafter be created or subdivided, that does not abut for at least thirty (30) feet on a public street, or an approved private street, unless specifically provided otherwise by this ordinance.

Section 3.16. Zoning of Annexed Lands.

Property annexed or proposed to be annexed into the city limits shall be zoned in accordance with the Zoning Procedures Law, O.C.G.A. 36-66, and this ordinance. Such property annexed may be zoned by the Nicholson City Council to any zoning district or districts established in this ordinance.

Section 3.17. Validity of Existing Conditions of Zoning or Use Approval.

Notwithstanding the repeal of prior ordinances in conflict with this ordinance upon its adoption, if a property was zoned subject to conditions or use approved subject to certain conditions existing and in effect at the time of adoption of this ordinance by Nicholson City Council, such zoning conditions or conditions of use approval shall continue to apply to said property.

**ARTICLE IV
ZONING DISTRICTS**

- Section 4.01. AG, Agricultural District.
- Section 4.02. RR, Rural-Residential District.
- Section 4.03. SR, Suburban Residential District.
- Section 4.04. INST, Institutional District.
- Section 4.05. TC, Town Center District.
- Section 4.06. HB, Highway Business District.

Section 4.01. AG, Agricultural District.

1. **Purpose and Intent.** This zoning district implements the “agricultural” character area of the Nicholson Comprehensive Plan as shown on the future development map of the Community Agenda. The agricultural zoning district is established with the intent of providing for agricultural and forestry uses in the City of Nicholson. It is also intended to retain the agricultural and rural character of the city. Much of the land in this category is simply vacant or undeveloped, but other tracts are forested and there is also some raising of livestock in this zoning district. The general intensity of development is very low. Residential land uses are allowed but they are limited to single-family, site-built homes on individual lots and manufactured homes on individual lots. Conventional suburban subdivisions even at low densities are considered incompatible with desired agricultural character. In agricultural zoning districts, public water may or may not be available, and sanitary sewer service is not available.
2. **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 4.1, “Permitted and Conditional Uses for Zoning Districts.”
3. **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 4.2, “Dimensional Requirements for Zoning Districts.”

Section 4.02. RR, Rural-Residential District.

1. **Purpose and Intent.** This zoning district implements the “large lot - rural residential” character area of the Nicholson Comprehensive Plan as shown on the future development map of the Community Agenda. The rural residential zoning district is established with the intent of retaining the rural residential character of neighborhoods, subdivisions, and settlements in Nicholson. The general intensity of development is low. In rural residential zoning districts, public water may or may not be available, and sanitary sewer service is not available. Single-family, site built and manufactured homes are permitted. Density of development is generally too low to support the provision of pedestrian facilities (sidewalks). The overall intent of this zoning district is to preserve rural and estate residential character, and provide for very low density rural residential uses. Areas designated as RR zoning are inappropriate for urban development.
2. **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 4.1, “Permitted and Conditional Uses for Zoning Districts.”
3. **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 4.2, “Dimensional Requirements for Zoning Districts.”

Section 4.03. SR, Suburban Residential District.

1. **Purpose and Intent.** This zoning district implements the “in-town/suburban residential” character area of the Nicholson Comprehensive Plan as shown on the future development map of the Community Agenda. This zoning district provides areas for conventionally constructed (stick/site built) detached, single-family homes at suburban densities. Manufactured homes are not permitted in this zoning district. Subdivisions in this zoning district are typically built to conventional, suburban subdivision design principles including curvilinear streets and streets ending in circular cul-de-sacs. In suburban residential zoning districts, public water is typically available, and sanitary sewer service is generally not available. Therefore, the general intensity of development is low to moderate, limited by the lack of sanitary sewer service. Lots generally meet Health Department requirements for on-site sewage management systems (e.g., septic tanks) where public water is available. New subdivisions built to traditional neighborhood development principles (connected streets in a grid or grid-like pattern) are also permitted and encouraged, particularly where located within walking distance to the TC, Town Center, zoning district. Densities are, however, sufficient to support pedestrian activity, particularly in connection with uses in the Town Center zoning district.
2. **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 4.1, “Permitted and Conditional Uses for Zoning Districts.”
3. **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 4.2, “Dimensional Requirements for Zoning Districts.”

Section 4.04. INST, Institutional District.

1. **Purpose and Intent.** This zoning district implements the “government-institutional” character area of the Nicholson Comprehensive Plan as shown on the future development map of the Community Agenda. This zoning district accommodates federal, state, or local government uses outside of the Town Center zoning district, and a wide variety of institutional land uses. Government uses include but are not limited to fire stations and schools. Private institutional uses include schools, churches, cemeteries, and private non-profit meeting halls, among others.
2. **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 4.1, “Permitted and Conditional Uses for Zoning Districts.”
3. **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 4.2, “Dimensional Requirements for Zoning Districts.”

Section 4.05. TC, Town Center District.

1. **Purpose and Intent.** This zoning district implements the “town center” character area of the Nicholson Comprehensive Plan as shown on the future development map of the Community Agenda. The Town Center District of Nicholson envisions the long-term transformation of the central area of the city into a concentrated downtown core. Water service is available, and sanitary sewer service is eventually contemplated to be provided, though it does not exist at the time this zoning district is established in 2010.

Commercial uses are permitted but they are required to be pedestrian oriented. Certain highway-oriented uses are excluded, as they are more appropriately located in HB, Highway Business zoning district and if permitted in the TC zoning district would detract from the desired compact, pedestrian oriented character of the TC zoning district. Residential uses are also permitted and are encouraged to be co-located with commercial uses in mixed use developments. Institutional uses such as churches are also permitted in the TC zoning district.

2. **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 4.1, "Permitted and Conditional Uses for Zoning Districts."
3. **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 4.2, "Dimensional Requirements for Zoning Districts."

Section 4.06. HB, Highway Business District.

1. **Purpose and Intent.** This zoning district implements the "highway commercial" character area of the Nicholson Comprehensive Plan as shown on the future development map of the Community Agenda. This zoning district accommodates mostly non-industrial business uses, including retail sales, offices, services, restaurants and commercial recreational facilities. Industrial establishments are generally not permitted but certain establishments with industrial-type characteristics are permitted or conditional uses. Furthermore, this zoning district is more permissive than the TC, Town Center zoning district in that it permits a variety of highway-oriented commercial uses. This zoning district is intended to be limited primarily, if not exclusively, to properties fronting on U.S. Highway 441. In highway business zoning districts, public water is generally available, but sanitary sewer service is generally not available. Development in this district is mostly auto-dependent, although sidewalks exist along much of U.S. Highway 441.
2. **Permitted and Conditional Uses.** Permitted and conditional uses shall be as provided in Table 4.1, "Permitted and Conditional Uses for Zoning Districts."
3. **Dimensional Requirements.** Dimensional requirements shall be as provided in Table 4.2, "Dimensional Requirements for Zoning Districts."

**Table 4.1
Permitted and Conditional Uses for Zoning Districts**

P = Permitted; C = Conditional Use; X = Prohibited

Use Description	AG	RR	SR	INST	TC	HB
USES AND STRUCTURES ACCESSORY TO PERMITTED RESIDENTIAL USES						
Accessory uses and structures not otherwise listed in this table, determined by the Zoning Administrator to be normally incidental to one or more permitted residential uses	P	P	P	P	P	P
Carport	P	P	P	P	P	P
Dog house or other household pet structure	P	P	P	P	P	P
Dwelling, farm tenant	C	X	X	X	X	X
Greenhouse	P	P	P	P	P	P
Guest house	P	P	P	P	P	P
Home occupation	P	P	P	P	P	P
Riding stable, horse or pony, private	P	P	X	X	X	X
Sign, per Nicholson sign regulations	P	P	P	P	P	P
Storage shed, side or rear yard only	P	P	P	P	P	P
Swimming pool, private	P	P	P	P	P	P
Tennis court, private	P	P	P	P	P	P
Tower, amateur radio	P	P	P	P	P	P
USES AND STRUCTURES ACCESSORY TO PERMITTED NON-RESIDENTIAL USES						
Accessory uses and structures not otherwise listed in this table, determined by the Zoning Administrator to be normally incidental to one or more permitted principal non-residential uses	P	P	P	P	P	P
AGRICULTURAL USES						
Agriculture, agricultural facilities, and agricultural operations, except as more specifically noted in this table	P	P	X	X	X	X
Boarding of horses	P	P	X	X	X	X
Dairy	P	X	X	X	X	X
Forestry	P	P	X	X	X	X
Livestock, cattle or sheep or similar animal	P	P	X	X	X	X
Livestock, poultry or hog	P	C	X	X	X	X
RESIDENTIAL USES						
Dwelling, single-family, detached, stick/site-built	P	P	P	P	P	P
Dwelling, two-family (duplex)	X	X	C	X	C	X
Dwelling, multi-family apartment	X	X	C	X	C	X
Dwelling, multi-family, attached condominium	X	X	C	X	C	X
Dwelling, single-family, detached, stick/site-built, relocated from another site	P	P	P	P	P	P
Dwelling, townhouse, fee-simple	X	X	C	X	C	X
Industrialized building, residential (single-family, detached)	P	P	P	P	P	P
Manufactured home	P	P	X	X	X	X
Manufactured home park	X	C	X	X	X	X
Mobile home	X	X	X	X	X	X
INSTITUTIONAL USES						
Cemetery	P	P	P	P	X	X
Church, temple, synagogue, place of worship	X	C	C	P	P	P
Club or lodge, nonprofit (VA, Elks, etc.)	X	C	C	P	P	P
College or university	X	X	X	P	P	P
Continuing care retirement community	X	X	X	C	C	C

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Use Description	AG	RR	SR	INST	TC	HB
Crisis center	X	X	X	C	C	C
Group home or rooming house, not more than 6 persons plus caretakers	C	C	C	P	P	P
Group home or rooming house, more than 6 persons plus caretakers	X	X	X	P	P	P
Institutionalized residential living and care facilities, serving less than eighteen (18) persons	X	X	X	P	P	P
Institutionalized residential living and care facilities, serving eighteen (18) or more persons	X	X	X	C	C	C
School, private, for the arts	X	X	X	P	P	P
School, private, elementary, middle, high	X	X	X	P	P	P
School, private, special	X	X	X	P	P	P
School, private, trade	X	X	X	P	P	P
RECREATIONAL USES						
Community garden	P	P	P	P	P	P
Community recreation facility	P	P	P	P	P	P
Conservation and/or common area	P	P	P	P	P	P
Community building	P	P	P	P	P	P
COMMERCIAL/INDUSTRIAL USES						
Adaptive reuse of a detached single-family dwelling for an office	X	X	X	C	P	P
Adult business	X	X	X	X	X	C
Automobile sales or service establishment	X	X	X	X	C	P
Bed and breakfast inn	C	X	X	X	P	P
Broadcasting studio	X	X	X	C	P	P
Bulk storage facility	X	X	X	X	X	C
Business service establishment, not exceeding 2,500 square feet of gross floor area	X	X	X	C	P	P
Business service establishment, more than 2,500 square feet of gross floor area	X	X	X	C	P	P
Camp or campground	X	X	X	C	X	P
Clinic	X	X	X	P	P	P
Commercial recreational facility, indoor	X	X	X	X	P	P
Commercial recreational facility, outdoor	X	X	X	X	X	C
Contractor's establishment	X	X	X	X	X	P
Convenience store with or without gasoline pumps	X	X	X	X	P	P
Country club	X	X	X	X	X	P
Day care center serving fewer than 18 persons	X	X	X	P	P	P
Day care center serving 18 or more persons	X	X	X	C	P	P
Exterminator, pest control or disinfecting service	X	X	X	C	P	P
Fairgrounds	X	X	X	C	C	C
Finance, insurance, and real estate establishments, including bank, 2,500 square feet or less of gross floor area per establishment	X	X	X	C	P	P
Finance, insurance, and real estate establishments, including bank, more than 2,500 square feet of gross floor area per establishment	X	X	X	C	P	P
Fuel oil distributor	X	X	X	X	X	P
Funeral home, mortuary, or mausoleum	X	X	X	C	P	P
Greenhouse or plant nursery, commercial	X	X	X	X	P	P
Health spa	X	X	X	X	P	P
Kennel	C	C	X	X	X	P
Landfill	X	X	X	X	X	C
Landscaping company	X	X	X	X	X	P
Live-work unit	X	X	X	X	P	P
Lodging service (hotel, motel)	X	X	X	X	P	P
Manufacturing, less than 5,000 square feet incidental to a permitted use	X	X	X	X	P	P

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Use Description	AG	RR	SR	INST	TC	HB
Manufacturing, 5,000 square feet to less than 10,000 square feet incidental to a permitted use	X	X	X	X	P	P
Manufacturing, 10,000 square feet or more, principal use	X	X	X	X	X	C
Museum	X	X	X	P	P	P
Office	X	X	X	P	P	P
Office/warehouse	X	X	X	X	X	C
Open air business	X	X	X	X	C	P
Parking lot, off-site	X	X	X	P	P	P
Parking structure	X	X	X	X	X	X
Personal service establishment, 2,500 square feet or less of gross floor area per establishment	X	X	X	C	P	P
Personal service establishment, more than 2,500 square feet of gross floor area per establishment	X	X	X	C	P	P
Research laboratory	X	X	X	P	P	P
Restaurant with or without drive-through	X	X	X	X	P	P
Retail trade establishment, enclosed	X	X	X	X	P	P
Riding stable or commercial boarding of horses, riding academy or equestrian center	C	X	X	X	X	P
Salvage yard or junkyard	X	X	X	X	X	C
Service and fuel filling station	X	X	X	X	C	P
Solid waste transfer facility	X	X	X	X	X	C
Special event facility	C	X	X	C	P	P
Taxi-cab or limousine service	X	X	X	C	P	P
Tire retreading and recapping facilities	X	X	X	X	X	P
Truck stop	X	X	X	X	X	C
Vehicle emission testing facility	X	X	X	X	X	P
Veterinary clinic or animal hospital	C	X	X	X	P	P
Warehouse or storage building	X	X	X	X	X	C
Wholesale trade establishment, less than 10,000 square feet incidental to a permitted use	X	X	X	X	C	C
Wireless telecommunication equipment and wireless telecommunication facilities	C	X	X	C	C	C
Wrecked motor vehicle compound	X	X	X	X	X	C
OTHER USES						
Aircraft landing areas	X	X	X	X	X	C
Helicopter landing pad	X	X	X	X	X	C
Mining, quarrying, or other extractive industry	X	X	X	X	X	C
Mixed-use buildings and mixed-use developments	X	X	X	X	P	P
Public uses	P	P	P	P	P	P
Temporary uses and structures approved by the Zoning Administrator	P	P	P	P	P	P

**Table 4.2
Dimensional Requirements for Zoning Districts**

Dimensional Requirement	AG	RR	SR	INST	TC	HB
RESIDENTIAL DENSITY, AND LOT SIZE AND WIDTH REQUIREMENTS						
Minimum lot size, detached single-family dwelling (acres or square feet as indicated)	8 acres (note 1)	2 acres	26,000	26,000	26,000	26,000
Minimum lot size for other permitted uses (square feet except as noted)	2 acres	1 acre	26,000	20,000	20,000	20,000
Minimum lot width, all uses (feet)	200	150	100	100	60	100
BUILDING AND SITE REQUIREMENTS						
Maximum building coverage (percent)	None	20	25	30	None	30
Minimum landscaped open space (percent)	None	None	None	15	None	15
Minimum landscape strip required along right-of-ways (feet)	None	None	None	10	None	15
BUILDING HEIGHT REQUIREMENTS						
Maximum height (feet)	50	40	40	45	40	45
Maximum height (number of stories)	2	2	2	2	2	2
PRINCIPAL BUILDING SETBACKS (MINIMUM)						
Front (feet)	50	50	30	40	None	40
Side (feet), abutting any RR or SR zoning district	10	10	20	30	20	30
Side (feet), not abutting a RR or SR zoning district	15	15	20	20	None	20
Rear (feet), abutting any RR or SR zoning district	30	30	20	40	30	50
Rear (feet), not abutting a RR or SR zoning district	50	30	20	30	None	40
Natural vegetative buffer, replanted where sparsely vegetated, side or rear yard abutting any RR or SR zoning district (within, not in addition to, required setback)	None	None	None	20	10	20
MINIMUM FLOOR AREA PER DWELLING UNIT (square feet of heated floor area)	700	700	1,000	700	700	700

Note 1. In the AG zoning district, notwithstanding this minimum lot size, up to three (3) lots may be created within any given three (3) year period, if each lot has a minimum lot size of at least 1 acre and is no larger than 2 acres.

**ARTICLE V
SPECIFIC USE PROVISIONS**

- Section 5.01. Accessory Building, Structure, or Use.
- Section 5.02. Amateur Radio Tower/Antenna.
- Section 5.03. Condominium Ownership.
- Section 5.04. Construction Field Office.
- Section 5.05. Day Care Center.
- Section 5.06. Fences and Walls.
- Section 5.07. Guest House.
- Section 5.08. Home Occupation.
- Section 5.09. Junked Vehicle or Material.
- Section 5.10. Livestock Quarters and Enclosures.
- Section 5.11. Manufactured Home.
- Section 5.12. Swimming Pool, Private.
- Section 5.13. Tennis Court, Private.
- Section 5.14. Vehicle or Implement for Sale.
- Section 5.15. Vehicle Storage.
- Section 5.16. Yard Sale.

Section 5.01. Accessory Building, Structure, or Use.

1. **Yard Location.** Accessory buildings, structures, and uses shall be located in a rear yard or side yard, unless otherwise specifically provided in this ordinance.
2. **Setback.** Accessory buildings and structures shall be located a minimum of 5 feet from any side or rear property line.
3. **Height.** Accessory buildings shall not exceed two stories or 24 feet in height in RR and SR zoning districts.
4. **Size Limitations.** Except in agricultural zoning districts, in no case shall an accessory building or structure exceed the square footage of the principal building or structure to which it is accessory.
5. **Timing.** No accessory building, structure, or use shall be erected on a lot until construction of the principal building or establishment of principal use has commenced. Accessory buildings and structures must be constructed in conjunction with, or after, a building permit for the principal building is lawfully approved or use is established.

Section 5.02. Amateur Radio Tower/Antenna.

In zoning districts where permitted, amateur radio towers and antennas shall not exceed a height of 50 feet without conditional use permit approval. The antenna/tower shall be set back a distance of at least one-half the height of the tower/antenna from all property lines.

Section 5.03. Condominium Ownership.

If a condominium form of ownership is proposed, the development shall meet all applicable state laws including the Georgia Condominium Act (O.C.G.A. 44-3-70 et. seq.). Proposed bylaws and

the articles of incorporation for the condominium association shall be submitted to the Zoning Administrator with the application for development permit approval.

Section 5.04. Construction Field Office.

Manufactured homes or other temporary buildings or structures shall not be occupied as a permanent office or for any other use in any district; provided, however that an industrialized building or other temporary buildings or structures may be used for a temporary office or other permitted non-residential use, subject to the following:

1. Approval by the Zoning Administrator and issuance of a permit by the Building Inspector;
2. Said permit shall be temporary but renewable once after a period of six (6) months;
3. Said permit shall only be issued if plans and permit(s) have been approved for one or more permanent buildings on the subject property;
4. Adequate water and sewage disposal for the structure(s) is approved by the Jackson County Health Department; and
5. Said industrialized building or temporary building or structure(s) shall be removed from the site no later than upon the occupancy of the appropriate permanent building(s) or structure(s) intended for such use.

Section 5.05. Day Care Center.

In zoning districts where permitted, day care centers shall have at least one hundred and fifty (150) square feet of outdoor play area and at least thirty-five (35) square feet of indoor space provided for each child or other person served. The outdoor play area shall be enclosed by a fence with a minimum height of four (4) feet. Adequate and safe areas for the drop-off and pick-up of patrons shall be provided.

Section 5.06. Fences and Walls.

1. **Height.** No fence or freestanding wall, other than a retaining wall or necessary fencing encompassing a tennis court shall be more than eight feet in height. Fences or freestanding walls constructed in a front yard of a residential lot shall not exceed four feet in height; provided, however, that this shall not apply to subdivision or project identification monuments at the entrance to a subdivision or development and wall or fence extensions thereof, where permitted, which shall not exceed eight feet in height and columns shall not exceed ten feet in height.
2. **Composition.** Walls composed or constructed of exposed concrete block, tires, junk, or other discarded materials shall not be permitted.
3. **Gates.** When gates for vehicular access are required or proposed abutting a public or private street, said gates shall not be located closer than 20 feet of a public street or road right-of-way.

4. **Location.** No fence or wall shall be constructed in a public right-of-way, except that retaining walls may be placed partially within the right-of-way of a local road if they do not pose a visibility or other public hazard.
5. **Temporary Fencing Exempted.** These requirements shall not apply to temporary fencing erected around a lot during construction of a building for security, safety, tree protection, or code compliance reasons.

Section 5.07. Guest House.

In zoning districts where permitted, no more than one guest house shall be permitted as an accessory building on any single residential lot. Guest houses shall be located to the rear of the principal dwelling and shall not exceed 50 percent of the gross floor area of the principal dwelling. Guest houses shall not be rented or otherwise occupied separately from the main residence, except for non-paying guests or domestic employees residing on the premises and sharing meals in the principal dwelling.

Section 5.08. Home Occupation.

Home occupations may be established as an accessory use to a dwelling as provided in permitted uses requirements for the zoning districts established by this ordinance. No more than one home occupation may be established for each dwelling. In districts where permitted, the following regulations shall apply to home occupations. Failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of business registration.

1. **Physical Limitations.** The gross floor area of building devoted to a home occupation shall not exceed 750 square feet, or 25 percent of the gross floor area of the dwelling, whichever is greater. An accessory building may be used in connection with the home occupation, subject to compliance with all other provisions of this section.
2. **Alterations to the Dwelling.** The exterior appearance of the dwelling must remain that of a dwelling. No internal or external alterations inconsistent with the residential use of the principal building, and if applicable, an accessory building, may be permitted.
3. **Vehicles and Parking.** Vehicles kept on site in association with the home occupation shall be used by residents only, except for the parking of employees as may be permitted by this section. Only vehicles used primarily as passenger vehicles shall be permitted in connection with the conduct of the home occupation. Incoming vehicles related to the home occupation, if any, shall at all times be parked off-street within the confines of the residential driveway or other on-site permitted parking. The transporting of goods by truck in connection with a home occupation is prohibited.
4. **Equipment, Off-site Impacts, and Nuisances.** No home occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance. No equipment that interferes with radio and/or television reception shall be allowed. Home occupations must exclude the use of machinery or equipment that emits sound (e.g., saws, drills, musical instruments, etc.) 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.

5. **Signs Prohibited.** There shall be no signs permitted in conjunction with a home occupation, although this shall not preclude the property owner from erecting signs permitted on the lot pursuant to the Nicholson Sign Ordinance.
6. **Employees.** Only occupants of the dwelling and one (1) additional full-time employee or two (2) part-time employees shall be authorized to work on the premises in connection with a home occupation.
7. **Display, Stock-in-Trade, and Sales.** There shall be no display, and no stock-in-trade nor commodity sold on the premises, in connection with a home occupation, nor shall there be any activity associated with the home occupation visible outside the dwelling. No deliveries or pickups by or on behalf of customers shall be permitted.
8. **Uses Specifically Prohibited.** The following uses are specifically prohibited as home occupations: auto sales or auto or vehicle or implement repair; restaurants; animal hospitals, veterinary clinics, kennels, or the keeping of animals; funeral homes; retail or wholesale shops; machine shops; personal service establishments (including beauty salons); special event facilities; and lodging services.
9. **Approval.** All home occupations shall be subject to the Zoning Administrator's approval. The applicant for a business registration shall file for home occupation approval from the Zoning Administrator on forms provided by the Zoning Administrator.
10. **Modifications by Conditional Use Permit.** The provisions of this section may be modified or varied pursuant to application by the property owner for a conditional use, according to procedures specified in Article VIII of this ordinance.

Section 5.09. Junked Vehicle or Material.

It shall be unlawful to park or continuously store abandoned, wrecked, junked or inoperable vehicles, power-driven construction equipment, semi-trailers, used lumber or metal, used appliances, tires, or any other miscellaneous scrap material in quantity that is visible from a public street. No such parking or storage shall be allowed in front yards. Appropriate screening as determined by the Zoning Administrator, based upon the elevations and uses of surrounding properties, may be used to comply with this provision in side and rear yards.

Section 5.10. Livestock Quarters and Enclosures.

No livestock quarters shall be located within 100 feet of any property line. Except in agricultural zoning districts, the maximum number of large, hoofed livestock, including but not limited to cows, horses, emus and llamas, shall be two animals per fenced acre.

Section 5.11. Manufactured Home.

1. **Foundation and Skirting if Elevated.** The wheels and towing devices shall be removed, and manufactured homes shall be attached to a permanent foundation constructed in accordance with the Building Code or state and federal regulations, as applicable. The area beneath the ground floor of the dwelling shall be either a slab foundation or enclosed around the exterior of the building with a foundation wall or non-load-bearing wall constructed of masonry (stone or brick), cast in place concrete, or concrete block

finished with stucco or similar architectural treatment, penetrated by openings only for ventilation and access.

2. **Tie-Downs.** Each manufactured home shall have tie-downs or other devices securing the stability of the manufactured home and shall be installed in accordance with the requirements of the manufacturer and the regulations of the Georgia Safety Fire Commissioner.
3. **Code Compliance.** The dwelling shall be constructed in accordance with all applicable requirements of the state Building Code and in accordance with the standards established by the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5401, et seq.).
4. **Roof Pitch.** The roof shall have a minimum 3:12 roof pitch which means having a pitch equal to at least three inches of vertical height for every twelve inches of horizontal run.
5. **Roof Composition.** The roof shall have a surface of wood shakes, asphalt composition, wood shingles, concrete, fiberglass tiles, slate, built-up gravel materials, standing seam (non-corrugated) tin or steel or other materials approved by the Zoning Administrator.
6. **Exterior Siding.** The exterior siding materials shall consist of wood, masonry, hardboard, stucco, masonite, vinyl lap, or other materials of like appearance.
7. **Landing at Building Entrances.** Each manufactured home if elevated shall include a landing installed at each outside doorway. The minimum size of the landing shall be four feet by six feet (excluding steps) at each doorway. The landing if elevated shall include steps which lead to ground level, and both landing and steps must meet applicable building code requirements.

Section 5.12. Swimming Pool, Private.

Private swimming pools and their customary accessory buildings and structures shall be located in rear yards and shall be setback at least fifteen feet from all side and rear lot lines and be enclosed by a wall or fence not less than four feet nor more than six feet in height.

Section 5.13. Tennis Court, Private.

Tennis courts on individual residential lots shall be located in rear yards and shall be setback at least fifteen feet from all side and rear lot lines and be enclosed by fence of sufficient height. Lighting for any private tennis court shall not be permitted, except by conditional use permit approval.

Section 5.14. Vehicle or Implement for Sale.

Front yards and off-street parking areas for any use or development shall not be used to store and display vehicles for sale, except in cases of an approved commercial vehicle sales lot. This provision shall not apply to the placing of a "For Sale" sign on or in one licensed and operable vehicle, boat, other vehicle or implement located in a private driveway and which licensed vehicle, boat, other vehicle or implement is owned by an occupant of said private property.

Section 5.15. Vehicle Storage.

In RR and SR zoning districts, recreational vehicles such as boats, boat trailers, travel trailers, recreational vehicles, pick-up campers or coaches, motorized dwellings, motor coaches, tent trailers and other similar vehicles may be parked or stored only in established areas in side yards, rear yards, carports in approved locations, or in an enclosed building, provided however, that such vehicles may be parked or stored anywhere on residential premises for a period not to exceed twenty-four (24) hours during loading and unloading. Parking or storage of such vehicles shall not take place on any vacant lot.

Section 5.16. Yard Sale.

Yard sales, where permitted, shall not exceed seventy-two (72) hours for each yard sale. A yard sale on a particular property shall not occur more frequently than three times annually.

**ARTICLE VI
NONCONFORMITIES**

- Section 6.01. Nonconforming Lot.
- Section 6.02. Nonconforming Building or Structure.
- Section 6.03. Nonconforming Use.
- Section 6.04. Prior Nonconformities.
- Section 6.05. Correction of Nonconforming Situations.

Section 6.01. Nonconforming Lot.

A lot of record, as defined in this ordinance, that does not conform to minimum road frontage requirement or the minimum lot size or minimum lot width requirements for the zoning district in which it is located may be used as a building site, provided that the height, buffer, setback, and other dimensional requirements of the zoning district in which the lot of record is located are complied with or a variance is obtained, and, provided further, that in the case of a lot not served by sanitary sewer the lot area and width meet the current standards and requirements of the Jackson County Health Department for septic tank use.

Section 6.02. Nonconforming Building or Structure.

A nonconforming building or structure, as defined in this ordinance, may be expanded, enlarged, or extended if such expansion, enlargement, or extension is for a use that conforms to the use requirements for the zoning district in which the building or structure is located. Any such expansion, enlargement, or extension of a nonconforming building or structure shall meet the minimum yard, setback, buffer, height, bulk, and other dimensional requirements for the zoning district in which said non-conforming building or structure is located, and all other requirements of this ordinance.

Section 6.03. Nonconforming Use.

A nonconforming use may be continued even though such use does not conform with the use provisions of the zoning district in which said use is located, except as otherwise provided in this section.

1. **Change of Use.** A nonconforming use shall not be changed to another nonconforming use. A change in tenancy or ownership shall not be considered a change to another nonconforming use, provided that the use itself remains unchanged.
2. **Discontinuance or Abandonment.** A nonconforming use shall not be re-established after discontinuance or abandonment for one year. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance or abandonment under this subsection. If a business registration is required for said nonconforming use and the business registration pertaining to said use has lapsed for more than one year, said lapse of business registration shall constitute discontinuance.
3. **Expansion.** A nonconforming use shall not be expanded, enlarged or extended, in land area or in floor space or volume of space in a building or structure, except for a use which complies with the zoning district in which said use is located.

4. **Repair.** A nonconforming use shall not be rebuilt, altered or repaired after damage exceeding fifty percent of its replacement cost at the time of damage as determined by the Building Inspector, except for a use which conforms with the zoning district in which said use is located, and provided such rebuilding, alteration or repair is completed within one year of such damage.

Section 6.04. Prior Nonconformities.

This article shall not be construed as extending the time period for allowance to reestablish a nonconforming use which was nonconforming at the time this ordinance was adopted, as established under the previous zoning ordinance of the City of Nicholson. Nor shall it be construed to grant any other type of relief to a nonconforming use, nonconforming building, or nonconforming situation which did not conform to Nicholson's zoning ordinance as previously adopted.

Section 6.05. Correction of Nonconforming Situations.

1. **Intent.** It is the intent of this section to require the complete correction of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation can physically be made to comply with the requirements of this ordinance. It is the intent of this section to require the reduction in the extent of nonconforming situations at the time of any building addition or significant modification of a use or development on a given parcel of land, if such nonconforming situation cannot be physically be made to comply entirely with the requirements of this ordinance. It is the intent of this section to provide authority to the Zoning Administrator to administer the provisions of this section in a manner that meets these intentions, and that the Zoning Administrator shall exercise that authority, subject to more specific guidance as provided in this section.
2. **Determination of Nonconforming Situations.** For any proposed building or development, or modification of a building or development, it shall be the duty of the Zoning Administrator to identify the extent to which the improvements on land on which the building or development is proposed constitutes a nonconforming situation, as defined in this ordinance. The Zoning Administrator shall conduct a review and identify such nonconforming situation(s) at the time plans for such proposed building or development are submitted for review, and at any earlier opportunity, if presented. In the event that one or more nonconforming situations are found to exist by the Zoning Administrator, they shall be documented and notice of the need to correct or reduce said nonconforming situations shall be provided by the Zoning Administrator to the building or development applicant.
3. **Correction of Nonconforming Situations.** In determining the need to completely correct or reduce the noncompliance of nonconforming situations, the Zoning Administrator shall be guided by the following standards:
 - (a) **Strict Compliance.** A standard of "strict compliance" (complete correction of all nonconforming situations) shall be applied by the Zoning Administrator where physical standards can clearly be made in the subject development proposal without significant alteration of the development as proposed.

- (b) **Reasonable Progress toward Compliance.** In lieu of strict compliance, a standard of “reasonable progress toward compliance” shall be applied by the Zoning Administrator in cases where complete correction or compliance with the nonconforming situation would require undue hardship, practical difficulty, or might unreasonably reduce the size, scale, or other significant aspect of the development proposal to a point where strict compliance would jeopardize the building or development proposal. In applying a standard of reasonable progress toward compliance, the Zoning Administrator shall have authority to approve the building, development, or improvement even though it does not meet a standard of strict compliance, if the relief granted is the minimum necessary to effectuate the building, development, or improvement.

- (c) **Proportionality.** Whenever something less than strict compliance is authorized by the Zoning Administrator, in determining the amount or extent of compliance required, he shall apply a standard of “proportionality,” meaning that the scope, scale, extent and cost of requirements to correct nonconforming situations are more or less comparable to the scope, scale, extent and cost of the improvement or development proposed.

**ARTICLE VII
NICHOLSON PLANNING COMMISSION**

- Section 7.01. Establishment.
- Section 7.02. Composition and Qualification.
- Section 7.03. Term of Office and Vacancies.
- Section 7.04. Compensation.
- Section 7.05. Officers.
- Section 7.06. Duties of Officers.
- Section 7.07. Records.
- Section 7.08. Meetings.
- Section 7.09. Quorum.
- Section 7.10. Rules.
- Section 7.11. Powers and Duties of the Planning Commission.
- Section 7.12. Training.
- Section 7.13. Conflict of Interest.

Section 7.01. Establishment.

The Nicholson Planning Commission is hereby established.

Section 7.02. Composition and Qualification.

The Planning Commission shall be comprised of five members, who shall be residents of the city, appointed by the Mayor with the consent of the City Council.

Section 7.03. Term of Office and Vacancies.

Members shall serve three year terms; provided however, that the initial appointment of members shall be as follows: one member shall be appointed to a one-year term, two members shall be appointed to two-year terms, and two members shall be appointed to three-year terms. Any vacancy in the membership of the Planning Commission that occurs prior to the expiration of a term of appointment shall be filled by the Mayor with consent of the City Council by appointing another member to serve during the unexpired term. Members of the Planning Commission shall continue until their terms expire and their successors are appointed. Members may be appointed for successive terms without limitation.

Section 7.04. Compensation.

Members of the Planning Commission shall serve without pay or compensation; provided, however, the members may be reimbursed for travel and training expenses in specific connection with their role as members of the Planning Commission, subject to budget limitations. This provision shall not obligate the City Council from a budgetary standpoint.

Section 7.05. Officers.

The officers of the Planning Commission shall consist of a Chairperson and Vice-Chairperson, elected by the members of the Planning Commission. Officers shall have voting privileges and obligations as members of the commission. The term of office for officers shall be one year or until their successors are elected. An officer that has served a full one year term may succeed himself/herself without limitation. In the event of the resignation or removal of an Officer, the

commission members shall elect an individual from the Commission to fill the remainder of the unexpired term. Unless otherwise determined by the Commission, election of officers will normally take place during the first regular meeting in January of each calendar year. There shall be no elected secretary for the commission; the Zoning Administrator shall serve as ex-officio secretary and in that role the Zoning Administrator shall not be considered a member of the commission.

Section 7.06. Duties of Officers.

The Chairperson shall preside at meetings of the Planning Commission, decide all points of order and procedure, represent the Planning Commission at official functions, appoint committees to investigate and report on matters which may come before the Commission, and be responsible for carrying out policy decisions. In the absence of the Chairperson, those duties shall be vested in the Vice-Chairperson.

Section 7.07. Records.

1. The secretary of the Planning Commission shall keep a record of its resolutions, transactions, findings, determinations, recommendations, and actions. All records of the Planning Commission shall be public record.
2. A summary of the subjects acted on at meetings and those members present at a meeting of the Planning Commission shall be written and made available to the public for inspection within no more than five business days of the adjournment of a meeting of the Planning Commission.
3. The Secretary of the Planning Commission or designee shall cause summary minutes of the Planning Commission's proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact. The minutes of a meeting of the Planning Commission shall be completed as promptly as possible, and such records shall be open to public inspection once approved by the Planning Commission, but in no case later than immediately following the next regular meeting of the Planning Commission.

Section 7.08. Meetings.

All meetings of the Planning Commission shall be open to the public. The Planning Commission shall hold regular meetings unless it is notified by the Zoning Administrator that there is no business to conduct, in which case the Chairperson may cancel the regular meeting. No meeting shall be held unless forty-eight (48) hours notice thereof has been provided to each member. If special meetings are called by the Chairperson, the purpose(s) of the special meeting shall be stated and no other business may be conducted at such special meeting.

Section 7.09. Quorum.

A quorum shall be required to be present for the Planning Commission to function and decide matters that come before it. A quorum shall consist of a majority of the members of the Commission.

Section 7.10. Rules.

The Planning Commission may adopt rules for the conduct of its activities as long as they do not conflict with any of the provisions of this ordinance, the City Charter, or the City Code of Ordinances. Furthermore, such rules shall not be inconsistent with any applicable state laws, including O.C.G.A. §§ 50-14-1 et seq., 36-66 et seq., and 36-67A et seq. Such rules may establish regular meeting dates, procedures for calling special meetings, and other meeting matters. In the absence of such adopted rules, or in cases where adopted rules do not govern a given procedural question at hand, the Planning Commission shall follow *Robert's Rules of Order Newly Revised*, 10th Edition (or most recent edition).

Section 7.11. Powers and Duties of the Planning Commission.

The Planning Commission shall have all those duties necessary and reasonably implied as being necessary to carry out its duties as specified in this ordinance. Said powers and duties shall specifically include without limitation, the following:

1. To adopt and amend rules, without the need to amend this Article.
2. To cooperate with the Federal, State, or local, public or semi-public agencies or private individuals or corporations, and carry out cooperative undertakings with said agencies, individuals, or corporations.
3. To prepare or cause to be prepared a comprehensive plan or parts thereof, for the development of the city or parts thereof, which shall be subject to the approval of the Nicholson City Council.
4. To prepare and recommend for adoption to the local governing body with jurisdiction a plat or plats, or a corridor map or maps, showing the location of the boundary lines of existing, proposed, extended, widened or narrowed streets and linear open spaces and recreational areas, together with regulations to control the erection of buildings or other structures within such lines, within the jurisdiction or a specified portion thereof.
5. To make, publish, and distribute maps, plans and reports and recommendations relating to the planning and development of the city to public officials and agencies, public utility companies, civic, educational, professional, and other organizations and citizens.
6. To recommend to the Nicholson City Council programs for capital improvements and the financing thereof.
7. To prepare or cause to be prepared, and recommend for adoption by the Nicholson City Council zoning ordinances, regulations for the subdivision of land, and any other land use regulations appropriate to manage development in the city.
8. To administer zoning and other land use regulations in whatever role is delegated to it by the Nicholson City Council or as provided in this ordinance. The planning commission shall specifically have authority and responsibility to review applications for zoning map amendments, applications for conditional use approval, applications for variances, and other related applications and provide a recommendation to the Nicholson City Council.

9. To establish one or more committees, including but not limited to a permit review committee to review administrative applications.
10. To exercise, in general, such other powers as may be necessary to enable it to perform its functions and promote the planning of its jurisdiction.

Section 7.12. Training.

It is in the best interests of the citizens to strongly encourage newly appointed members of the Planning Commission during the course of their term of appointment to attend one or more courses of training and education on matters pertaining to the operations, activities, duties, and subject matters of Planning Commissions. It shall be the responsibility of the Zoning Administrator to periodically notify members of the Planning Commission of appropriate education and training opportunities.

Section 7.13. Conflict of Interest.

Should any member of the Planning Commission have a financial interest in any issue that comes before the Commission, said member shall disqualify himself from participating in or considering the issue and shall not sit with the Commission during deliberations. A member may raise the question of perceived conflict or actual financial conflict of interest of any other member regarding a specific issue that is before the Commission. If perceived or actual conflict is alleged, a majority vote of those without such alleged conflict shall determine if such perceived or actual financial conflict exists and whether the member with an alleged conflict should be allowed to participate. If the majority vote is a determination that the member has an actual financial conflict of interest, said member with the financial conflict of interest shall disqualify himself from participating in or considering the issue and shall not sit with the Commission during deliberations. If it is determined by majority vote of members present that a perceived conflict of interest exists, but the conflict is one that does not rise to the level of financial interest, the individual member with perceived conflict shall have discretion as to whether he or she will vote on the matter in question, though the other members may make a recommendation to said member.

**ARTICLE VIII
ZONING AMENDMENTS AND APPLICATIONS**

- Section 8.01. Procedures for Calling and Conducting Public Hearings.
- Section 8.02. Text Amendments.
- Section 8.03. Amendment to the Official Zoning Map.
- Section 8.04. Conditional Uses.
- Section 8.05. Variances.
- Section 8.06. Appeals of Administrative Decisions.
- Section 8.07. Incorporation Clause.

Section 8.01. Procedures for Calling and Conducting Public Hearings.

1. **Applicability.** Public hearings held by the Nicholson City Council as required by this ordinance with regard to rezoning requests (amendments to the official zoning map), applications for conditional uses, applications for variances, and appeals of any administrative decision shall be called and conducted in accordance with the procedures of this section. If the Planning Commission elects to hold a public hearing or is otherwise obligated to hold a public hearing per the requirements of this ordinance, then the Planning Commission shall call and conduct its public hearings in accordance with this section, and this section shall in such cases be interpreted accordingly. Nothing in this section shall be construed as prohibiting a presiding officer or hearing body from conducting a public hearing in a fair, orderly, and decorous manner.
2. **Presiding Officer.** The presiding officer shall preside over the public hearing. In the case of the Nicholson City Council, the Mayor shall preside, or in the absence of the Mayor the Mayor Pro Tempore shall preside, or in the absence of both the Mayor and Mayor Pro Tempore, another member of the City Council shall be designated to preside over the public hearing. In the case of the Nicholson Planning Commission, if a public hearing is required or held, the chairperson of said commission shall preside, or in the absence of the chairperson, the vice chairperson, or if neither is present to preside, another member of the commission shall be designated to preside.
3. **Opening of Public Hearing.** The presiding officer shall indicate that a public hearing has been called on one or more applications made pursuant to this ordinance, shall summarize the processes required by this article (or call on the Zoning Administrator to summarize), and shall open the public hearing. Thereupon, the presiding officer shall call the first case and the City Council shall consider each application on an individual basis in succession as printed on the published agenda or as otherwise approved by the City Council; provided, however, that the presiding officer may at his or her discretion call and consider more than one application simultaneously when more than one application involves the same piece of property, and/or when proceedings would be efficiently completed by combining separately required public hearings and discussing more than one scheduled matter as a single group of applications.
4. **Report of Zoning Administrator.** Upon opening the public hearing, the presiding officer may recognize the Zoning Administrator, who may provide a summary of the application and present any recommendations or results of investigations. Unless a member of the Nicholson Planning Commission is present and is authorized and willing to speak for the Planning Commission on the subject application, the Zoning Administrator may also

summarize the recommendations made by the Planning Commission. Any member of the City Council upon recognition by the presiding officer may ask questions of the Zoning Administrator or designee or other city or planning commission representative providing a report or recommendations. The Zoning Administrator and/or Planning Commission may be represented at the public hearing by written report in lieu of oral testimony.

5. **Identification of Speakers.** Prior to speaking, each speaker (including applicant, agent of applicant, and all others) must identify himself or herself and state his or her current address for the record. The presiding officer may require a speaker to complete an information card supplying such information, prior to testifying.
6. **Applicant and Those in Favor of the Application.** When an individual application comes up for hearing, the presiding officer may ask for a show of hands of those persons who wish to appear in support of the application. If it appears that the number of persons wishing to appear in support of the application is in excess of those who may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations. Following the report of the Zoning Administrator or designee, or Planning Commission spokesperson, if any, the presiding officer shall recognize the applicant or his or her agent, spokesperson, or each of them, who shall present and explain the application, followed by any other persons wishing to speak in favor of the application. It shall be the duty of the applicant to carry the burden of proof that approval of the proposed application will promote the public health, safety, morality or general welfare. There shall be a minimum time period of ten minutes per application at the public hearing for the applicant and/or agent and anyone in favor of the application to present data, evidence, and opinions. The City Council shall not be obligated to provide the full ten-minute period to the proponents if they elect not to use that much time, nor shall there be an obligation to provide a minimum of ten minutes per application in the event that more than one application involving the same property is heard simultaneously. An applicant or agent may reserve any remaining unused time from the allotted time period for rebuttal. Upon the completion of testimony or remarks by the applicant and/or applicant's agent and those speaking in favor of the application, any member of the City Council upon recognition by the presiding officer may ask questions of the applicant or agent of the applicant, or both, or any person speaking in favor of the application.
7. **Questions and Opposing Public Comments on the Application.** At the conclusion of the applicant's presentation and any testimony by others in favor of the application, the presiding officer shall call for public comments from those who wish to ask questions, make comments or oppose the application. The presiding officer may ask for a show of hands of those persons who wish to ask questions, make comments, and/or speak in opposition to the application. If it appears that the number of persons wishing to ask questions, make comments, and/or speak in opposition to the application is in excess of those who may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations, ask questions, or speak in opposition. There shall be a minimum time period of ten minutes per application at the public hearing for the opponents to present data, evidence, and opinions and ask questions. The City Council shall not be obligated to provide the full ten minutes per application to the opponents if they elect not to use that much time, nor shall there be an obligation to provide a minimum of ten minutes per application in the event that more than one application involving the same property is heard simultaneously. Upon the

completion of testimony or remarks by those asking questions and/or speaking in opposition to the application, any member of the City Council upon recognition by the presiding officer may ask questions of those speakers.

8. **Response to Questions.** Upon the completion of testimony or remarks by those asking questions and/or speaking in opposition to the application, the presiding officer may: (a) ask the Zoning Administrator if present to answer questions posed by speakers; (b) answer such questions himself or herself; (c) recognize a member of the City Council to make remarks or answer questions in response to such questions; or (d) defer questions to the applicant to be answered during rebuttal.
9. **Content of Remarks.** Each speaker shall speak only to the merits of the proposed application under consideration and shall address his or her remarks only to the City Council and not directly to the audience. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this procedure.
10. **Applicant's Rebuttal.** Upon the conclusion of public testimony, if the ten minutes allotted to the applicant and those speaking in favor of the application has not been exhausted, the applicant or his or her agent, or both, shall be allowed the remaining time from the total ten minutes allotted to answer questions, rebut the testimony of speakers, and/or provide final comments and remarks. The time devoted to any such rebuttal shall be counted toward the total ten minutes allotted to the applicant if such a time limit is set by the presiding officer. Any member of the City Council upon recognition by the presiding officer may then ask questions of the applicant, his or her agent, or both.
11. **Equal Time.** In no event shall this section be interpreted to, and in no case shall the presiding officer allow or permit, an unequal amount of time to proponents and opponents with respect to testimony regarding an individual application.
12. **Close of Hearing.** After the foregoing procedures have been completed, the presiding officer will close the public hearing and indicate that the public hearing is closed. Upon the closing of the public hearing, the applicant or his agent and any member of the public shall no longer be permitted to address the City Council in any way, including hand waving or motions for attention; provided, however, that at any time considered appropriate the presiding officer may reopen the public hearing for a limited time and purpose.
13. **Decision.** After the public hearing is closed, the City Council may either vote upon the application or may delay its vote to a subsequent meeting, subject to the limitations of this article, provided that notice of the time, date and location when such application will be further considered shall be announced at the meeting during which the public hearing is held. After hearing evidence, in making a decision, the City Council will apply the evidence to the criteria specified in this article for the application in question and other considerations and recommendations as may be considered appropriate. If the City Council determines from the evidence presented by the applicant has shown that the proposed application promotes the health, safety, morals, and general welfare under applicable criteria, then the application shall be granted, subject to those reasonable conditions as may be imposed by the City Council on its own initiative or as

recommended by the Zoning Administrator and/or the Nicholson Planning Commission. Otherwise, such application shall be denied.

Section 8.02. Text Amendments.

1. **Authority to Amend.** The City Council may amend any article or section of this zoning ordinance, subject to compliance with the requirements of this section.
2. **Authority to Initiate.** An application to amend this zoning ordinance may be initiated by the City Council or the Nicholson Planning Commission. In addition, any person, firm, corporation, or agency may initiate by application to the Zoning Administrator a proposal to amend the text of this zoning ordinance, provided said individual, firm, corporation, or agency is the owner or owner's agent of property in the city and the amendment sought pertains in some way to said property within the city, and provided further that the applicant has attended a pre-application meeting with the Zoning Administrator to discuss the amendment proposal prior to filing.
3. **Application.** Applications to amend the text of this zoning ordinance shall require submittal of an application fee, application form, and proposed text amendment in a form approved in advance by the Zoning Administrator. The Zoning Administrator shall waive the application fee required by this section when an application is initiated by the City Council or the Planning Commission.
4. **Referral to and Recommendation by Planning Commission.** Upon receipt of a completed application for a text amendment or within a reasonable time thereafter, the Zoning Administrator shall refer the text amendment to the Nicholson Planning Commission. The meeting at which the Planning Commission considers a text amendment shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the text amendment. The Planning Commission shall make a recommendation on the text amendment within 30 days of the meeting it is first scheduled to consider the text amendment, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within 7 working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.
5. **Notice of City Council Public Hearing.** At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the text amendment. The notice shall state the time, place, and purpose of the public hearing.
6. **City Council Public Hearing and Action.** The City Council shall hold a public hearing on the text amendment as advertised and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's

recommendation will be available. In rendering a decision on any such text amendment, the City Council shall consider all information supplied by the Zoning Administrator and the Planning Commission, any information submitted by the applicant, and any information presented at the public hearing. The City Council may approve or disapprove the proposed text amendment as written, or it may modify the proposed text amendment and approve it as modified. The applicant will be notified in writing by the Zoning Administrator of the decision within 7 working days of the decision.

7. **Withdrawal.** Any application for an amendment to the text of this zoning ordinance may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. When any application for a text amendment is initiated by a party other than the City Council or the Planning Commission, no refund of the required application fee or portion thereof shall be made once the text amendment has been scheduled for public hearing.

Section 8.03. Amendment to the Official Zoning Map.

1. **Authority to Amend.** The City Council may amend any boundary of a zoning district as shown on the official zoning map, subject to compliance with the requirements of this section.
2. **Authority to Initiate.** An application to amend the official zoning map may be initiated by the City Council or the Nicholson Planning Commission. In addition, any person, firm, corporation, or agency may initiate by application to the Zoning Administrator a proposal to amend the official zoning map, provided said individual, firm, corporation, or agency is the owner or owner's agent of the property involved in said application.
3. **Application.** Applications to amend the official zoning map shall require submittal of an application fee, application form, and supporting materials specified by this section in advance by the Zoning Administrator. No application described in this section shall be processed by the Zoning Administrator unless it is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this section. If an application described and regulated by this section does not comply with all the submission requirements of this section, the Zoning Administrator may reject the application and refuse to process it. The Zoning Administrator shall waive the application fee required by this section when an application is initiated by the City Council or the Planning Commission.
4. **Application Requirements.** No application specified in this section shall be processed by the Zoning Administrator unless it meets the requirements of this section as follows:
 - (a) Application fee as established by resolution of the City Council;
 - (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
 - (c) Metes and bounds legal description of the property;
 - (d) Boundary survey plat of the property; provided, however, that where no survey is available the Zoning Administrator may but is not obligated to accept a map of the subject property from the Jackson County Tax Assessors or other reliable source;

- (e) Letter of intent describing the proposed use of the property or other action requested, which may include any special conditions voluntarily made by the applicant as a part of the request. The applicant is also strongly encouraged to address the extent to which the application meets the criteria specified in this section for amendments to the official zoning map; and
- (f) Site plan of the property and proposed development at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements. Site plans must show existing roads and streams, flood plains and wetlands where applicable, existing and proposed buildings and structures, parking and loading areas as may be applicable, areas of existing vegetation or parts of the site to be landscaped, conceptual information about drainage and stormwater management, and other information as reasonably required by the Zoning Administrator. Site plans may be waived for rezoning applications for agricultural or residential zoning districts.

5. **Referral to and Recommendation by Planning Commission.** Upon receipt of a completed application to amend the official zoning map or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 30 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within 7 working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.
6. **Notice of City Council Public Hearing.** At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing. If the application is initiated by a party other than the City Council or the Planning Commission, then in addition, notice shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the City Council and which shall remain through the date of any public hearings advertised thereon.
7. **Criteria for Amendments to Official Zoning Map.** The following criteria are considered applicable or potentially applicable:
 - (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.

- (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.
 - (c) Whether the property to be affected by the proposal has a reasonable economic use as currently zoned.
 - (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
 - (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including the future development map and future land use plan map.
 - (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.
 - (g) Whether the proposal would create an isolated zoning district unrelated to adjacent and nearby districts.
 - (h) Whether the proposal would have an impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.
8. **City Council Public Hearing and Action.** The City Council shall hold a public hearing on the application as advertised and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available. In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator and the Planning Commission, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for amendments to the official zoning map as prescribed in this section. The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within 7 working days of the decision.
9. **Withdrawal.** Any application for an amendment official zoning map may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. When any application is initiated by a party other than the City Council or the Planning Commission, no refund of the required application fee or portion thereof shall be made once the application has been scheduled for public hearing.
10. **Limitations on the Frequency of Filing Applications.** No application regulated by this section and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve months shall have elapsed from the date said application was denied by the City Council. The same or any portion of property previously considered in a zoning map amendment which was denied

by the City Council may not again be initiated until the expiration of at least six months immediately following the final decision rendered on the application by the City Council.

Section 8.04. Conditional Uses.

1. **Authority.** Upon application, the City Council may approve, conditionally approve, or deny applications for conditional uses as specified in the zoning district regulations of this ordinance (see Article IV), subject to compliance with the requirements of this section.
2. **Application.** Applications for conditional use approval shall require submittal of an application fee, application form, and supporting materials specified by this section in advance by the Zoning Administrator. No application described in this section shall be processed by the Zoning Administrator unless it is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this section. If an application described and regulated by this section does not comply with all the submission requirements of this section, the Zoning Administrator may reject the application and refuse to process it.
3. **Application Requirements.** No application specified in this section shall be processed by the Zoning Administrator unless it meets the requirements of this section as follows:
 - (a) Application fee as established by resolution of the City Council;
 - (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
 - (c) Metes and bounds legal description of the property;
 - (d) Boundary survey plat of the property; provided, however, that where no survey is available the Zoning Administrator may but is not obligated to accept a map of the subject property from the Jackson County Tax Assessors or other reliable source;
 - (e) Letter of intent describing the proposed use of the property, which may include any special conditions voluntarily made by the applicant as a part of the request. The applicant is also strongly encouraged to address the extent to which the application meets the criteria specified in this section for conditional uses; and
 - (f) Site plan of the property and proposed development at an appropriate engineering scale showing the proposed use and relevant information regarding proposed improvements. Site plans must show existing roads and streams, flood plains and wetlands where applicable, existing and proposed buildings and structures, parking and loading areas as may be applicable, areas of existing vegetation or parts of the site to be landscaped, conceptual information about drainage and stormwater management, and other information as reasonably required by the Zoning Administrator.
4. **Referral to and Recommendation by Planning Commission.** Upon receipt of a completed application for conditional use or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Nicholson Planning Commission. The meeting at which the Planning Commission considers the application shall be open

to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 30 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within 7 working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.

5. **Notice of City Council Public Hearing.** At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing. If the application is initiated by a party other than the City Council or the Planning Commission, then in addition, notice shall include the location of the property, the present zoning classification of the property, and the proposed conditional use of the property; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the City Council and which shall remain through the date of any public hearings advertised thereon.
6. **Criteria for Conditional Uses.** The following criteria are considered applicable or potentially applicable:
 - (a) Whether the proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property.
 - (b) Whether the proposal will adversely affect the existing use or usability of adjacent or nearby property.
 - (c) Whether the property to be affected by the proposal has a reasonable economic use as currently zoned.
 - (d) Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools.
 - (e) Whether the proposal is in conformity with the policy and intent of the comprehensive plan including the future development map and future land use plan map.
 - (f) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposal.
 - (g) Whether the proposal would have an impact on the environment, including but not limited to, drainage, soil erosion and sedimentation, flooding, air quality and water quality.

7. **City Council Public Hearing and Action.** The City Council shall hold a public hearing on the application as advertised and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available. In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator and the Planning Commission, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for conditional uses as prescribed in this section. The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within 7 working days of the decision.
8. **Withdrawal.** Any application for conditional use may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. When any application is initiated by a party other than the City Council or the Planning Commission, no refund of the required application fee or portion thereof shall be made once the application has been scheduled for public hearing.
9. **Limitations on the Frequency of Filing Applications.** No application regulated by this section and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve months shall have elapsed from the date said application was denied by the City Council.

Section 8.05. Variances.

1. **Intent.** It is the intent of this section to permit the filing of an application for variance simultaneously with a rezoning or conditional use application, or both, and have both the concurrent variance and companion application(s) considered in the same cycle of review (i.e., "concurrent" variance application). It is also the intent to allow the filing of applications for variance independently of any application (i.e., "stand alone" variance application).
2. **Pre-application Conference Encouraged.** Applicants for variances are strongly encouraged but not required to schedule an applicant orientation meeting with the Zoning Administrator. An applicant orientation meeting is a time where applicants can seek a determination of the number and nature of variances required, familiarize themselves with the application requirements and processes, and gain preliminary input from staff as to the suitability of the proposed variance(s).
3. **Separate Applications Required When More than One Section is Requested to be Varied.** A separate variance application, and a separate fee, shall be required for each individual section of this ordinance for which a variance is requested or from which relief is sought.
4. **Regulations That Cannot Be Varied.** Variances shall not be granted to (a) minimum lot size requirements of a given zoning district; or (b) permit a use which is not permitted in the zoning district in pertaining to the subject property (i.e., a "use" variance).

5. **Application.** Applications for a variance shall require submittal of an application fee, application form, and supporting materials specified by this section in advance by the Zoning Administrator. No application described in this section shall be processed by the Zoning Administrator unless it is found to be complete with regard to application materials, payment of fees, supportive materials, and any other application requirements specified by this section. If an application described and regulated by this section does not comply with all the submission requirements of this section, the Zoning Administrator may reject the application and refuse to process it.

6. **Application Requirements.** No application specified in this section shall be processed by the Zoning Administrator unless it meets the requirements of this section as follows:
 - (a) Application fee as established by resolution of the City Council;
 - (b) Application form furnished by the Zoning Administrator, including signed and notarized signature of property owner;
 - (c) Metes and bounds legal description of the property;
 - (d) Boundary survey plat of the property; in the case where a building or structure was already constructed and requires a setback variance, the boundary survey shall include “as built” placement of the building or structure for which the setback is requested to be varied;
 - (e) Letter of intent describing the regulations to be varied (specific sections and the amount of numerical variation sought), and including analysis of how the proposed development compares favorably with one or more of the criteria for granting variances as established in this section;
 - (f) If pertaining to future development, a site plan of the property and proposed development shall be submitted at an appropriate engineering scale showing the proposed use and relevant information regarding the variance request. Site plans must show information as reasonably required by the Zoning Administrator.

7. **Referral to and Recommendation by Planning Commission.** Upon receipt of a completed application for variance or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Nicholson Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 30 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation within 7 working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.

8. **Notice of City Council Public Hearing.** At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing. In addition, notice shall include the location of the property and the section or section proposed to be varied; and a sign containing said required information shall be placed in a conspicuous location on the property not less than 15 days prior to the date of the public hearing before the City Council and which shall remain through the date of any public hearings advertised thereon.
9. **Criteria for Variances.** One or more of the following criteria may be considered applicable or potentially applicable:
 - (a) There are extraordinary and exceptional conditions or practical difficulties pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district.
 - (b) A literal interpretation of the provisions of this ordinance would effectively deprive the applicant of rights commonly enjoyed by other properties of the district in which the property is located.
 - (c) Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
 - (d) The requested variance will be in harmony with the purpose and intent of this ordinance and will not be injurious to the neighborhood or to the general welfare.
 - (e) The special circumstances are not the result of the actions of the applicant.
 - (f) The variance requested is the minimum variance that will make possible the proposed use of the land, building, or structure in the zoning district in which the development is located.
10. **City Council Public Hearing and Action.** The City Council shall hold a public hearing on the application as advertised and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available. In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator and the Planning Commission, any information submitted by the applicant, any information presented at the public hearing, and the extent to which the application meets the criteria specified for conditional uses as prescribed in this section. The City Council may approve or disapprove the application as proposed, or it may place conditions of approval on the application and approve the application with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within 7 working days of the decision.

10. **Withdrawal.** Any application for variance may be withdrawn at any time at the discretion of the person or entity initiating such a request upon notice to the Zoning Administrator, up until the public hearing by the City Council. No refund of the required application fee or portion thereof shall be made once the application has been scheduled for public hearing.
11. **Limitations on the Frequency of Filing Applications.** No application regulated by this section and affecting the same or any portion of property which was denied by the City Council shall be accepted for filing by a property owner until twelve months shall have elapsed from the date said application was denied by the City Council.
12. **Judicial Review.** Decisions by the City Council with regard to variances are final; provided, however, any person or persons, jointly or severally, aggrieved by any decision of the City Council with regard to a decision on a variance application under the terms of this section may take an appeal to or seek judicial review by the Jackson County Superior Court.

Section 8.06. Appeals of Administrative Decisions.

1. **Intent.** It is the intention of this section that all questions arising in connection with the administration, interpretation, and enforcement of this ordinance by the Zoning Administrator shall be presented first to the Zoning Administrator, and that such questions if they cannot be resolved at the administrative level shall be presented to the City Council on appeal from the decision of the Zoning Administrator.
2. **Who May Appeal.** Any person who alleges there is an error in, or who is aggrieved by a decision of the Zoning Administrator in the administration, interpretation, or enforcement of this ordinance, may file an appeal with the City Council, stating the grounds for such appeal. Appeals of administrative decisions may also be filed for consideration by any officer, department, or Board or Commission of the city, affected by any such administrative decision. Said appeal application shall be filed within thirty (30) days of the date of the final administrative decision. A fee shall be paid to the Zoning Administrator at the time the notice of appeal is filed, as specified by resolution of the City Council.
3. **Transmittal of Application.** Any appeal received and all papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted by the Zoning Administrator to the Nicholson Planning Commission for recommendation and to the City Council for decision.
4. **Referral to and Recommendation by Planning Commission.** Upon receipt of a completed application for appeal or within a reasonable time thereafter, the Zoning Administrator shall refer the application to the Nicholson Planning Commission. The meeting at which the Planning Commission considers the application shall be open to the public, but the Planning Commission meeting shall not be required to be an advertised public hearing and the Planning Commission shall not be obligated to but may hold a public hearing on the application. The Planning Commission shall make a recommendation on the application within 30 days of the meeting it is first scheduled to consider the application, and its recommendation shall be submitted to the City Council. The Planning Commission may submit any additional report it deems appropriate. The applicant will be notified in writing by the Zoning Administrator of the recommendation

within 7 working days of the decision. The recommendation and any report shall upon publication be available upon request to the public. The recommendation of the Planning Commission shall have an advisory effect only and shall not be binding on the City Council.

5. **Notice of City Council Public Hearing.** At least 15 but not more than 45 days prior to the date of the public hearing before the City Council, the Zoning Administrator shall cause to be published within a newspaper of general circulation within the territorial boundaries of the city a notice of the public hearing on the application. The notice shall state the time, place, and purpose of the public hearing.
6. **City Council Public Hearing and Action.** The City Council shall hold a public hearing on the application as advertised and after review and recommendation by the Planning Commission. In the event that the Planning Commission has not submitted its report and the public hearing has already been advertised, the City Council may elect to proceed with the advertised and scheduled public hearing, or it may reschedule and re-advertise the public hearing for a day after which the Planning Commission's recommendation will be available. In rendering a decision on any such application, the City Council shall consider all information supplied by the Zoning Administrator on the record and the findings of the Planning Commission, and any information submitted by the applicant. The City Council may grant or deny the appeal, or it may place conditions of approval on the application and approve the application the appeal with conditions. The applicant will be notified in writing by the Zoning Administrator of the decision within 7 working days of the decision.
7. **Stay of Proceedings.** The filing of an appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the City Council after the notice of appeal shall have been filed with him, that by any reason of acts stated in the certificate a stay would, in his or her opinion, cause eminent peril to life and property. In such case, proceedings shall not be stayed.
8. **Judicial Review.** Decisions by the City Council with regard to appeals are final; provided, however, any person or persons, jointly or severally, aggrieved by any decision of the City Council with regard to a decision on an appeal application under the terms of this section may take an appeal to or seek judicial review by the Jackson County Superior Court.

Section 8.07. Incorporation Clause.

This article is intended to comply with the provisions of the Georgia Zoning Procedures Law, O.C.G.A. § 36-66 et. seq., which Act is incorporated by reference in its entirety into this ordinance. Where any provision of this article is in conflict with any provision of the law, the law shall control. Or where this article is incomplete in having failed to incorporate a provision necessarily required for the implementation of the law, such provision of the law, so as to meet the mandate of the law, shall be fully complied with.

**ARTICLE IX
PERMITS AND CERTIFICATES**

Section 9.01. Development Permit.

Section 9.02. Building Permit.

Section 9.03. Certificate of Occupancy.

Section 9.01. Development Permit.

1. **Required.** A development permit shall be required for any proposed use of land(s) or building(s), and before any improvement, grading or alteration of land(s) or building(s) commences to indicate and insure compliance with all provisions of this ordinance and other applicable regulations in the Nicholson City Code. Such development activities include, but are not limited to, clearing and grubbing, grading and/or land disturbance, 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.
2. **Separate Requirements for Phased Applications.** If the tract is to be developed in phases, then a separate development permit shall be required for each phase.
3. **Exemptions.** A development permit shall not be required for individual structures within approved subdivisions, nor shall a development permit be required for a detached, single family dwelling on an individual lot not part of an approved subdivision or development.
4. **Application.** No person shall conduct any land-disturbing or development activity within the city without first applying for and obtaining a development permit from the Zoning Administrator, if required, to perform such activity.
5. **Application Requirements.** Applications shall be made in accordance with application requirements specified by the Zoning Administrator and this section. All applications for a development permit shall be made to the Zoning Administrator and shall be accompanied by the following:
 - (a) Application on the form furnished by the Zoning Administrator.
 - (b) A fee as established by resolution of the City Council.
 - (c) A copy of the approved preliminary plat, if subdivision is required and preliminary plat approval has been obtained, or an application for preliminary plat approval if required.
 - (d) A sufficient number (as approved by the Zoning Administrator) of sets of plans drawn to scale, signed and stamped by one or more qualified professionals who have authority to produce such plans or portions thereof, with addresses and contact information.

The application shall be checked for completeness at the time of submission. Incomplete applications will not be processed and will be returned to the applicant.

6. **Agency and Zoning Administrator Review.** The Zoning Administrator shall forward a copy of the development permit application, including the civil plans and drawings for the project, to other city departments and government agencies or others as appropriate, for their review and comment. The applicant may be required by the Zoning Administrator to secure development approval from other agencies if they are affected by (or have jurisdiction over) the development. Development approval may be required from but is not necessarily limited to the following, as applicable: the city engineer, the city street and/or public works department, the Georgia Department of Natural Resources, the soil and water conservation district with jurisdiction, the county fire department, the county health department, the Georgia Department of Transportation, and the U.S. Army Corps of Engineers.
7. **Consolidation and Submission of Comments to Applicant.** Upon receipt of comments from other city departments and external agencies as appropriate, the Zoning Administrator shall provide all comments to the applicant for resolution and as appropriate shall indicate on one or more copies of the civil drawings or in writing all comments related to compliance with applicable city regulations and agency requirements. Thereafter, the applicant shall submit revised plans to reflect all such comments.
8. **Issuance.** All development permits shall be issued by the Zoning Administrator who shall in no case grant any development permit for the use, construction or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this ordinance or other applicable regulations of the city. The applicant shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all of the comments of reviewing city departments, external agencies, and the Zoning Administrator. Although review may have been achieved, if another city department or external agency requires approval or a permit, the owner shall also be responsible for obtaining such approval or permit from all other agencies affected by the project prior to issuance of the development permit by the Zoning Administrator.
9. **Denial.** If the development permit is denied, the Zoning Administrator shall state in writing the reason for the denial and the applicant shall be notified of the denial. A record of all development permits shall be kept on file in the office of the Zoning Administrator which shall be a public record.
10. **Duration of Validity.** A development permit shall expire two (2) years after its issuance, subject to the following provisions: if the work described in any development permit has not been begun within one year from the date of issuance thereof, said permit shall expire, and if work described in any development permit has not been substantially completed within two years of the date of issuance thereof, said permit shall expire. Application processes shall begin anew for any expired development permit.
11. **Suspension or Revocation.** The development permit may be suspended or revoked by the city, as to all or any portion of the land affected by the permit, upon finding that the holder or his or her successor in title is not in compliance with the approved development permit or is in violation of any applicable regulations of this zoning ordinance or other ordinances in the Nicholson City Code.

Section 9.02. Building Permit.

1. The Building Inspector is hereby authorized to issue building permits in accordance with all provisions of this ordinance and relevant ordinances of the Nicholson City Code, but only after the Zoning Administrator has issued a development permit, or if no development permit is required, after a review of said building permit for compliance with the provisions of this ordinance and applicable regulations of the city.
2. No building or other structure shall be erected, moved, extended, occupied, or enlarged, or structurally altered, nor shall a building or structure's use be changed, nor shall any excavation, grading, or filling of any lot for the construction of any building or structure be commenced until the Building Inspector has issued a building permit for such work in conformity with the provisions of this ordinance and all applicable building and related codes.
3. Approval of a building permit shall require an application to the Building Inspector as specified in the minimum standard codes. If the building permit is denied, the Building Inspector shall state in writing the reason for the denial and the applicant shall be notified of the denial. A record of all building permits shall be kept on file in the office of the Building Inspector.
4. Any building permit issued shall become invalid unless the work authorized by it shall have been commenced within one-hundred eighty (180) days of its date of issue, or if the work authorized by it is suspended or abandoned for a period of six (6) months.
5. Chapter 1 of the International Building Code, which is hereby adopted as if fully set forth in this ordinance, shall govern specific procedures and submission requirements.

Section 9.03. Certificate of Occupancy.

1. A certificate of occupancy issued by the Building Inspector is required in advance of occupancy or use, any building or structure hereafter erected, or a change in the use of an existing building or structure.
2. A certificate of occupancy, either for the whole or part of a building or use, shall be issued within seventy-two (72) hours after the erection or structural alterations of such building, or part, or use established, is completed. A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance and applicable regulations of the City of Nicholson.
3. If the certificate of occupancy is denied, the Building Inspector shall state in writing the reason for the denial and the applicant shall be notified of the denial. A record of all certificates shall be kept on file in the office of the Building Inspector.
4. Chapter 1 of the International Building Code, which is hereby adopted as if fully set forth in this ordinance, shall govern specific procedures and submission requirements.

**ARTICLE X
ACCESS, PARKING AND LOADING**

- Section 10.01. Applicability.
- Section 10.02. Access.
- Section 10.03. Shared Driveways and Inter-parcel Access.
- Section 10.04. Visibility at Intersections and Driveways.
- Section 10.05. Internal Vehicular Circulation.
- Section 10.06. Off-Street Parking Required.
- Section 10.07. Location of Off-Street Parking Areas.
- Section 10.08. Parking Plan Required.
- Section 10.09. Minimum Design Requirements.
- Section 10.10. Minimum Number of On-site Parking Spaces.
- Section 10.11. Interpretations.
- Section 10.12. Number of Handicapped Parking Spaces Required.
- Section 10.13. Off-Street Loading Required.
- Section 10.14. Loading Area Specifications.
- Section 10.15. Loading Docks and Spaces Required.

Section 10.01. Applicability.

This article shall apply to:

1. Any new building constructed; and
2. For new uses or conversions of existing, conforming buildings; and
3. For enlargements of existing structures; and
4. When the occupancy of any building is changed to another use.

This article shall not be construed so as to require additional parking spaces to be furnished for an existing building which is repaired, altered, maintained, or modernized, where no structural alterations are made and the size of the building is not increased.

Section 10.02. Access.

1. All parking shall be provided with vehicular access to a street. Parking areas shall not thereafter be encroached upon or altered without approval of the Zoning Administrator.
2. Loading areas shall be provided with access to a street or alley. Loading areas shall not thereafter be encroached upon or altered without approval of the Zoning Administrator.
3. Off-street parking and loading spaces shall have access so that their use will not require backing movements or other maneuvering within a street right-of-way.

Section 10.03. Shared Driveways and Inter-parcel Access.

1. **Applicability.** This Section shall apply to all new office, commercial, institutional, and (if permitted) industrial developments and major building renovations and repaving projects of office, commercial, institutional, and (if permitted) industrial developments.

2. **Shared Driveways.** Shared driveways between two parcels along the common property line may be required by the Zoning Administrator during development permit review. In such cases, the subdivider and/or each property owner shall grant an access easement to facilitate the movement of motor vehicles and pedestrians across the site.
3. **Inter-parcel Access Requirements.** Inter-parcel access for vehicles between abutting and nearby properties shall be provided so that access to individual properties can be achieved between adjacent and nearby developments as an alternative to forcing all movement onto abutting highways and public roads, unless the Zoning Administrator during development permit approval determines that it is unnecessary to provide inter-parcel access due to the unlikelihood of patrons traveling among two or more existing or proposed uses on abutting or nearby sites. Where opportunities for shared access have been identified by the Zoning Administrator, developments must provide shared access with adjoining properties to facilitate frontage roads and/or driveway connections between parcels. The property owner shall grant an access easement to facilitate the movement of motor vehicles and pedestrians from site to site.
4. **Locations.** The location of vehicular connections across a property line shall be mutually determined and constructed by both property owners. Connection of parking areas for vehicular access may be provided in the front portion or rear portion of the site. In cases where it is not possible to provide the connection in the rear, it may be provided in the front portion of the site. In the case of coordination problems or any factors preventing construction of an inter-parcel connection, the Zoning Administrator will determine the location of the inter-parcel connection to be constructed by property owners.

Section 10.04. Visibility at Intersections and Driveways.

No fence, wall, sign, hedge or planting or similar improvement will be permitted to obstruct the sight lines or visibility of motorists and/or pedestrians at any intersection of public or private streets or at any driveway intersection with a public or private street. For purposes of this section, obstructions shall be defined in terms of height as elevations between thirty (30) inches and twelve (12) feet above any roadway or driveway, as applicable.

Section 10.05. Internal Vehicular Circulation.

1. Efficient and easily recognized vehicular circulation routes within a development are vital and shall be provided.
2. Internal vehicle circulation shall be designed or redesigned in a manner that avoids conflicts between through-traffic (i.e., traffic flowing into and out of the site) and local traffic (i.e., traffic through parking areas).
3. Interior vehicular circulation shall be provided by: visually orienting the driver with a regular, logical system of interior driveways and roadways; identifying entrance drives with small entry signs; and preventing vehicles from driving across or through designated parking areas by placing raised landscaped dividers or walkways between parking aisles.

Section 10.06. Off-Street Parking Required.

Off-street automobile parking spaces shall be provided on every lot on which any building, structure, or use is hereafter established in all zoning districts. Required parking spaces shall be available for the temporary parking of passenger vehicles for residents, customers, patrons, and employees, as appropriate given the subject use.

Section 10.07. Location of Off-Street Parking Areas.

1. **Requirement.** All parking spaces required by this article shall be provided on the same lot with the main building or use which it serves, except as specifically provided in this section.
2. **Exemption.** The Zoning Administrator may permit some or all of the required parking spaces to be provided on another lot, a substantial portion of which must be within eight hundred (800) feet of such building, structure, or use. Any applicant proposing to use off-street parking on another site to meet the on-site parking requirements of this article shall submit evidence either of ownership or a valid agreement to lease the parking area off-site. Safe and convenient pedestrian access, such as a sidewalk or path, must exist or be provided from the structure or use to the off-site parking lot.

Section 10.08. Parking Plan Required.

1. Before any parking lot or other parking improvement is constructed, or building permit is issued, the parking lot layout and area must be found by the Zoning Administrator to be in compliance with all requirements of this article via the submission and approval of a parking plan.
2. No permit shall be issued for any parking area until the plans and specifications have been submitted for review by the Zoning Administrator. Such plans and specifications shall include the number of spaces provided and required, the location of entrances, exits, aisles, curbing where required, landscaping, screening, surface materials, and provisions for drainage.
3. The Building Inspector shall not allow occupancy or use of a building until advised by the Zoning Administrator that parking facilities meet the requirements of this article.

Section 10.09. Minimum Design Requirements.

The following minimum design requirements shall be adhered to and demonstrated with the submission of appropriate plans and specifications during development permitting.

1. **Paving; Variations.** Parking and loading areas shall be paved with concrete, asphaltic concrete or asphalt, unless the Zoning Administrator specifically approves another dust-free surface material be substituted in lieu of such paving. Porous pavement parking spaces and grass pavers may be substituted for standard dust free pavements subject to the approval of the City Engineer. Aggregate (gravel) surface may be considered appropriate in agricultural and rural areas. Water quality considerations and the character of the district in which the parking lot is proposed to be constructed may be considered by the Zoning Administrator in modifying parking lot pavement requirements during the required site and design approval process.

2. **Curbing and Drainage.** Parking and loading areas shall be properly graded if necessary but in all cases drained so as to prevent damage to abutting properties or public streets. Water quality effectiveness and character of the zoning district shall be considerations in determining curbing requirements by the Zoning Administrator.
3. **Circulation.** Dead-end parking areas shall be prohibited unless design conditions prevent a connected design, and they can only be used if 90 degree parking design is used.
4. **Minimum Parking Space Width.** Off-street parking spaces shall be a minimum of nine feet in width, with wider (10 foot) spaces encouraged in high-turnover areas.
5. **Minimum Parking Space Length.** Off-street parking spaces shall be a minimum of twenty feet in length except where compact parking is authorized by the Zoning Administrator, in which case parking space lengths can be reduced to 16 feet.
6. **Minimum Aisle Length.** Parking driveway maneuvering aisle width requirements vary according to the width and length of parking spaces and the angle of parking. For a single row of 90 degree head-in parking, the minimum depth for a parking space plus the width of the aisle shall be 42 feet. For two rows of 90 degree head-in parking using the same aisle, the minimum depth for parking spaces plus the width of the aisle shall be 62 feet for 9 foot-wide spaces and 60 feet for 10 foot-wide spaces, measured from back of curb to back of curb).
7. **Compact Auto Parking.** Compact parking spaces may be used in parking areas when more than 20 parking spaces are required, provided that the areas for compact parking are clearly marked and not more than 20 percent of the number of parking spaces provided in the entire parking area is designated compact auto parking.
8. **Angled Parking.** The Zoning Administrator may authorize parking lot designs that utilize 75, 60, and 45 degree-angled parking spaces with one-way or two-way aisles. If such angled parking is used, parking lots shall comply with acceptable parking dimensional standards for aisle widths as specified by the Institute of Transportation Engineers or other reputable source approved by the Zoning Administrator.
9. **Maximum Aisle Length.** Parking aisle length shall not exceed 500 feet without a break for circulation.
10. **Landscaped Divider.** One landscaped divider (i.e., planted area within in between and separating the vehicle parking spaces fronting one another) with a minimum width of nine feet shall be provided for every fifth parking aisle in a parking lot; provided, however, that the Zoning Administrator may vary this requirement in cases of short parking aisles or where alternative designs prevent random maneuvers which can endanger pedestrians.
11. **Lighting.** Parking areas shall be appropriately lighted unless the Zoning Administrator determines that lighting would be incompatible with abutting properties. Where lighting of parking lots is required or provided, light poles should be located in landscaped planter strips. Where this cannot be accomplished, light poles must be placed on a reinforced concrete pedestal to protect them from damage or being knocked over.

12. **Signage.** Where needed to promote proper circulation within off-street parking areas, directional signs shall be placed in appropriate locations as specified by the Zoning Administrator via development permit approval or parking plan approval.

Section 10.10. Minimum Number of On-site Parking Spaces.

1. Unless specifically provided otherwise in this article, on each lot where a building, structure, or use exists, each site shall be designed to provide and shall provide for off-street parking in the minimum amounts in Table 10.1.
2. No existing or future off-street parking area shall be reduced in capacity to less than the minimum required number of spaces, or altered in design or function to less than the minimum standards, unless specifically provided for in this article.
3. This section shall not be construed as requiring compliance of parking lots which lawfully existed on the effective date of this article; provided, however, that the Zoning Administrator shall ensure parking lots that do not comply with this article meet the requirements of this article or substantially comply when a new development permit is required or a building permit is required to add additional building space on the site. If substantial redesign of the parking lot is required to comply with this article in such cases of new development or building additions, the Zoning Administrator may accept substantial rather than complete compliance when the strict application of a requirement of this article would pose substantial practical difficulty.

**Table 10.1
Minimum Number of
Off-Street Parking Spaces Required**

Unless otherwise noted, the parking requirement shall be based on the gross square footage of the building or buildings devoted to the particular use specified.

Use	Minimum Parking Required
COMMERCIAL USES	
Animal hospital; kennel	One per 400 square feet
Appliance sales and repair	One per 500 square feet
Art gallery	One per 400 square feet
Automated teller machine, no drive-through	Two per machine
Auto parts store	One per 500 square feet
Automobile sales	One per 200 square feet of repair space plus one per 400 square feet of showroom/office
Automobile service and repair	One per 250 square feet
Bank, credit union, savings and loan	One per 300 square feet (plus provisions for drive-through facilities if applicable)
Barber shop or beauty parlor	One per 300 square feet
Bed and breakfast inn	Two for the owner-operator plus one per guest bedroom
Carpet or floor covering store	One per 300 square feet of retail sales and office area, plus if applicable, warehouse requirements for designated storage, receiving, and shipping area
Car wash, staffed or automated	Two stacking spaces for each car wash lane plus two drying spaces per lane
Contractor's establishment	One per 300 square feet of office space and one per 2,000 square feet of outdoor storage
Convenience store	One per 200 square feet
Dance hall	One per 125 square feet
Day care center	One per 500 square feet
Funeral home or mortuary	One per four seats in largest chapel
Furniture and home furnishing store	One per 600 square feet
Grocery store	One per 300 square feet
Hardware store	One per 400 square feet
Health or fitness club	One per 200 square feet
Hotel, extended stay	1.5 per unit lodging unit
Hotel or motel	One per lodging unit, plus one per each 150 square feet of banquet, assembly, meeting, or restaurant seating area
Laundromat	One for each three washer/dryer combinations
Nursery or garden center	One per 300 square feet plus one per 1,500 square feet outdoor sales or display area
Office	One per 300 square feet
Open air sales	One per 250 square feet of indoor floor space plus one per 600 square feet of outdoor sales
Personal service establishment	One per 250 square feet

Use	Minimum Parking Required
Photofinishing laboratory	One per 250 square feet
Photographic studio	One per 300 square feet
Restaurant, bar, or tavern	One per 125 square feet
Retail store	One per 275 square feet
Self storage facility (mini-warehouse)	One per 40 storage units
Service station	One per 250 square feet of office space plus two per service bay
Shopping center	One per 275 square feet
INDUSTRIAL USES	
Manufacturing, processing, assembling	One per 1,300 square feet
Warehouse	One per 2,000 square feet
Wholesale	One per 1,000 square feet
INSTITUTIONAL USES	
Assembly hall; auditorium; nonprofit club or lodge	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seating
Church, temple, synagogue and place of worship	One per four seats in room with greatest seating capacity or one per 40 square feet in largest assembly area without fixed seating
Government office	One per 300 square feet
Hospital	1.5 per bed
Library	One per 400 square feet
Museum	One per 500 square feet
Nursing home	One per four beds
Post office	One per 200 square feet
School	One per 300 square feet
School for the arts	One per 300 square feet
School, trade or business	One per 200 square feet
Condominium, one bedroom	1.5 per unit plus 0.1 per unit for guest space
Condominium, two bedroom	1.5 per unit plus 0.1 per unit for guest space
Condominium, three bedroom	2 per unit plus 0.2 per unit for guest space
RESIDENTIAL USES	
Single family detached or attached	Two per unit
Two family dwelling	Two per unit
RECREATIONAL USES	
Athletic field	20 spaces per field
Billiard hall/amusement arcade	One per 200 square feet
Bowling alley	Two per each bowling lane (add parking for billiard hall/ amusement arcade, if provided)
Community center	One per 300 square feet
Ice or roller skating rink	One per 200 square feet
Miniature golf	Two per hole
Stadium or sport arena	One per twelve feet of bench seating
Swimming pool – subdivision amenity	One per 150 square feet of surface water area
Swimming pool – public	One per 125 square feet of surface water area
Tennis or racquet ball court	Two per court

Section 10.11. Interpretations.

1. **Fractions.** Where a fractional space results during the calculation of required parking, the required number of parking spaces shall be construed to be the next highest whole number.
2. **Parking Space Requirement Not Specified.** Where the parking requirement for a particular use is not described in Table 10.1, and where no similar use is listed, the Zoning Administrator shall determine the number of spaces to be provided based on requirements for similar uses, location of the proposed use, the number of employees on the largest shift, total square footage, potential customer use, and other expected demand and traffic generated by the proposed use. At the discretion of a development applicant, a parking generation study prepared by a qualified professional may be submitted to aid the Zoning Administrator in making such a determination; if submitted, it shall be considered by the Zoning Administrator prior to making a determination.
3. **Computations for Multiple Floor Uses Within a Building.** In cases where a building contains some combination of residential use, office space, retail or wholesale sales area, and/or bulk storage area, the Zoning Administrator may authorize that the building space be divided into such floor space use areas and separate computations of floor areas (e.g., warehousing, retail, and/or office) in determining the off-street parking or loading space requirements of this article.

Section 10.12. Number of Handicapped Parking Spaces Required.

Regulations and dimensions for handicapped parking spaces shall be per requirements of the Americans with Disabilities Act (ADA) (Public Law 101-136) and the Georgia Accessibility Code.

Section 10.13. Off-Street Loading Required.

On the same lot with every building, structure or part thereof, erected or occupied for manufacturing, storage, warehouse, truck freight terminal, department store, wholesale store, grocery supermarket, hotel, hospital, mortuary, dry cleaning plant, retail business, or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained adequate space for the standing, loading, and unloading of such materials to avoid undue interference with public use of streets, alleys, and private or public parking areas.

Section 10.14. Loading Area Specifications.

Unless otherwise approved by the Zoning Administrator, loading spaces shall be a minimum of fourteen (14) feet wide, forty (40) feet long, with fourteen (14) feet of height clearance. When the development requires loading and unloading by full-size tractor-trailers, loading spaces shall be sixty (60) feet long with a sixty-three (63) foot apron, for a total approach zone of 123 feet.

Section 10.15. Loading Docks and Spaces Required.

Unless otherwise approved by the Zoning Administrator, when loading space is required by this Article it shall be provided in the quantity according to land use specified in Table 10.2.

Table 10.2
Minimum Number of Loading Docks and Loading Spaces Required

Land Use	Size (Gross Floor Area in Square Feet)	Loading Docks	Loading Spaces	Total Spaces
Office	0 – 30,000	0	1	1
	30,001 – 100,000	1	1	2
	Each additional 100,000	1	1	+2
Commercial	0 – 10,000	0	1	1
	10,001 – 30,000	1	1	2
	30,001 – 80,000	2	1	3
	Each additional 80,000	1	0	+1
Industrial	0 – 5,000	0	1	1
	5,001 – 30,000	1	1	2
	30,001 – 50,000	2	1	3
	50,001 – 100,000	3	1	4
	Each additional 100,000	1	0	+1

Source: National Parking Association, 1992. Recommended Zoning Ordinance Provisions for Parking and Off-Street Loading Space. In Transportation and Land Development, 2nd Ed. 2002 (Washington, DC, Institute of Transportation Engineers, 2002, p. 10-8, Table 10-3).

**ARTICLE XI
ADMINISTRATION AND ENFORCEMENT**

Section 11.01. Zoning Administrator.

Section 11.02. Building Official.

Section 11.03. Code Enforcement Officer.

Section 11.04. Enforcement and Remedies.

Section 11.05. Penalties for Violation.

Section 11.01. Zoning Administrator.

The Zoning Administrator shall be appointed by the City Council and if no appointment is made the City Clerk shall serve as Zoning Administrator. This ordinance shall be administered, interpreted, and enforced by the Zoning Administrator, who shall have the duties and authority with respect to this ordinance as provided in the various articles and sections of this ordinance and those necessarily implied by said provisions. Among the various duties, responsibilities, powers, and authority (not exhaustive or all-inclusive) the Zoning administrator is hereby authorized to:

1. Serve the Planning Commission as the principal administrative agent and, ex-officio secretary or record keeper of the commission.
2. Review and recommend for initiation by the Planning Commission and/or City Council, amendments to this ordinance.
3. Maintain as official public records all applications for rezoning, conditional use, variance, and any other applications required by or submitted pursuant to this ordinance.
4. Maintain and update the official zoning map, and interpret the boundaries thereof when unclear or questions arise.
5. Issue official letters of zoning compliance and zoning district confirmation.
6. Determine nonconforming situations, and exercise administrative flexibility in terms of correction of nonconforming situations.
7. Establish administrative application forms and guidelines, and waive or modify application requirements enumerated in this ordinance, and establish other requirements for applications in addition to those enumerated in this ordinance.
8. Establish public hearing schedules and deadlines for the submission of applications required or authorized under the terms of this ordinance.
9. Prepare written reports and present orally reports and information to the Planning Commission and City Council with regard to applications for amendments to the official zoning map, conditional uses, variances, and other applications requiring their consideration.
10. Conduct inspections; to that end, the Zoning Administrator shall be authorized to enter onto private property after first notifying the property owner of record and occupant if different from the owner, or as otherwise provided by a court of law.

11. Approve and issue development permits, and disapprove development permits that are inconsistent with the requirements of this ordinance, and suspend or revoke development permits when work is not done in accordance with an approved development permit.
12. Authorize approval by the building inspector of building permits and certificates of occupancy, or withhold authorizing approval of building permits and certificates of occupancy by the building inspector if work or activity proposed is inconsistent with the requirements of this ordinance or other code requirement of the city.
13. Interpret and enforce the provisions of this ordinance, subject only to provisions for the appeal of administrative decisions (Article VIII of this ordinance).
14. Exercise any other administrative and enforcement duties specifically assigned or which are reasonably implied within the duties and responsibilities of the Zoning Administrator.

Section 11.02. Building Inspector.

The Building Inspector, if appointed by City Council, shall be authorized to conduct inspections, issue and disapprove building permits, issue or disapprove certificates of occupancy, and exercise any other administrative and enforcement actions reasonably implied within the duties and responsibilities of Building Inspector.

Section 11.03. Code Enforcement Officer.

A Code Enforcement Officer, if appointed by the City Council, shall be authorized to conduct investigations and execute enforcement actions when there is alleged to be a violation of any provision of this ordinance.

Section 11.04. Enforcement and Remedies.

1. **Notice and Warning.** If, through inspection, it is deemed that a person engaged in any activity inconsistent with the provisions of this ordinance, with an approved plan or permit, or with conditions of a permit, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the date upon which such measures must be completed, which shall be no less than five days from the issuance of the written notice. This written notice to comply shall serve as a written warning to the violator. If the person engaged in the unlawful activity fails to comply by the date specified, he or she shall be deemed in violation of this ordinance.
2. **Stop Work Order.** If the violation is not corrected within the time frame provided in the notice, the Zoning Administrator, designee, or other authorized enforcement officer shall issue a stop-work order requiring that such unlawful activities be stopped until necessary corrective action or mitigation has occurred. For a third and each subsequent violation, the enforcement agent shall issue an immediate stop-work order. All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred.

3. **Service of Notices, Warnings, and Stop Work Orders.** Any notices, warnings and/or stop work orders shall be deemed served upon the posting of the same in the permit box, if any, at the location where the activity is or was taking place. It is the responsibility of the permittee to monitor and check the permit box for material issued pursuant to this ordinance. If the violation is by a tenant, person, corporation, firm, or other entity who is not the owner of record of the building, structure, or land, the Zoning Administrator or designee shall provide written notice, either personally or by mail, to the owner of record of such building, structure, or land. If the owner of record does not bring the use of the building, structure, or land into compliance within the time specified in the notice, warning, or stop work order, the owner shall be considered to be in violation of the provisions of this ordinance.
4. **Citation and/or Injunction.** If the violation is not corrected within the time frame provided in the notice, the Zoning Administrator, designee, or other authorized enforcement officer may issue a citation for violation of this ordinance or other provision of this city code, requiring the presence of the violator in the municipal court or other court with jurisdiction. The Zoning Administrator may also institute an injunction, or institute other appropriate action or proceeding to prevent or abate such violation or to prevent the continuance of use or the occupancy of such building, structure, or land.
5. **Suspension or Revocation of Permit or Other Authorization.** Any permit or authorization issued pursuant to this ordinance may be suspended, revoked, or modified by the zoning ordinance, as to all or any portion of the land affected, upon finding that the holder or his successor in the title is not in compliance with the approved plan and/or permit or that the holder or his successor in title is in violation of this ordinance, after being so notified as required by this section.
6. **Suspension or Revocation of Other Approvals.** As an additional remedy, the Zoning Administrator, designee, or other enforcement officer may refuse or deny all city permits, licenses, certificates, utility connection authorization, and applications to said owner or his agents until such violation is abated or corrected.

Section 11.05. Penalties for Violation.

Any person who violates any provisions of this ordinance or any permit condition or limitation established pursuant to this ordinance shall be liable for a civil penalty not to exceed \$2,500.00 per day. Each day during which violation or failure or refusal to comply continues shall be a separate violation. Any person who violates any provisions of this ordinance, or any permit condition or limitation established pursuant to this ordinance may be sentenced to a period of confinement of up to thirty (30) days.

ARTICLE XII DEFINITIONS

Abandon: To stop the use of property or the occupancy of a building intentionally. Abandonment is presumed when the use of a property or building has ceased and the property or building has been vacant for twelve (12) months or more.

Abutting: Having property lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.

Adaptive reuse: Rehabilitation or renovation and occupancy of an existing building(s) or structures for use(s) other than the present use(s).

Agriculture: Farming, including plowing, tilling, cropping, utilization of best management practices, seeding, cultivating or harvesting for the production of food and fiber products (except commercial logging and timber harvesting operations); aquaculture; sod production; orchards; Christmas tree plantations; nurseries; and the cultivation of products as part of a recognized commercial enterprise. This term specifically includes "horticulture," or the growing of fruits, vegetables, herbs, flowers or ornamental plants. This term also includes plant nurseries and greenhouses, where lands or structures are used primarily to cultivate trees, shrubs, flowers or other plants for sale.

Alteration: Any change in the supporting members of a building or structure such as bearing walls, columns, and girders, except such emergency change as may be required for safety purposes; any addition to a building; any change in use; or, any movement of a building from one location to another.

Animal hospital: An establishment designed or used for the care, observation, or treatment of domestic animals.

Animal quarters: Any structure which surrounds or is used to raise, breed (husbandry), house, shelter, care for, feed, exercise, train, exhibit, display, or show any animals or livestock other than domestic pets. This is not intended to apply to non-structural, fenced land for grazing. This includes the term "barn" when used to shelter livestock or other animals.

Annexation: The process by which a parcel of land is transferred from the jurisdiction of unincorporated Jackson County to the jurisdiction of the City of Nicholson.

Appeal: A request for a review of an administrative official's interpretation of any provision of this zoning ordinance, or a request for a review of an action taken by an administrative official in the application or enforcement of this zoning ordinance.

Applicant: A property owner or their authorized representative who has petitioned the city for approval of an application under the terms of this zoning ordinance.

Assisted living facility: Residences for the elderly who are in need of assistance, that provide rooms, meals, personal care, and supervision of self-administered medication. They may provide other services incidental to the above. For purposes of this zoning ordinance, assisted living facilities are considered institutionalized residential living and care facilities.

Auction house or auction yard: Any building, structure, enclosure, or place where goods or livestock are sold by auction (i.e., through bid in competition with others). This use is a wholesale trade establishment.

Automobile sales or service establishment: New or used car, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and/or service, including manufactured home and modular building sales, agricultural implements and equipment, and similar pieces of equipment or vehicle. This definition includes automotive services such as rental car facilities, top and body, paint, automotive glass, transmission, and tire repair shops, car washes, and oil change and lubrication facilities.

Bank or financial establishment: A business that accepts money for deposit into accounts from the general public or other financial institutions, and which may include personal or business loans, wire transfers and safe deposit boxes. Such uses include but are not limited to banks, savings and loan institutions and credit unions, and security and commodity exchanges.

Bed and breakfast inn: A facility where overnight accommodations for not more than ten residents are provided to transients for compensation, with or without a morning meal. A bed and breakfast inn does not include retail uses, public bar, conference center, or special event facilities.

Broadcasting studio: A room or suite of rooms operated as a radio or television broadcasting studio or station with local broadcast capability or intended for satellite distribution of programs, and usually including satellite dishes, microwave dishes, and/or other communications equipment.

Buffer, natural vegetative: A strip of land of specified width 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, and which contains a natural area consisting of trees and/or other vegetation, undisturbed except for approved access and utility crossings, and replanted where sparsely vegetated.

Building: The word "building" includes the word "structure."

Building, accessory: A building subordinate to the main building on a lot and used for purposes incidental to the main or principal building and located on the same lot therewith.

Building, principal: A building in which is conducted the principal use of the lot on which said building is situated. In any residential zoning district, any structure containing a dwelling unit shall be defined to be the principal building on the plot on which same is situated, except for detached accessory apartments. When an accessory building is attached to a principal building by a breezeway, passageway, or similar means, the accessory building shall be considered part of the principal building and shall comply with the yard requirements for a principal building.

Building coverage, maximum: The highest percentage of a given lot that may be occupied by all principal and accessory buildings and structures on said lot, measured within the outside of the exterior walls of the ground floor (i.e., "footprint") of all principal and accessory buildings and structures on the lot, not including steps, terraces, and uncovered porches.

Building footprint: The horizontal area of a building as seen in plan view, measured from the outside of all exterior walls and supporting columns.

Building, height of: The vertical distance measured from the finished grade to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip or gambrel roof. In this context finished grade is determined as the average elevation of the ground on all sides of a building.

Building inspector: The city's official, or designee, responsible for implementing and enforcing minimum standard codes applicable in the city.

Building materials sales: An establishment offering lumber or other construction materials used in buildings for sale to contractors or the general public. When operated in whole or part outside the confines of a building, a building materials sales establishment is an open air business.

Building setback line: A line establishing the minimum allowable distance between the front wall of a principal building and the street right-of-way line or another building wall and a side or rear property line when measured perpendicularly thereto. Covered porches, whether enclosed or not, shall be considered as a part of the building and shall not project into beyond a required building setback line. For purposes of this zoning ordinance, a minimum required building setback line and minimum required yard shall be considered the same.

Business service establishment: A business activity engaged in support functions to establishments operating for a profit on a fee or contract basis, including but not limited to: advertising agencies, photocopying, blueprinting and duplication services, mailing agencies, commercial art and graphic design; personnel supply services and employment agencies, computer and data processing services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, messenger services and couriers, publications and business consulting firms, food catering, interior decorating, and locksmiths.

Camp or campground: Any place established or maintained for two or more individual spaces or sites for temporary living quarters in cabins, structures, or tents for recreation or vacation purposes for a fee.

Car wash: The use of a site for washing and cleaning of passenger vehicles, other vehicles, or other light duty equipment. Car washes consist of self-service, staffed, or mechanically automated facilities. For purposes of this zoning ordinance, a car wash is considered an automobile service establishment whether it is a principal use or accessory to another use or building.

Carport: A roofed, accessory building or structure, not necessarily fully enclosed on the sides and usually open on two or more sides, made of canvas, aluminum, wood, or any combination thereof, including such materials on movable frames, for the shade and shelter of private passenger vehicles or other motorized or non-motorized equipment such as tractors and boats.

Certificate of occupancy: A document issued by the Building Inspector indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

Character: Those attributes, qualities and features that make up and distinguish a development project or area of the city and give such project or area of the city a sense of purpose, function, definition, and uniqueness.

Church: A building or structure, or group of buildings or structures, that by design and construction are primarily intended for conducting organized religious services. Associated accessory uses include but are not limited to: schools, meeting halls, indoor recreational facilities, day care, counseling, and kitchens. This term includes synagogues, temples, and places of worship.

City: The City of Nicholson, Georgia.

Clinic: An institution or professional office, other than a hospital or nursing home, where persons are counseled, examined, and/or treated by one or more persons providing any form of healing or medical health service. Persons providing these services may offer any combination of counseling, diagnostic, therapeutic or preventative treatment, instruction, or services, and which may include medical, physical, psychological, or mental services and facilities for primarily ambulatory persons.

Club or lodge, nonprofit: A building or premises, used for associations or organizations of an educational, fraternal, or social character, not operated or maintained for profit. Representative organizations include American Legion, Elks, Rotary, Lions, and Veterans of Foreign Wars. The term shall not include casinos, nightclubs, bottle clubs, or other establishments operated or maintained for profit.

Commercial recreational facility, indoor: A use that takes place within an enclosed building that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: assembly halls, auditoriums, meeting halls, for-profit art galleries, billiard halls and pool rooms, amusement halls, video arcades, ice and roller skating rinks, bowling alleys, and fully-enclosed theaters.

Commercial recreational facility, outdoor: A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, and which all or part of the activities occur outside of a building or structure, including but not limited to the following: amusement parks, stadiums, amphitheaters, fairgrounds, drive-in theaters, golf driving ranges, miniature golf courses, batting cages, race tracks for animals or motor-driven vehicles, archery ranges, unenclosed firearms shooting ranges and turkey shoots, fish ponds, botanical and zoological gardens, ultra-light flight parks, and bungi jumping.

Common area: Land within a development, not individually owned or dedicated to the public, and designed for the common usage of the development. These areas include green open spaces and yards and may include pedestrian walkways and complimentary structures and improvements for the enjoyment of residents of the development. Maintenance of such areas is the responsibility of a private association, not the public.

Community recreation: A private recreational facility for use solely by the residents and guests of a particular (usually residential) development, including indoor facilities such as community meeting rooms and outdoor facilities such as swimming pools, tennis courts, and playgrounds. These facilities are usually proposed, planned, and provided in association with a development and are usually located within the boundaries of such development.

Compatibility: With regard to development, the characteristics of different land uses or activities that permit them to be located near each other in harmony and without conflict.

Condition of zoning approval: A requirement adopted by the City Council at the time of approval of a rezoning, zoning amendment, or conditional use, placing greater or additional requirements or restrictions on the property than provided in this zoning ordinance in order to mitigate or reduce an adverse impact of the request and to further protect the public health, safety, or general welfare. This definition is not intended to be construed as limiting the legislative powers of the City Council in any way.

Comprehensive plan: Any plan adopted by the Nicholson City Council, or any plan adopted by a regional commission covering the local jurisdiction, or portion of such plan or plans. This definition shall be construed liberally to include the major thoroughfare plan, master parks and recreation plan, or any other study, document, or written recommendation pertaining to subjects normally within the subject matter of a Comprehensive Plan as provided by the Georgia Planning Act of 1989, if formally adopted by the City Council.

Condominium: A form of ownership as defined by state law in which common elements are jointly owned.

Condominium building: A building containing one (1) or more individually owned units or building spaces situated on jointly owned, common areas as defined by laws of the State of Georgia. When a building on property under condominium ownership contains only one dwelling unit, that building is considered a detached, single-family condominium building. When a building on property under condominium ownership contains two or more dwelling units, that building is considered an attached, multi-family condominium building.

Construction field office: A structure used as an office in conjunction with a project while it is being constructed. A construction field office is a temporary use. It may be an industrial building, as defined herein.

Continuing care retirement community: A residential facility providing multiple, comprehensive services to older adults. Such facility normally contains a combination of independent living units, assisted living, and skilled nursing care units as defined herein.

Contractor's establishment: An establishment engaged in the provision of construction activities, including but not limited to, plumbing, electrical work, building, grading, paving, roofing, carpentry, and other such activities, including the storage of material and the overnight parking of commercial vehicles. Also, this definition includes landscaping companies, as defined herein.

Convenience store: A retail store, usually with a floor area usually no more than 5,000 square feet, that sells convenience goods, such as prepackaged food items and a limited line of groceries. Convenience stores may or may not sell gasoline, diesel, and kerosene but do not include automotive services.

Crisis center: A facility or portion thereof and premises that are used for the purposes of emergency shelter, crisis intervention, including counseling, referral, hotline response, and similar human social service functions. Said facility may include meal preparation, distribution, or service for residents of the center as well as nonresidents, merchandise distribution, or shelter, including boarding, lodging, or residential care. This term includes domestic violence and centers, homeless shelters, and halfway houses.

Curb: A boundary, usually constructed of concrete, usually marking the edge of a roadway or paved area, which is designed to channel storm water to drainage inlets and/or prevent or deter access.

Day care center: Any place operated by a person, society, agency, corporation, institution or group, and licensed or registered by the State of Georgia as a group day care home or day care center, wherein are received for pay for group supervision and care, for fewer than twenty-four (24) hours per day, seven (7) or more persons.

Density: The quantity of building per unit of area; for example, the number of dwellings per area (gross square foot or per acre).

Development: 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; any activity which alters the elevation of the land, removes or destroys plant life, or causes structures of any kind to be erected or removed.

Developmentally disabled person: A person with a disability resulting in substantial functional limitations in such person's major life activities which disability is attributable to mental retardation, cerebral palsy, epilepsy, or autism or is attributable to any other condition related to mental retardation because such condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally retarded persons.

Dry cleaning plant: A building, portion of a building, or premises used or intended to be used for cleaning fabrics, textiles, wearing apparel, or articles of any sort by immersion or agitation, or by immersions only, in volatile solvents included, but not limited to, solvents of the petroleum distillate type, and/or the chlorinated hydrocarbon type, and the processes incidental thereto.

Dumpster: A container designed to hold refuse that has a hooking connection that permits it to be raised and dumped into a sanitation truck for disposal, or a container (excluding temporary placements) designed to hold refuse that is loaded onto a truck.

Dwelling: A building or portion of a building arranged or designed to provide living quarters for one or more families or households on a permanent or long-term basis.

Dwelling, single-family detached: A site-built residential building, or an industrialized building, designed for occupancy by one family or household. This term does not include manufactured homes or mobile homes. Single-family, detached dwellings may be under fee-simple (i.e., individual lot) ownership or on a condominium basis.

Dwelling, single-family detached, fee-simple: A building designed or arranged to be occupied by one (1) family or household only, and where such dwelling is located on its own lot in fee-simple title.

Dwelling, single-family detached, condominium: A residential building designed for occupancy by one family only, where more than one dwelling is located on a single lot and the land is owned in common.

Dwelling, two-family (duplex): A building designed or arranged to be occupied by two (2) families or households living independently of each other. A duplex may be of the kind where

both dwelling units are located on a single lot, or it may be of the kind where each dwelling unit is located on its own lot in fee-simple title, but where the two dwelling units are attached along a common property line.

Dwelling, multi-family: A building other than a duplex, designed for or occupied exclusively by three or more families or households with separate housekeeping facilities for each family.

Dwelling unit: A building, or portion thereof, designed, arranged and used for living quarters for one (1) or more persons living as a single housekeeping unit with cooking facilities, but not including units in hotels or other structures designed for transient residence.

Easement: A non-possessory interest in land; a grant by a property owner for the use by the public, a corporation or persons, of a portion of land for a specified purpose or purposes.

Easement, access: An easement devoted to vehicular access which affords a principal means of access to abutting property or properties, but which is not necessarily open to the general public and which is not necessarily improved to standards of the city.

Exterminator: An establishment engaged in pest control for businesses, institutions, residences, or industries. Such a use is a business service establishment.

Extractive industry: Removal or recovery by any means whatsoever of sand, gravel, soil, rock, minerals, mineral substances or organic substances other than vegetation, from water or land on or beneath the surface thereof, exposed or submerged. This term includes gravel pits, mines, quarries, and similar operations.

Family: An individual; or two (2) or more persons related by blood, marriage, or guardianship; or up to six unrelated individuals residing together as a single housekeeping unit. For purposes of this zoning ordinance, a "household" as defined is also considered a family.

Family day care home: A private residence in which a business, registered by the State of Georgia, is operated by any person who receives therein (for pay) for supervision and care for fewer than twenty-four (24) hours per day, not more than six (6) persons who are not residents in the same private residence. For purposes of this zoning ordinance, a family day care home may be operated as a home occupation, subject to the requirements of this zoning ordinance.

Fee simple: A form of ownership where the owner is entitled to the entire property with unconditional power of disposition during his or her life and which descends to his or her heirs and legal representatives upon his or her death intestate.

Fence: An enclosure or barrier, composed of wood, masonry, stone, wire, iron, or other materials or combination of materials used as a boundary, means of protection, privacy screening, or confinement, including brick or concrete walls but not including hedges, shrubs, trees, or other natural growth.

Finance, insurance, and real estate establishment: Such uses include but are not limited to banks, savings and loan institutions and credit unions, security and commodity exchanges, insurance agents, brokers, and service, real estate brokers, agents, managers, and developers, trusts, and holding and investment companies.

Flea market: The use of land, structures or buildings for the sale of produce or goods, usually second-hand or cut-rate. A flea market is considered an open air business.

Forestry: An operation involved in the growing, conserving, and managing of forests and forest lands. Forestry operations or practices include the raising and harvesting of timber, pulp woods and other forestry products for commercial purposes, the construction of roads, insect and disease control, fire protection, and may include the temporary operation of a sawmill and/or chipper to process the timber cut from the parcel or parcels. This term does not include the cutting of timber associated with approved land development.

Funeral home: A building used for human funeral services. Such building contains a chapel and may include space and facilities for embalming and the performance of other services used in the preparation of the dead for burial or cremation, the performance of autopsies and other surgical procedures, the indoor storage of caskets, funeral urns, and other related funeral supplies, and/or the indoor storage of funeral vehicles.

Gas tank sales: The retail sale of bulk storage tanks for flammable and combustible liquids, compressed gases or liquefied petroleum (LP) gas. Gas tank sales are considered open air business uses.

Greenhouse: A building designed or used for growing or propagating plants, with walls or roof usually designed to transmit light.

Group home: A single housekeeping unit of more than six unrelated persons, whether or not they are developmentally disabled.

Guest house: A lodging unit for temporary guests in an accessory building. No guest house shall be rented or otherwise used as a separate dwelling.

Health spa: An establishment which for profit or gain provides as one of its primary purposes, services or facilities which are purported to assist patrons improve their physical condition or appearance through change in weight, weight control, treatment, dieting, or exercise. The term includes establishments designated as "reducing salons," "exercise gyms," "health studios," "health clubs," "fitness studios," and other terms of similar import. Not included within this definition are facilities operated by nonprofit organizations, facilities wholly owned and operated by a licensed physician at which such physician is engaged in the practice of medicine, or any establishment operated by a health care facility, hospital, intermediate care facility, or skilled nursing care facility.

Home occupation: Any use, occupation or activity conducted on the same site as a dwelling which is clearly incidental and secondary to the use of the dwelling for residence purposes and does not change the character thereof, as may be lawfully established under the terms of this zoning ordinance.

Hospital: An institution licensed by the state and providing primary health services and medical or surgical care to persons, primarily in-patients, suffering from illness, disease, injury, deformity or other abnormal physical or mental conditions, and including as an integral part of the institution, such related facilities as laboratories, outpatient facilities, or training facilities.

Hotel: A commercial lodging service with one or more buildings devoted to the temporary shelter for the traveling public, and where entry to individual guest rooms is via a central lobby. A hotel is a lodging service for purposes of this zoning ordinance.

Household: A family, as defined herein, or a group of not more than six persons, including developmentally disabled persons and their caretakers, who need not be related by blood, marriage, or guardianship, living together in a dwelling unit as single housekeeping unit.

Impact: The effect of any direct man-made actions or indirect repercussions of man-made actions on existing physical, social, or economic conditions.

Impervious surface: A man-made structure or surface, which prevents the infiltration of water into the ground below the structure or surface. Examples are buildings, structures, roads, driveways, parking lots, decks, swimming pools, and patios.

Improvements: The physical additions and changes to land that may be necessary to produce usable, desirable and acceptable lots or building sites.

Industrialized building: Any structure or component thereof which is designed and constructed in compliance with the state minimum standards codes and 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 building, residential: Any dwelling unit designed and constructed in compliance with the Georgia State Minimum Standard One and Two Family Dwelling Code which is wholly or in substantial part, made, fabricated, formed, or assembled in a manufacturing facility and cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Any such structure shall not contain a permanent metal chassis and shall be affixed to a permanent load-bearing foundation. The term shall not include manufactured homes as defined by the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 32 5401, et seq.

Institutional residential living and care facilities: An umbrella term that encompasses the following uses as specifically defined in this ordinance: assisted living facility, intermediate care home, nursing home, skilled nursing care facility, and personal care home.

Intermediate care home: A facility which admits residents on medical referral; it maintains the services and facilities for institutional care and has an agreement with a physician and dentist who will provide continuing supervision including emergencies; it complies with rules and regulations of the Georgia Department of Human Resources or state agency with jurisdiction as may be reorganized. The term "intermediate care" means the provision of food, including special diets when required, shelter, laundry and personal care services, such as help with dressing, getting in and out of bed, bathing, feeding, medications and similar assistance, such services being under appropriate licensed supervision. Intermediate care does not normally include providing care for bed patients except on an emergency or temporary basis.

Junk: Scrap or waste material of any kind or nature collected for resale, disposal, or storage, or by accumulation.

Kenel: Any facility used for the purpose of commercial boarding or sale of domestic animals or pets such as dogs and cats, and any other customarily incidental treatment of the animals such as grooming, cleaning, selling of pet supplies, or otherwise. This term includes animal grooming services and pet psychologists.

Kitchen: Any room or part of a room designed, built, used, or intended to be used for cooking, the preparation of food, or dishwashing. The presence of a range, oven, or dishwasher, or utility connections suitable for serving a range or oven, shall normally be considered as establishing a kitchen.

Landscape strip: An area of landscaping of specified width.

Landscaping: The modification of the landscape for an aesthetic or functional purpose. The area within the boundaries of an individual lot that includes the preservation of existing vegetation and the continued maintenance thereof, as well as, the installation of trees, shrubs, ground covers, grass, and flowers. Landscaping areas may also include decorative rock, bark, mulch and other similar approved materials in addition to vegetation and live plant material.

Landscaping company: A business engaged in the provision of landscaping services and/or the wholesale or retail sale of landscaping products including but not limited to sod, trees, landscaping timbers, and earth covering materials. The processing of wood into timbers, mulch, and/or chips is considered an incidental use of a landscaping company whose primary purpose is the wholesale or retail sale of landscaping products.

Laundromat: A facility where patrons wash, dry, or dry clean clothing or other fabrics in machines operated by the patron. A laundromat is considered a personal service establishment.

Livestock: Cattle, horses, pigs, sheep, goats, llamas, emus, ostriches, donkeys, mules, goats, sheep, chickens, ducks, geese, and other fowl, rabbits, minks, foxes and other fur or hide-bearing animals, customarily bred or raised in captivity, whether owned or board, whether kept for pleasure, utility, or sale.

Lodging service: A facility that offers temporary shelter accommodations, or place for such shelter, open to the public for a fee, including "hotels" and "motels." "Bed and breakfast inn" is defined separately and is not considered a lodging service for purposes of this zoning ordinance.

Lot: A parcel of land occupied or capable of being occupied by a use, building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same. The word "lot" includes the word "plot" or "parcel."

Lot, corner: A lot abutting upon two or more streets at their intersection.

Lot, double frontage: Any lot, other than a corner lot, which has frontage on two (2) streets.

Lot, flag: A tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot. Also called a panhandle lot.

Lot area, minimum: Minimum lot area means the smallest permitted total horizontal area within the lot lines of a lot, exclusive of street and alley right-of-ways but inclusive of easements.

Lot width: The distance between side lot lines measured at the front building line.

Lot of record: A lot which is part of a subdivision, a plat of which has been lawfully recorded in the records of the Clerk of Superior Court of Jackson County; or a parcel of land, the deed of which has been lawfully recorded in the same office as of the effective date of this zoning ordinance.

Manufactured home: A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, when erected on site, is three hundred twenty (320) or more square feet in floor area, 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 utilities, and includes the plumbing, heating, 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).

Manufacturing, processing, assembling: The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories or mills and characteristically use power-driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastic resins, or liquors.

Metes and bounds: A system of describing and identifying land by a series of lines around the perimeter of an area; "metes" means bearings and distances and "bounds" refers to physical monuments.

Mini-warehouse: (see self-service storage facility).

Mobile home: A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length, when erected on site, is three hundred twenty (320) or more square feet in floor area, 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; and which has not been inspected and approved as meeting the requirements of the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended (42 U.S.C. 5401-5445).

Model home: A dwelling temporarily used as a sales office or demonstration home for a residential development under construction, said dwelling being used as an example of a product offered for sale to purchasers (by a realtor, building developer, or contractor). The dwelling may be furnished but is not occupied as a residence while being used as a model home.

Motel: A commercial lodging service with one or more buildings devoted to the temporary shelter for the traveling public, and where entry to individual guest rooms is via the exterior of the building rather than through a central lobby.

Museum: A building having public significance by reason of its architecture or former use or occupancy, or a building serving as a repository for a collection of natural, scientific, literary curiosities or objects of interest, or works of art, and arranged, intended, and designed to be viewed by members of the public with or without an admission fee, and which may include as an accessory use the sale of snacks and goods to the public as gifts or for their own use.

Nonconforming building or structure: A building or structure, which may be principal or accessory, that does not meet one or more applicable setbacks for the zoning district in which said building or structure is located, or a building or structure that exceeds the maximum height or building coverage for the zoning district in which said building or structure is located, or a building or structure that otherwise does not comply with dimensional requirements established by this zoning ordinance for the particular principal building or accessory structure or for the zoning district in which the nonconforming building or structure is located.

Nonconforming lot: A lot which does not conform to the minimum lot frontage requirements of this ordinance and/or the minimum lot size and minimum lot width requirements of the zoning district in which the lot is located as established by this ordinance but which was a lot of record prior to the effective date of this zoning ordinance or its amendment.

Nonconforming situation: Any development, land improvement, or activity, not otherwise included within the definition of nonconforming lot, nonconforming building or structure, nonconforming use, or nonconforming sign which does not meet the provisions of this ordinance at the time of its adoption or amendment. Examples of nonconforming situations include but are not limited to, noncompliance with off-street parking regulations or access requirements, failure to adhere to landscape strip requirements, tree protection, and insufficient landscaping requirements.

Nonconforming use: Any building or use of land or building lawfully existing on or before the effective date of this zoning ordinance or as a result of subsequent amendments to this zoning ordinance, which does not conform to the use provisions of the zoning district in which it is located.

Nursery or kindergarten school: Any building used routinely for the daytime care or education of preschool age children and including all normal accessory and play areas. For purpose of this zoning ordinance, a nursery or kindergarten school is considered to be a day care center.

Nursing home: A facility which admits patients on medical referral only and for whom arrangements have been made for continuous medical supervision; it maintains the services and facilities for skilled nursing care, rehabilitative nursing care, and has an agreement with a physician and dentist who will be available for any medical and/or dental emergency and who will be responsible for the general medical and dental supervision of the patients; it complies with rules and regulations of the Georgia Department of Human Resources or state agency with jurisdiction as may be reorganized.

Occupied: The word "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied."

Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional or clerical operations and not involving retail sales or other sales of any kind on the premises.

Office/Warehouse: A building that combines office and warehouse or storage functions, where the majority of the area of the building is devoted to warehouse or storage functions, and which does not involve retail sales.

Open air business: Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides, including but not limited to rock yards, nurseries and garden centers and garden supply stores, lumber and building materials yards, flea markets, statuaries and monument sales establishments, liquid petroleum dealers and tank sales. A roadside stand is not considered to be an open air business.

Open space: Land and water areas retained for use as passive recreation areas or for resource protection or conservation in an essentially undeveloped state.

Open space, landscaped: That portion of a given lot, not covered by buildings, parking, access and service areas, that is designed to enhance privacy and the amenity of the development by providing landscaping features, screening and buffering for the benefit of the occupants or those in neighboring areas, or a general appearance of openness. Landscaped open space may include, but need not be limited to, grass lawns, decorative planting, berms, walls and fences, ornamental objects such as fountains, statues and other similar natural and man-made objects, wooded areas, and water courses, any or all of which are designed and arranged to produce an aesthetically pleasing effect within the development.

Parking space: An area having dimensions of not less than three hundred (300) square feet, including driveway and maneuvering area, to be used as a temporary storage space for a private motor vehicle.

Parking structure: A structure or portion thereof composed of one or more fully or partially enclosed levels or floors used for the parking or storage of motor vehicles. This definition includes parking garages, deck parking, and underground parking areas under buildings.

Pedestrian-scale development: Development designed with an emphasis primarily on the street sidewalk and on pedestrian access to the site and building, rather than auto access and parking areas. The building is generally placed close to the street and the main entrance is oriented to the street sidewalk. In the case of pedestrian retail districts, there are generally windows or display cases along building facades which face the street.

Permit: The authorization necessary to conduct an activity under the provisions of this zoning ordinance.

Permit, development: An official authorization issued by the Zoning Administrator in accordance with this zoning ordinance to proceed with land disturbance and grading and site development, as set forth in this zoning ordinance.

Person: Includes a firm, association, joint venture, organization, partnership, corporation, trust and company as well as an individual.

Personal care home: Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. Personal care tasks include assistance with bathing, toileting, grooming, shaving, dental care, dressing, and eating.

Personal service establishment: A facility engaged in the provision of services to persons and their apparel, including but not limited to barber and beauty shops, coin-operated laundromats, full service laundries, dry cleaners, photographic studios, shoe repair and shoeshine shops, travel agencies, massage parlors, escort services, fortune-telling, psychics, clothing or costume rental, dating service, hair removal or replacement, or tanning salon.

Planning Commission: The City of Nicholson Planning Commission.

Recreational vehicle: A vehicular type unit primarily designed as temporary living quarters for recreational, camping or travel use, which either has its own motive power or is mounted or drawn by another vehicle. This term includes motorized homes, motorized campers, pick-up campers, travel trailers, camping trailers, and tent trailers, among others.

Recycling processing center: Any facility utilized for the purpose of collecting, sorting and processing materials to be recycled, including but not limited to, plastics, glass, paper and aluminum materials.

Relocated residential structure: A detached, single-family dwelling, site-built (i.e., excluding a manufactured home or mobile home) that is moved or disassembled into more than one structure and moved to another site, whether temporarily or permanently.

Research laboratory: A facility for scientific laboratory research in technology-intensive fields, including but not limited to biotechnology, pharmaceuticals, genetics, plastics, polymers, resins, coatings, fibers, fabrics, films, heat transfer, and radiation research facilities, computer software, information systems, communication systems, transportation, geographic information systems, multi-media and video technology. Also included in this definition are facilities devoted to the analysis of natural resources, medical resources, and manufactured materials, including environmental laboratories for the analysis of air, water, and soil; medical or veterinary laboratories for the analysis of blood, tissue, or other human medical or animal products; and forensic laboratories for analysis of evidence in support of law enforcement agencies.

Restaurant: Any establishment in which the principal business is the sale of foods and beverages to customers in a ready-to-consume state, and in which customers are served their food and/or beverages by a restaurant employee at the same table or counter at which the items are consumed, or customers are served their food and/or beverages by means of a cafeteria-type operation where the food or beverages are consumed within the restaurant building. This term includes taverns, bars, pubs, and sidewalk cafés.

Restaurant, drive-through: Any establishment in which the principal business is the sale of foods and beverages to customers in a ready-to-consume state and in which the principal or accessory method of operation of all or any portion of the business is to allow food or beverages to be served directly to the customer in a motor vehicle without the need for the customer to exit the motor vehicle.

Retail trade establishment, enclosed: 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 structure containing a roof and walls on all sides, except for outdoor display or other use during business hours and accessory storage in enclosed, subordinate buildings. These include but are not limited to the following: convenience stores including the sale of gasoline, hardware, paint, glass and wallpaper stores, grocery and miscellaneous food stores

including retail bakeries, apparel, shoe, and accessory clothing stores, furniture, upholstery, floor covering, household appliance and home furnishing stores, musical instrument stores, radio, television, and computer stores, record, tape, and compact disc stores, eating and drinking places not involving drive-in or drive-through facilities, drug stores, apothecaries and proprietary stores, liquor stores and bottle shops, used merchandise stores and pawn shops, sporting goods stores and bicycle shops, art and stationery stores, hobby, toy, and game shops, jewelry, gift, novelty, souvenir and antique shops, camera and photographic supply stores, luggage and leather goods stores, sewing, needlework, and piece goods stores, catalogue and mail order stores, news stands, florists, tobacco shops, automotive parts stores not involving repair, video rental and sales stores, and watch and clock sales and repair shops.

Retreat center: A facility used for professional, educational, or religious meetings, conferences, or seminars and which may provide meals in a single building, lodging, and recreation for participants during the period of the retreat or program only. Such center may not be utilized for the general public for meals or overnight accommodations. Housing is usually in lodges, dormitories, sleeping cabins or other such temporary quarters, which do not contain kitchens.

Rezoning: An amendment to the Official Zoning Map that changes the zoning district of one or more properties specified in an application.

Riding academy or equestrian center: An establishment where horses are kept for riding or are kept for competition or educational purposes incidental to a club, association, ranch, educational institution or similar establishment but which does not involve commercial sales and is not open to the general public for a fee.

Riding stable: An establishment where horses or other animals that can be ridden by humans are kept for riding and which offers the general public rides for a fee.

Right-of-way, public: That area, distinguished from an easement or private road right-of-way, which is owned in fee-simple title by the city or other government, for the present or future use of alleys, roads and highways, together with any drainage facilities and other improved ancillary structures.

Road: A state highway, a county road, a road adopted as a county-owned right of way approved for county maintenance, a street owned and/or maintained by a municipality, a street approved for city maintenance, or where permitted, a private road. Roads afford the principal means of access to abutting property or properties. The term includes "street" but does not include "access easement."

Road, private: An improved road, distinguished from a public road in that the right-of-way which affords a principal means of access to abutting property or properties is privately owned and maintained.

Roadside stand: A use offering either farm-grown, prepared food products such as fruits, vegetables, canned foods, or similar agricultural products for sale on the premises within or without a temporary structure on the premises with no space for customers within the structure itself.

Roof: The cover of a building, including the eaves and similar projections.

Salvage yard: 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. Typical uses include paper and metal salvage yards, used tire storage yards, or retail and/or wholesale sales of used automobile parts and supplies. This term includes junk yards.

Sidewalk: A hard-surfaced pedestrian access area adjacent to or within the right-of-way of a public road or private road.

Sawmill: A facility where logs or partially processed wood are sawn, split, shaved, stripped, chipped, or otherwise processed to produce wood products. This term does not apply to the processing of timber for use on the same lot by the owner or occupant of that lot.

School for the arts: An educational use not operated by the County Board of Education that offers or provides instruction to more than two students at a time in dance, singing, music, painting, sculpting, fine arts, or martial arts.

School, private, elementary, middle, or high: An educational use for students in grades one through twelve or for only certain ranges of grades one through twelve, not operated by the County Board of Education, which has a curriculum at least equal to a public school with regard to the branches of learning and study required to be taught in the public schools of the state of Georgia.

School, public: An educational use for students in grades one through twelve or for only certain ranges of grades one through twelve, operated by the County Board of Education.

School, special: An educational use not operated by the County Board of Education that provides special education to more than two students at a time, including but not limited to the training of gifted, learning disabled, and mentally or physically handicapped persons.

School, trade: An educational use not operated by the County Board of Education and having a curriculum devoted primarily to business (including barbers and beauticians), industry, trade, or other vocational-technical instruction.

Self-service storage facility: Mini-warehouse; A structure, building or group of buildings divided into separate compartments, spaces, or stalls, which may be of different sizes and which may or may not be climate controlled, and which are leased or rented on an individual basis to businesses and residents for temporary storage needs, but where no commercial transactions or activities take place other than the rental of the storage units for exclusively storage purposes.

Service and fuel filling station: Any building, structure or land use for the retail sale of motor vehicle fuel and oil accessories, and which may include the servicing of motor vehicle, except that major repairs, body repairs and painting of motor vehicles shall not be considered servicing of motor vehicles.

Shall: The word "shall" is mandatory, not discretionary.

Showroom: A principal or accessory use where wholesale or retail goods are displayed.

Sight visibility triangle: The areas at the corners of an intersection of two streets, or at an intersection of a street and driveway, that must be kept free of shrubs, ground covers, berms,

fences, structures, or other materials or items that would obstruct views at heights between thirty (30) inches to twelve (12) feet as measured from the ground.

Skilled nursing care facility: A facility which admits residents on medical referral; it maintains the services and facilities for skilled nursing care and has an agreement with a physician and dentist who will provide continuing supervision including emergencies; it complies with rules and regulations of the Georgia Department of Human Resources or state agency with jurisdiction as may be reorganized. The term "skilled nursing care" means the application of recognized nursing methods, procedures, and actions directed toward implementation of the physician's therapeutic and diagnostic plan, detection of changes in the human body's regulatory system, preservation of such body defenses, prevention of complications and emotional well-being.

Solid waste transfer facility: A fixed facility where solid waste from collection vehicles is consolidated and temporarily stored for subsequent transport to a permanent disposal site.

Special event facility: A facility or assembly hall available for lease by private parties or special events such as weddings. This term includes wedding chapels.

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 zoning ordinance, swimming pools, and tennis courts, 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.

Subdivision: The division of a tract or parcel of land into two (2) or more lots, building sites, lease lots, or other divisions for the purpose, whether immediate or future, of sale, lease, legacy, or building development. The term shall include the opening of a new road, a change in existing roads, or divisions of land involving the extension of water, sewer, or gas lines. The term includes re-subdivision and, where appropriate to the context, relates to the process of subdivision or to the land or area subdivided.

Taxi-cab or limousine service: Any place used to dispatch motor vehicles with drivers for hire.

Tow service: An establishment that dispatches towing vehicles and which provides for the temporary storage of vehicles but does not include disposal, disassembly, salvage, or accessory storage of inoperable vehicles. This term is distinguished from "wrecked motor vehicle compound" and "salvage yard" as defined herein.

Townhouse: One (1) of a group of three or more single-family, attached dwelling units under fee simple ownership.

Truck stop: An establishment engaged primarily in the fueling, servicing, repair, or parking of tractor trucks or similar heavy commercial vehicles, including the sale of accessories and equipment for such vehicles. A truck stop may also include overnight accommodations, showers, or restaurant facilities primarily for the use of truck drivers.

Use, accessory: A use of land subordinate to the principal building or use on a lot for purposes incidental and related to the principal building or use and located on the same lot therewith.

Use, conditional: A use that would not be appropriate generally or without restriction throughout a particular zoning district and is not automatically permitted by right within said zoning district, but which, if controlled as to number, area, location, relation to the neighborhood or other pertinent considerations, may be found to be compatible and approved by the City Council after review and recommendation by the Planning Commission within that particular zoning district as provided in certain instances by this zoning ordinance. An approved conditional use runs with the property.

Use, permitted: A use by right which is specifically authorized in a particular zoning district.

Use, public: Any building, structure, or use owned and/or operated by the federal government, state of Georgia, Jackson County or other County, a municipality, or any authority, agency, board, or commission of the above governments, that is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, post offices, police and fire stations, libraries and publicly operated museums, public health facilities and public hospitals, public works camps, parks and community centers, public roads and streets, water and sanitary sewerage intake, collection, pumping, treatment, and storage facilities, emergency medical facilities, and jails and correctional facilities.

Use, temporary: A use or structure is in place for only a short period of time.

Used: The word "used" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied."

Variance: A grant of relief from the requirements of this zoning ordinance which permits construction or use in a matter otherwise prohibited by this zoning ordinance; A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard, buffer, landscape strip, parking and loading, or other regulations which are dimensional in nature as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship or practical difficulty upon the owner, as distinguished from a mere inconvenience or a desire to make a profit.

Warehouse: A use involving the storage of products, supplies, and equipment, and which typically involve truck transportation to and from the site.

Wetlands: Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions.

Wastewater treatment plant: A facility or group of units used for the treatment of industrial or domestic wastewater for sewer systems and for the reduction and handling of solids and gasses removed from such waste, whether or not such facility is discharging into state waters.

Wholesale trade establishment: An establishment engaged in the selling or distribution of merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers.

Wireless telecommunication equipment: Any equipment used to provide wireless telecommunication service, but which is not affixed to or contained within a wireless telecommunication facility, but is instead affixed to or mounted on an existing building or

structure that is used for some other purpose. Wireless telecommunication equipment also includes a ground mounted base station used as an accessory structure that is connected to an antenna mounted on or affixed to an existing building.

Wireless telecommunication facility: Any freestanding facility, building, pole, tower, or structure used to provide wireless telecommunication services, and which consists of, without limitation, antennae, equipment and storage and other accessory structures used to provide wireless telecommunication services.

Wrecked motor vehicle compound: An area used to store disabled or impounded motor vehicles until such time as their disposition (either by junk, salvage, repair, etc.) has been determined by the insurance company, the owner of the vehicle, or his legal representative.

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

Yard, front: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right of way and the front line of the building projected to the side lines of the lot. For corner and double frontage lots, front yard requirements apply to all road frontages. Where “build to” line requirements are specified in this zoning ordinance, they supersede front yard requirements.

Yard, side: An open, unoccupied space on the same lot with the principal building, situated between the building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Yard, rear: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot.

Yard sale: The temporary sale of home furniture, appliances, clothing and/or domestic items owned by an occupant of a residential dwelling and taking place on the premises on which such occupant resides, whether in the yard or in a carport or garage. Yard sales which do not take place on the premises on which such occupant resides are considered open-air businesses, except that this shall not be construed to prevent the sale of such items by another family or household in connection with an event where such items are sold by the occupant of a residence on the premises where the yard sale occurs. This term includes garage sales.

Zoning Administrator: The City Clerk of the City of Nicholson, unless another person or firm is specifically designated the title and functions by the Nicholson City Council.

Zoning map: The official zoning map of the City of Nicholson.