

Article 5

SUPPLEMENTAL DISTRICT REGULATIONS

5.01 Purpose: Unless otherwise stated, the regulations hereafter established shall apply within all districts established by this Ordinance. These general regulations supplement and qualify the district regulations appearing elsewhere in this Ordinance.

5.02 Height Exceptions:

- A. Structural Projections:
 - 1. Chimneys, cooling towers, elevator headhouses, monuments, stage towers or scenery lofts, tanks, water towers, ornamental towers and spires, church steeples, radio, television or microwave towers, satellite dishes or necessary mechanical appurtenances usually required to be placed above the roof level are not subject to the height limitations contained in the district regulations, except that such structural projections shall not exceed the height regulations of the district in which the structure is situated by more than fifteen (15) percent, except as indicated below.
 - 2. Structural projections exceeding the above height limitations shall be considered as Special Uses and shall be processed in accordance with Article 9, Special Use Procedures, of this Ordinance; provided further that any such structural projections shall have setbacks which shall be increased one (1) foot on all sides for each additional foot that such structures exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
- B. Height of Dwellings: Single-family residential structures may be increased in height by not more than ten (10) feet when the side and rear setbacks are increased over the setback requirements of the regulations to which they are subject by not less than ten (10) feet, but they shall not exceed three (3) stories in height.

5.03 Setback Exceptions:

- A. Front Setback: There shall be a front setback having a depth of not less than thirty (30) feet, unless forty (40) percent or more of the frontage on one side of the street between two intersecting streets is improved with buildings that have observed a front setback line with a variation in depth of not more than ten (10) feet, in which case no building shall project beyond the average front setback so established. Front setbacks shall be measured according to future street and highway widening as provided for in City, County, or State street and highway widening plans and shall comply with the setback lines herein provided for. Where lots have a double frontage, a required front setback shall be provided for on both streets, except that the buildable depth of such lot shall not be reduced to less than forty (40) feet, in which latter event the Zoning Administrator may waive this requirement as to the street which will least affect surrounding property values.
- B. Structural Projections: Every part of the area within the required setback or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, chimneys, buttresses, ornamental features, and eaves, provided however, that none of the above projections shall extend into a minimum setback more than thirty (30) inches; and provided further that canopies or open porches may project a maximum of ten (10) feet into the required front or rear setback, and existing open porches extending into the required setback shall not be enclosed. Slab type porches or paved terraces having a maximum height of not more than twelve (12) inches above ground elevation at any point may project into any setback, except that the projection into the front setback shall not exceed ten (10) feet. For the purposes of this provision, mechanical units are not considered to be structures.
- C. Fire Escapes/Balconies: An open fire escape may project into a required side setback not more

than half the width of such setback, but not more than five (5) feet from the building. Fire escapes, solid floored balconies, and enclosed outside stairways may project not more than four (4) feet into a required rear setback.

- D. Sight Distance Triangle: On a corner lot in any district, development shall conform to the requirements of the sight distance triangle in which nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision between a height of two (2) feet and eight (8) feet above the grades at the back of the curb of the intersecting streets, within the triangular area formed by the right-of-way lines and a line connecting them at points forty (40) feet from their point of intersection or at equivalent points on private streets, except that the site distance triangle may be increased when deemed necessary for traffic safety by the Zoning Administrator.
- E. Fences: A fence not more than six (6) feet in height is permitted, except when located in a manufacturing district where the maximum height of any fence shall be ten (10) feet; however, any fence proposed for placement in front of any point on the primary structure that is closest to a lot line along a street will be so situated only by permission of the Zoning Administrator.
- F. Through Lots: A through lot having one end abutting a limited access highway, with no access permitted to that lot from said highway, shall be deemed to front upon the street which gives access to that lot.

5.04. Area Regulations:

- A. Maximum Lot Coverage Calculation: In computing the amount of lot coverage, the amount of coverage shall include the total area of all primary and accessory buildings as measured along the outside wall at ground level or above as viewed from above and includes all projections other than open porches, fire escapes, canopies or the first three (3) feet of a roof overhang. Roads, driveways, parking lots and swimming pools shall not be included in maximum lot coverage requirements.
- B. Calculating Area of Zoning Lot: In the A-1, Agricultural District, if the land beneath a public right-of-way is owned by the adjacent property owner, the land beneath the right-of-way shall count in calculating total lot area and determining compliance with the required minimum lot area, up to one-half (1/2) of the right-of-way width.

5.05 Access Regulations:

- A. Access to Business and Manufacturing Uses: No land which was developed primarily for residential uses shall be used for a major access route to any land which is devoted to any business or manufacturing use; provided, however, that this Section shall not prohibit pedestrian walks and driveway connections between residential districts and neighborhood shops when incorporated as a part of a planned unit development.
- B. Street Access: All zoning lots shall front on a street.
- C. Reverse Frontage: When a subdivision lot occurs between two non-intersecting streets, one of which is a parkway, thoroughfare, or collector and the other is a minor residential street, the lot will front on the minor residential street with vehicular access prohibited from the parkway, thoroughfare, or collector.

- 5.06 Accessory Buildings and Structures:** No accessory building or structure shall be constructed or used prior to the primary building or use. Accessory buildings shall be permitted on any portion of a lot that is behind the primary building per its orientation to the front lot line and must conform to all provisions of this Ordinance. Accessory structures such as decorative walls, landscaping structures, flag poles and customary yard accessories, ornaments and furniture shall be permitted in any yard, subject to the requirements of Section 5.03.D. of this Ordinance, and subparagraph B. below. Detached garages, recreational vehicle pads and typical residential accessory buildings, and small wind energy systems subject to the regulations set forth in subparagraph E. below, may be placed on any other portion of the lot

that is not closer to a street than the closest point of the primary building to the street at the Zoning Administrator's discretion.

- A. Attached Accessory Buildings: Any accessory building or structure which is structurally attached to the primary building on a zoning lot shall be considered part of the primary building and shall comply with all provisions of this Ordinance pertaining thereto.
- B. Accessory Buildings and Structures, Height: No detached accessory building or structure shall exceed the building height of the primary building, provided, however:
 - 1. On residential lots of less than two acres in area, accessory buildings and structures shall not exceed twenty-one (21) feet in height.
 - 2. The height of accessory buildings and structures on properties covered by a Special Use Permit, including planned unit developments, shall be set by the ordinance approving the Special Use Permit.
- C. Flagpoles: The maximum height of a flagpole shall not exceed the maximum height allowed for primary structures in the zoning district in which it is erected.
- D. Other:
 - 1. Yard and Area Requirements: Unless excepted by state or federal law, no detached accessory building shall be erected between the primary building and a street, provided, however, that accessory buildings may be constructed on through lots between the rear of the primary building and the adjacent street but not closer to a street than the minimum required front yard setback of the zoning district in which the lot is located. Detached accessory buildings shall not occupy more than thirty (30) percent of the yard in which they are located. The minimum setback for a detached building or structure, other than fences, shall not be less than five (5) feet to any lot line, provided however, that accessory buildings in the A-1 District are subject to the bulk and setback regulations of that district.
 - 2. Erection and Use: No accessory building shall be constructed upon a lot until the construction of the primary building has been commenced. No accessory building shall be used for dwelling purposes, but such accessory building may be temporarily used for storage purposes.
 - 3. Mailboxes: Mailboxes shall be permitted in public rights-of-way, provided that mail box supports shall be of the "break-away" type equivalent to a 4" x 4" wooden post, such equivalency subject to approval by the road authority with jurisdiction over the right-of-way.
- E. Small Wind Energy Systems: Small wind energy systems shall be permitted in all zoning districts except RC-2, on lots of one (1) acre or more in area, and no more than one such system shall be permitted per zoning lot. No small wind energy system shall exceed 100 feet in height as measured from the ground at the base of the tower to the tip of a turbine blade at its highest point, provided, however, a lower height may be required by FAA regulations. Small wind towers shall be set back from all property lines a minimum distance equal to the height of the tower plus 10%, and no guy wire anchor for a wind tower shall be closer than 10 feet to any property line. Small wind energy system equipment shall conform to applicable industry standards, including the American Wind Energy Association standards for wind turbine design and related standards adopted by the American Standards Institute (ANSI). Applicants for building permits for small wind energy systems shall submit certificates from equipment manufacturers that the equipment is manufactured in compliance with industry standards.

5.07 Temporary Uses:

- A. Temporary Use Permit: The Zoning Administrator is authorized to issue a permit for a temporary use provided it meets the requirements of this Section. The permit shall be issued for a specified period of time and shall contain health, safety and traffic restrictions and may require such assurances or guarantees of compliance with conditions as is reasonable and appropriate under the circumstances.

B. Temporary Uses Permitted:

1. Christmas Tree Sales: Christmas tree sales for a period not to exceed sixty (60) days. Display of Christmas trees need not comply with the applicable setback requirements, provided that no display will encroach within the required setback for any district by more than fifty (50%) percent and no display or equipment shall be located within the sight distance triangle of a street intersection as defined in this Ordinance.
2. Contractor's Offices: Temporary buildings or trailers may be used as construction offices, field offices or for storage of materials to be used in connection with the development of a lot, or remodeling, reconstruction, or replacement of an existing structure(s), provided, however, that such buildings and trailers shall not be placed on a property prior to approval of the development project by County Board action and issuance of a building permit, and further provided that said temporary structures are removed from said lot within thirty (30) days after completion of the project development. Temporary buildings or trailers must also be removed from said lot within thirty (30) days after voluntary suspension of work on the project or development or after revocation of building permits, or on order by the Zoning Administrator upon a finding by him that said temporary structure is deemed hazardous to the public health and welfare. A bond in the amount of one thousand (\$1,000) dollars for their removal shall be posted with the County.
3. Real Estate Offices: Temporary real estate offices or sales offices may be established in a display dwelling unit.
4. Amusement Activities: The Zoning Administrator is authorized to issue a permit for the operation or conducting of an amusement activity on a temporary basis within any zoning district. The Zoning Administrator may request a report be submitted with respect to any public health aspect of the proposal and with respect to any traffic or public safety aspect of the proposal if appropriate. For the purpose of this paragraph, "amusement activity" includes a circus, carnival, fair, fireworks display, turkey shoot, art display, trade or animal show, concert, dance, rally, parade, athletic competition, corn maze, and any similar activity not involving the erection of any permanent structure or facility. The permit shall be issued for a specific period of time not exceeding ten (10) days, whether those days are consecutive or spread over a period of weeks in one and two-day increments. The permit shall contain such conditions as are necessary for protection of public health, safety, and traffic, and the Zoning Administrator may require such assurance or guarantee of compliance with conditions as is reasonable and appropriate under the circumstances. This permit is in addition to any building permit, air pollution device, construction or operating permit, or other permit or license required by law for any proposed activity or facility. No more than two (2) temporary amusement activity permits shall be issued in any calendar year with regard to any particular property; provided, however, that this limitation with respect to the number of temporary amusement activity permits shall not apply to public property, nor to property not held for private or corporate profit and used exclusively for religious worship, for schools and colleges, for purposes purely charitable, or for agricultural and horticultural societies. Turkey shoots held on Saturdays and Sundays during the months of October, November and December shall be exempt from maximum period of time and maximum number of permits issued in a given calendar year as set forth in provisions above.

5.08 Home Occupations:

- A. A home occupation that is granted special use approval shall comply with the following:
 1. The home occupation shall be conducted entirely within the dwelling, unless a "cottage office" is permitted by the ordinance granting the Special Use Permit, by a member or

- members of the family residing in the dwelling, and such home occupation shall be clearly incidental and secondary to the use of the dwelling as a residence.
2. No signs, display or activity that will indicate from the exterior of the dwelling that it is being used for any use other than a dwelling shall be permitted.
 3. No stock in trade or commodity shall be sold upon the premises.
 4. No stock in trade shall be kept or displayed on the premises unless such stock is clearly secondary and necessary to the performance of the services provided by the home occupation and at no time shall exterior storage of materials be permitted.
 5. No person shall be employed other than a member of the family residing on the premises.
 6. The number of off-street parking spaces for that use is provided as required by the Off-Street Parking, Loading, and Landscape Requirements of this Ordinance.
 7. No mechanical equipment is used which may generate obnoxious fumes, excessive noise or other such related nuisances. No offensive noise, vibration, smoke, dust, odors, heat, glare, or electrical disturbance shall be produced which is perceivable at or beyond the lot lines.
 8. All receipt and delivery of merchandise, goods, or equipment shall be made by either carrier service or passenger automobile owned by the resident and no such receipt, delivery or any other transacting of business within the residence, except emergency service, shall be made between the hours of 10:00 p.m. and 7:00 a.m. on Monday through Saturday or any time on Sunday.
- B. For purposes of this Ordinance, a home business that involves no employees other than members of the family residing on the premises, consists only of phone calls, record-keeping and other clerical activities, does not involve any services or goods provided, stored on the property and delivered to and from the property, does not include visits to the property by customers or clients, does not include any exterior signage, and where 25% or less of the floor area of the residence is devoted to the business, shall be considered a permitted use and shall not require a home occupation Special Use Permit. The Zoning Administrator may require the operator of such a home business to obtain a zoning permit setting forth the details of the specific home business and acknowledging these restrictions.

5.09 Land and Buildings:

- A. Use of Zoning Lots: Unless otherwise permitted by the ordinance governing a special use permit, only one principle use shall take place on each zoning lot.
- B. Number of Buildings Permitted Per Lot:
 1. Every primary structure hereafter erected or structurally altered shall be located on a separate zoning lot. At the discretion of the Zoning Administrator, a survey may be required to prove dimensions and area of said zoning lot before a building permit may be issued. In no case shall there be more than one structure on one zoning lot except for the following:
 - a. accessory buildings or uses, as defined herein,
 - b. any structure authorized as part of a special procedure requiring submission to the Board of any type of site development plan for review and approval,
 - c. Planned Developments, approved according to the provisions of Section 4.07.
 2. Notwithstanding the above, the owner of an existing farm dwelling or single-family detached residence may construct a new residence on the same zoning lot while continuing to occupy the existing building, provided the property owner signs a contract with the County of DeKalb in which the owner agrees to demolish the old residential structure within thirty (30) calendar days following the final inspection of or issuance of an Occupancy Permit for the new house. Such thirty day period may be extended up to an additional 120 days at the discretion of the Zoning Administrator. The contract shall

also include an irrevocable license to the County, its employees, agents and independent contractors, to enter onto the premises and demolish the old residential building if the owner fails to comply with the contract. The new residence shall meet all applicable bulk regulations of the zoning district in which it is located. Further, the owner shall deposit with the Planning, Zoning and Building Department a bond or letter of credit in an amount and form determined by the Zoning Administrator to be sufficient to cover the cost of demolishing the old residential building. The amount of such bond or letter of credit shall not be less than \$10,000. In the event that the old residence is not demolished by the owner by the end of the thirty (30) day period, the County shall have the right to draw on the bond or letter of credit and enter onto the subject property to cause the demolition of the old residential building. In the event that the bond or letter of credit is insufficient to cover the demolition costs, the owner shall be liable for any remaining costs.

- C. Farm Animals: Farm animals shall be permitted on any residential or agricultural zoning lot that is two (2) or more acres in area, but shall be prohibited on lots of less than two (2) acres in area from which \$1,000 or less of agricultural products were sold in any calendar year.

5.10 Division of Zoning Lots:

- A. Any lot, unless otherwise excepted herein, shall not hereafter be divided unless all resulting lots from such division conform with all applicable setback, lot size and other bulk regulations of the zoning district in which the tract is located and, therefore, by definition, constitute individual zoning lots themselves. Where such division occurs on or after the effective date of this Ordinance, the following shall apply:
 - 1. Person or persons responsible for such action shall be subject to Article 11 of this Ordinance.
 - 2. Any nonconforming lot will be considered such as the result of action by the property owner or other controlling interests and development thereon will be restricted in accordance with this Ordinance; and
 - 3. No permit for the construction of a new residential (including farm dwelling), commercial, manufacturing or other nonagricultural building shall be issued for any lot, whether conforming or nonconforming as described above, created as a result of such division.
- B. The Zoning Enforcement Officer may cause to be recorded with the DeKalb County Recorder of Deeds, at such time when a building permit for the construction of a farm residence is issued for an A-1 Agricultural zoning lot, a document indicating that the geographic boundaries of such zoning lot have been defined by said permit and that any division of such zoning lot shall conform with this Ordinance.

- 5.11 Existing Lot Rezoned or Otherwise Affected by This Ordinance --** Any lot legally recorded and existing on the effective date of this Ordinance, which by this Ordinance and Official County Zoning Map is rezoned or otherwise affected, shall be subsequently considered a legal non-conforming lot, subject to all the regulations regarding nonconformities set forth in Article 8 of this Ordinance.