

## **2017 CODE AMENDMENTS**

### **OFFICIAL CODE OF COBB COUNTY PART I. - CHAPTERS 2, 6, 18, 110, AND 134**

Package IV  
Approved Code Amendments  
Clean Version

Board of Commissioners Work Session  
June 27, 2017, 2017 – 1:30 pm

Board of Commissioners Public Hearing Dates  
June 27, 2017 – 7:00 pm  
July 25, 2017 – 7:00 pm

Delivery of Planning Commission Recommendations  
July 11, 2017 – 9:00 am

Planning Commission Public Hearing  
July 6, 2017, 2017 – 9:00 am

Cobb County Community Development  
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Marietta, GA 30061  
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*Cobb County...Expect the Best!*

# **PART 1. – OFFICIAL CODE OF COBB COUNTY, GA**

## **Chapter 2. – ADMINISTRATION**

### **ARTICLE V. – ECONOMIC DEVELOPMENT**

#### **Sec. 2-181. – Community Improvement Tax Incentive Program**

The existence of real property which is maintained in a blighted condition increases the burden of the state and local government by increasing the need for government services, including but not limited to social services, public safety services, and code enforcement services. Rehabilitation of blighted property decreases this need for such government services.

In furtherance of its objective to eradicate conditions of slum and blight within the county, this board of commissioners, in exercise of the powers granted at Chapter 61, Urban Redevelopment, of Title 36 of the Official Code of Georgia Annotated, has designated those areas of the county where conditions of slum and blight are found or are likely to spread.

In recognition of the need for enhanced governmental services and in order to encourage private property owners to maintain their real property and the buildings, structures and improvement thereon in good condition and repair, and as an incentive to encourage community improvement, a community improvement tax incentive program is hereby established as authorized by Article IX, Section II, Paragraph VII(d) of the 1983 Constitution of the State of Georgia. Where blighted property is located within the municipal limits of a city in Cobb County and where the city has a passed a similar law to the county's Community Redevelopment Tax Incentive Program, the county may, at the request of the city council or board of alderman, use the powers provided in this code section on municipal properties after the enactment of those same powers by the city.

#### **Sec. 2-181.1 – Definitions.**

The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Blighted property, blighted, or blight* means any urbanized or developed property which:

(1) Presents two or more of the following criteria:

- a. Uninhabitable, unsafe, or abandoned structure as determined by the Chief Building Official;
- b. Inadequate provisions for ventilation, light, air, or sanitation as determined by the Chief Building Official;
- c. An imminent harm to life or other property caused by fire, flood, hurricane, tornado, earthquake, storm, or other natural catastrophe respecting which the governor has declared a state of emergency under the state law or has certified the need for disaster assistance under federal law; provided, however, this division shall not apply to property unless the relevant public agency has given notice in writing to the property owner regarding specific harm caused by the property and the owner has failed to take reasonable measures to remedy the harm;
- d. A site identified by the federal Environmental Protection Agency as a superfund site pursuant to 42 U.S.C. Section 9601, et seq., or having environmental contamination to an extent that requires remedial investigation or a feasibility study;
- e. Repeated illegal activity on the individual property of which the property owner knew or should have known; or
- f. The maintenance of the property is below state or county codes for at least one year after written notice of the code violation to its owner; and

- (2) Is conducive to ill health, transmission of disease, infant mortality, or crime in the immediate proximity of the property.

Property shall not be deemed blighted solely because of aesthetic conditions.

*Building inspector* means a certified inspector possessing the requisite qualifications to determine minimal code compliance.

*Community redevelopment* means any activity, project, or service necessary or incidental to achieving the redevelopment or revitalization of a redevelopment area or portion thereof designated for redevelopment through an urban redevelopment plan or through local ordinances relating to the repair, closing, and demolition of buildings and structures unfit for human habitation.

*Governing authority* means the board of commissioners of Cobb County, Georgia.

*Millage or millage rate* means the levy, in mills, which is established by the governing authority for purposes of financing, in whole or in part, the levying jurisdiction's general fund expenses for the fiscal year.

*Person* means such individual(s), partnership, corporations, business entities and associations which return real property for ad valorem taxation or who are chargeable by law for the taxes on the property.

*Public officer* means the community development agency director or such officer or employee of the county as designated by the community development agency director to perform the duties and responsibilities hereafter set forth in this article.

#### **Sec. 2-181.2. - Levy of increase ad valorem tax on blighted real property.**

There is hereby levied on all real property within the county which has been officially identified as maintained in a blighted condition an increased ad valorem tax by applying a factor of seven (7.0) to the millage rate applied to the property, so that such property shall be taxed at a higher millage rate generally applied in the county, or otherwise provided by general law; provided, however, real property on which there is situated a dwelling house which is being occupied as the primary residence of one or more persons shall not be subject to official identification as maintained in a blighted condition and shall not be subject to increased taxation.

Such increased ad valorem tax shall be applied and reflected in the first tax bill rendered following official designation of a real property as blighted.

Revenues arising from the increased rate of ad valorem taxation shall, upon receipt, be segregated by the finance director and used only for community redevelopment purposes, as identified in an approved urban redevelopment program, including defraying the cost of the county's program to close, repair, or demolish unfit building and structures.

#### **Sec. 2-181.3 - Official identification of property maintained in blighted condition.**

(a) In order for a parcel of real property to be officially designated as maintained in a blighted condition and subject to increased taxation, the following steps must be completed:

- (1) An inspection must be performed on the parcel of property. In order for an inspection to be performed,
  - a. A request may be made by the public officer or by at least five residents of the county for inspection of a parcel of property, said inspection to be based on the criteria as delineated in ordinance, or
  - b. The public officer may cause a survey of existing housing conditions to be performed, or may refer to any such survey conducted or finalized within the previous five years, to locate or identify any parcels which may be in a blighted condition and for which a full

inspection should be conducted to determine if that parcel of property meets the criteria set out in this section for designation as being maintained in a blighted condition.

- (2) A written inspection report of the findings for any parcel of property inspected pursuant to subsection (1) above shall be prepared and submitted to the public officer. Where feasible, photographs of the conditions found to exist on the property on the date of inspection shall be made and included in the inspection report. Where compliance with minimum construction, housing, occupancy, fire and life safety codes in effect within the county are in question, the inspection shall be conducted by a certified inspector possessing the requisite qualifications to determine minimal code compliance.
- (3) Following completion of the inspection report, the public officer shall make a determination, in writing, that a property in question meets the criteria described in section 2-181.1. The public officer shall cause a written notice of his determination that the real property at issue is being maintained in a blighted condition to be mailed via first class mail and e-mailed, if known, to the person(s) shown on the most recent tax digest of Cobb County as responsible for payment of ad valorem taxes assessed thereon; provided, however, where through the existence of reasonable diligence it becomes known to the public officer that real property has been sold or conveyed since publication of the most recent tax digest, written notice shall also be given to the person(s) known or reasonably believed to then own the property or be chargeable with the payment of ad valorem taxes thereon, at the best address available.
- (4) The property owner may contact the public official to voluntarily remediate the conditions on the property within thirty days of receiving the written notice. Such a plan shall meet the criteria set forth in section 2-181.4. If no contact is initiated with the public official or if the proposed remediation is not sufficient to remove the blighted condition then a complaint in rem shall be prepared and filed by the county attorney's office to the magistrate court of the county.
- (5) The complaint shall state the two or more criteria under 2-181.1 that exists on the property and what steps shall be taken to remediate the property. Service in the manner set forth at O.C.G.A. § 41-2-12 shall constitute sufficient notice to the property owner or person chargeable with the payment of ad valorem taxes for the purpose of this section, except that posting of the notice on the property will not be required.
- (6) The magistrate court of the county shall issue a summons notifying interested parties that a hearing will be held before the magistrate court of the county at a date and time certain. The interested parties shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for the hearing.
- (7) If after such notice and hearing, the magistrate court determines that the dwelling or structure in question meets the criteria in section 2-181.1, the court shall state in writing findings of facts in support of such a determination and shall issue and cause its written findings to be served upon the interested parties that have answered the complaint or appeared at the hearing an order.
- (8) No property shall be designated as blighted unless the magistrate court of the county enters an order that finds the property in question meets the criteria described in section 2-181.1. This order constitutes official identification of real property as maintained in a blighted condition.
- (9) If the magistrate court finds that the property is blighted, it shall, in the same order, list what must be done to remove the blighted condition designation, and give the owner a deadline in which to finish the work.

- (b) Persons aggrieved by the determination of the court affirming the determination of the public officer may petition the Superior Court of the county for a writ of certiorari within 30 days of issuance of the court's written determination.

**Sec. 2-181.4. – Voluntary remediation action or improvement.**

All plans for remedial action or improvement shall be in writing, signed by the person(s) chargeable with the payment of ad valorem taxes on the real property and the director of the county's community development agency, and contain the following:

- (a) The plan shall be consistent with the city's comprehensive plan and all laws and ordinances governing the subject property, and shall conform to any urban redevelopment plan adopted for the area within which the property lies;
- (b) The plan shall set forth in reasonable detail the requirements for repair, closure, demolition, or restoration of existing structures, in accordance with minimal statewide codes; where structures are demolished, the plan shall include provisions for debris removal, stabilization and landscaping of the property;
- (c) On parcels of five acres or greater, the plan shall address the relationship to local objectives respecting land uses, improved traffic, public transportation, public utilities, recreational and community facilities, and other public improvements;
- (d) The plan shall contain verifiable funding sources which will be used to complete its requirements and show the feasibility thereof;
- (e) The plan shall contain a timetable for completion of required work; and
- (f) Any outstanding ad valorem taxes (state, school, county and city, including the increased tax pursuant to this article) and governmental liens due and payable on the property must be satisfied in full.

**Sec. 2-181.5. - Remediation or improvement to remove designation of blighted condition.**

- (a) A property owner or person(s) who is chargeable with the payment of ad valorem taxes on real property which has been officially designated pursuant to this section as property maintained in a blighted condition may petition the public officer to lift the designation, upon proof of compliance of the completion of work required under a court order entered in a proceeding brought pursuant to this section.
- (b) Before action on a petition to lift the designation, the public officer shall cause the property to be thoroughly inspected by a building inspector who, by written inspection report, shall certify that all requisite work has been performed to applicable code in a workmanlike manner, in accordance with the specifications of the applicable court order. Upon finding required work to be satisfactorily performed, the public officer shall issue a written determination that the real property is no longer maintained in a blighted condition. Copies of this determination shall be served upon the person(s) chargeable with the payment of ad valorem taxes, and upon the Tax Commissioner of Cobb County.

**Sec. 2-181.6. - Decreased rate of taxation to be applied after successful remedial action or improvement of blighted property.**

- (a) Real property which has had its designation as maintained in a blighted condition removed by the public officer, as provided in section 2-181.4 of this article, shall be eligible for a decrease in the rate of county ad valorem taxation by applying a factor of 0.2 to the county millage rate applied to the property, so that such property shall be taxed at a lower millage rate than the millage rate generally applied in the county or otherwise provided by general law; such decreased rate of taxation shall be applied beginning with the next tax bill rendered following removal of official

designation of a real property as blighted. The decreased rate of taxation may be given in successive years, depending on the amount of cost expended by the person(s) chargeable with payment of ad valorem taxes on the property to satisfy its remediation or redevelopment, with every \$25,000.00 or portion thereof equaling one year of tax reduction; provided, however, that no property shall be entitled to reduction in county ad valorem taxes for more than two (2) successive years.

- (b) In order to claim entitlement for a decreased rate of taxation, the person(s) chargeable with payment of ad valorem taxes on the property shall submit a notarized affidavit to the public officer, supported by receipts or other evidence of payment, of the amount expended.

**Sec. 2-181.7. - Duty of public officer to provide notice to county tax commissioner.**

It shall be the duty of the public officer to notify the Tax Commissioner of Cobb County in writing as to designation or removal of designation of a specific property as maintained in a blighted condition. Such notice shall identify the specific property by street address and tax identification number, as assigned by the Cobb County Tax Assessor's Office. The public officer shall cooperate with the tax commissioner to assure accurate tax billing of those properties subject to increased or reduced ad valorem taxation under this article.

**CHAPTER 6. – ALCOHOLIC BEVERAGES**

**ARTICLE I. IN GENERAL**

**Sec. 6-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Adequate parking* means one parking space for each 200 square feet of gross floor area within the premises of an applicant dedicated to the sale or consumption of alcohol.

...  
*Alcoholic beverage license* means a license to sell any malt beverages, vinous beverages, and/or spirituous liquors.

...  
*Bar* shall be an establishment that does not meet the definition of a restaurant, nightclub, lounge, farm winery, brewery, distillery, or hotel, and serves alcoholic beverages on premises. A full service food permit shall be valid and issued to the owner/licensee of the bar. Total annual food sales from the sale of prepared meals or food for the bar shall not be less than 30 percent of the total annual gross sales of food and alcoholic beverage sales of the bar.

...  
*Barrel* means 53 gallons.

...  
*Brewer* means a manufacturer of malt beverages.  
*Brewery* means a domestic manufacturer of malt beverages that is licensed by the state. Provided a license is issued as required by this chapter, a brewery is authorized to sell malt beverages by the package, by the drink and operate flight tastings on the premises of the brewery pursuant to appropriate state law, without additional license requirements, except as is required in [chapter 78](#).

...  
*Distiller* means a manufacturer of spirituous liquors.

*Distillery* means a domestic manufacturer of spirituous liquors that is licensed by the state. Provided a license is issued as required by this chapter, a distiller is authorized to sell spirituous liquors by the package, by the drink and operate flight tastings on the premises of the distillery pursuant to appropriate state law, without additional license requirements, except as is required in [chapter 78](#).

...

*Grocery store* means a retail establishment whose primary function is the sale of packaged or unprepared food and grocery items for consumption off the premises and whose annual gross sales of alcoholic beverages do not exceed ten percent of its total gross sales

...

#### **Sec. 6-7. - Sunday permits.**

A separate permit is required for the Sunday sale of alcoholic beverages for consumption on the premises and by the package for off-premises consumption (to the extent allowed by state law). Farm wineries, distillers, and brewers are not required to obtain a Sunday permit as long as they are operating in compliance with state law regarding the sale of alcoholic beverages at farm wineries, distilleries, and breweries.

### **ARTICLE II. – TAXATION**

#### **DIVISION II. – GENERAL EXCISE TAX**

##### **Sec. 6-41. - Levied; amount; payment; duties of dealers and wholesalers; unlawful sales and deliveries; bonds; penalties.**

...

- (j) *Distilleries*. Spirituous liquors sold at retail by a distillery shall have levied thereon the excise tax that applies to wholesalers. Distilleries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale.
- (k) *Breweries*. Malt beverages sold at retail by a brewery shall have levied thereon the excise tax that applies to wholesalers. Distilleries have a duty to keep accurate records as to what is sold at retail and what is sold at wholesale

### **ARTICLE III. – LICENSES**

#### **DIVISION I. - GENERALLY**

##### **Sec. 6-91. - Application, filing; form; contents.**

- (a) All applications for an alcoholic beverage license required under this chapter shall be made in writing at the business license office for such privilege license. Such application shall state the name and address of the applicant licensee and any sub-licensee(s); the name of the business and the street address where the proposed business is to be located; the nature and character of the business to be carried on; if a partnership, the names of partners; if a corporation, the names of the officers and major stockholders, if any; and such other information as may be required by the business license division manager or the police department, and be sworn to by the applicant or agent thereof.

#### **DIVISION II. – ISSUANCE STANDARDS**

##### **Sec. 6-123. - Zones where business permitted.**

...

- (b) No pouring license for the sale of alcoholic beverages by the drink or the operation of a bottle house shall be issued unless the location has been zoned NS, PSC, GC, TS, CRC, NRC, PVC, RRC,

OHR, OMR, or O&I, but not industrial, under the zoning laws of the county, or is in use as a business under a specific special use permit; provided, that this section shall not apply to farm wineries, distilleries, breweries, or private clubs as defined in this chapter; ...

...

(d) No license for the retail sale of alcoholic beverages in package form shall be issued to any person for the operation of such business, except within the areas zoned GC, NS, PSC, OHR, OMR, CRC, NRC, PVC, RRC, TS, UVC, or LRC; however, there shall be no sale of spirituous liquor by the package in LRC or UVC; provided, that this section shall not apply to farm wineries, distilleries, or breweries as defined in this chapter. ...

**Sec. 6-124. - Distance requirements—From residences.**

No license under this chapter shall be issued to any location which is within a 300-foot radius of a property line of a private residence; however, if the license review board, if appeal is filed, at a public hearing shall determine that the property values of the residence or residences will not be affected, that the quiet enjoyment of the premises by the residents thereof shall not be adversely affected, and that the grant of such license shall have no other adverse effect on the residents, the license review board or the board of commissioners may waive this provision of this section by granting a distance waiver. A distance waiver remains in effect for any alcoholic beverage license for that location provided that the establishment does not cease operation for twelve or more months, and the business activity does not change. This section shall not apply to residences located within commercial zones. The distance requirements from residences sited in this section do not apply to any residentially used structures that are contained in the PVC, RRC, UVC, and ROD zoning categories. The distance requirements in this section do not apply to structures that develop in accordance with the Mableton form-based redevelopment district. Wholesalers and distributors are exempt from this section

**Sec. 6-125. - Distance requirements—From schools, churches, parks or libraries**

No license shall be issued under this chapter where the place of business of the applicant is located within a radius distance of 600 feet of a public library, church, public park, or school or college. However, at a public hearing the license review board or the board of commissioners may waive the distance requirements of this section by granting a distance waiver if satisfactory evidence shall be produced before the license review board or the board of commissioners that no adverse effect to property values or the use of the facilities for the purposes aforesaid would occur if a license was granted. A distance waiver remains in effect for any alcoholic beverage license for that location provided that the establishment does not cease operation for twelve or more months, and the business activity does not change. The distance requirements in this section do not apply to structures that develop in accordance with the Mableton form-based redevelopment district; however all state distance requirements remain in effect through the appropriate state code. Wholesalers and distributors are exempt from this section

**Sec. 6-129. - Additional architectural standards for retail sales establishments.**

(a) No licensee for the sale of alcoholic beverages by the package shall operate under such license unless the front entrance to the licensed premises is clearly visible from the public street; provided, however, that this restriction shall not apply where the licensee is a hotel, motel, private club, farm winery, distillery, brewery, or is located in a shopping center or multiple story business building. Clearly visible shall mean that not less than 60 percent of the front area shall be glass. Front area shall mean the width of the premises from the ceiling to the floor.



- (b) No screen, blind, curtain, partition, article or thing which shall prevent a clear view into the interior shall be permitted in the window or upon the doors of any retail store for the sale of alcoholic beverages by the package, and no booth, screen, partition or other obstruction shall be permitted within the interior of any such store. Each such store shall be so lighted that the interior of the store is visible day and night. This subsection shall not apply to farm wineries, distilleries, or breweries.

...

**Sec. 6-130. - Supplemental requirements for sale of alcoholic beverages for on-premises consumption.**

- (a) No license for the sale of alcoholic beverages by the drink shall be issued to any applicant who does not meet the requirements of a restaurant, amusement park, hotel, or private club, lounge, bar, or nightclub as defined in this chapter. No bottle house shall operate unless it shall obtain a pouring license. This subsection shall not apply to farm wineries, distilleries, or breweries.

...

**Sec. 6-131. - License prohibited for package sales in connection with sales of alcoholic beverages by the drink; wine and/or beer sampling.**

- (a) Except in a farm winery, distillery, or brewery, no retail license for the sale of alcoholic beverages by the package shall be allowed where such sale would take place in, or in connection with, any restaurant, cafe or eating place, or in the same room where a bar is maintained for the dispensing and sales of alcoholic beverages.

...

**ARTICLE IV. – OPERATING REGULATIONS FOR LICENSED ESTABLISHMENTS**

**DIVISION 4. – HOURS OF OPERATION**

**Sec. 6-221. - Generally.**

- (a) *Sale by the package for off-premises consumption.*

...

- (2) *Malt beverages, vinous beverages, and spirituous liquors.* Malt beverages, vinous beverages, and spirituous liquors by the package shall not be sold or dispensed except between the hours of 6:00 a.m. of one day and 2:00 a.m. the following day on Monday through Friday, and between the hours of 6:00 a.m. and midnight on Saturday and on Sundays between the hours of 12:30 p.m. and 11:30 p.m. (to the extent allowed by state law). However a farm winery, brewery and distillery may sell alcoholic beverages by the package in accordance with appropriate regulations contained in O.C.G.A. § 3-4-24.2, O.C.G.A. § 3-5-24.1, and O.C.G.A. § 3-6-21.2. Posting shall be provided that provides notice to the customer pertaining to the quantity of alcoholic beverages by the package that can be purchased.

...

**Sec. 6-236. - Pricing of alcoholic drinks.**

...

- (c) No licensee or holder of any license to sell alcoholic beverages for consumption on the premises or in any part thereof, or employee or agent of a licensee, shall:

- (1) Offer or deliver any free alcoholic beverage to the general public. This subsection shall not apply to tasting rooms of farm wineries, distilleries, or breweries where wine, spirituous liquors, and malt beverages are offered in a quantity to only taste the product or for persons in compliance with appropriate state law and [section 6-131](#) of this chapter.

...

- (5) Sell, offer to sell, or deliver alcoholic beverages, by the pitcher ...

- (6) Increase the volume of alcohol contained in a drink without ...
- (7) Encourage or permit on the licensed premises any game ...
- (8) Sell two or more alcoholic beverages for a price ...
- (9) Require or encourage the purchase...
- (10) Knowingly allow an alcoholic beverage purchased ...

(e) No provision of this section shall be construed to prohibit licensees from offering free food or entertainment at any time, or to prohibit licensees from including an alcoholic beverage as a part of a meal package; however, this sub-section shall not be construed to allow a licensee to circumvent the intent of this section by offering meals which include an alcoholic beverage as a device or scheme to promote drink sales at a price per beverage less than the daily listed price.

**CHAPTER 18. – BUILDING REGULATIONS.**

**ARTICLE III. – BUILDING CODE.**

**Sec. 18-122. - Amendments.**

The following shall be considered amendments, additions to, changes in or exceptions to the building code adopted in [section 18-121](#):

(1) Section 109 of the code shall be amended as follows:

*Section 109 Fees*

109.4 Work commencing before permit issuance. This section will not be a substitute for any other required permit, variance or enforcement measure available to the county.

Any person who commences any work on a building, structure, electrical, gas, mechanical or plumbing system before obtaining the necessary permits, or exceeds the scope of work authorized by the necessary permits, shall be subject to a fee established by the building official that shall be in addition to the required permit fees. The established fee shall be equal to the permit fee, not to exceed \$1,000.00 per required individual permit, excluding sub-contractor supplemental permits that would normally be included in the building permit fee.

(2) Emergency closure of a building, structure, or ...

**ARTICLE VIII. – ONE– AND TWO–FAMILY DWELLING CODE.**

**Sec. 18-231. - Adopted.**

The edition of the International Residential Code promulgated pursuant to O.C.G.A. § 8-2-25, as amended from time to time, is hereby adopted as the one- and two-family dwelling code of the county, subject to all exceptions, amendments and modifications contained in this article, which in the event of conflict shall supersede and take priority over any amended or unamended section. Amendments shall be construed as superseding only that part of the section with which there is a conflict. The county further adopts sections 101 through 111 and 113 through [114](#) of chapter 1 of such International Residential Code for administration of such code.

**Sec. 18-232. - Amendments.**

The one- and two-family dwelling code adopted in [section 18-231](#) is amended, modified, deleted and excepted as follows:

...

## **ARTICLE X. - SWIMMING POOLS AND WASTEWATER DISCHARGES**

### **Sec. 18-301. - Adopted.**

The edition of the International Swimming Pool and Spa Code promulgated pursuant to O.C.G.A. § 8-2-25, as amended from time to time, is hereby adopted as the swimming pool code of the county, subject to all exceptions, amendments and modifications contained in this article, which in the event of conflict shall supersede and take priority over any amended or unamended section. Amendments shall be construed as superseding only that part of the section with which there is a conflict. The county further adopts sections 101 through 107 of chapter 1 of such International Swimming Pool and Spa Code for administration of such code.

## **CHAPTER 110 - SUBDIVISIONS**

### **ARTICLE I. - IN GENERAL**

#### **Sec. 110-1. - Definitions.**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

*Subdivision* means all divisions of a tract or parcel of land into two or more lots, building sites, or other divisions for the purpose, whether immediate or future, of sale, legacy or building development, and includes all division of land involving a new street or a change in existing streets, and includes resubdivision and, where appropriate to the context, relates to the process of subdividing or to the land or area subdivided. Provided, however, that the following are not included within this definition:

...

- (2) Any subdivision of land, provided that all such lots are within the boundaries of a pre-existing platted subdivision or no lots hereby produced contain less than 80,000 square feet each and has a minimum frontage of 200 feet. Also, where no new streets, roads, or other rights-of-way are involved and provided further that such subdivision shall be platted and recorded. For lots of 80,000 square feet or more the property shall be zoned for R-80 purposes as defined in [chapter 134](#).

...

## **CHAPTER 134 - ZONING**

### **ARTICLE I. - IN GENERAL**

#### **Section 134-1. – Definitions**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

...

*Building height (height of a non-residential structure or building)* means the vertical distance from the curb level, or its equivalent, to the highest point of the underside of the ceiling beams, in the case of a flat roof; to the deck line of a mansard roof; and to the mean level of the underside of the rafters between the eaves and the ridge of a gable, hip or gambrel roof.

*Building height (height of a residential structure or building)* means the vertical distance from the mean ground front elevation to the mean level of the highest roof structure. Note: Also see Cobb County Code Sec.18-27(e) for additional requirements that may affect building height.

...

#### **ARTICLE IV. – DISTRICT REGULATIONS.**

##### **Sec. 134-198.1. Open space community overlay (OSC) district.**

(a) Purpose and intent. The OSC overlay district is established to encourage the preservation of natural resources within residential development. The district may be overlaid upon the R-30, R-20, and R-15 zoning districts. ...

(e) Procedure for OSC overlay utilization. The OSC district can be utilized in two ways. One way involves utilizing the criteria in conjunction with the existing zoning of the property. The other (second) way involves utilizing the criteria in conjunction with a rezoning application for the property.

(1) When the OSC district is overlaid upon an existing zoning district, the project will be reviewed and approved or denied by the board of commissioners. ... OSC proposals are required to be posted for 30 days prior to the planning commission and board of commissioners meetings. Applicants will not be issued signs, and the 30 day posting requirement will not begin until staff has received and reviewed all information required below. ...

The following procedure will apply:

...

(iii) The following plans...

I. Preliminary layout utilizing existing and proposed zoning category.

...

(f) Review criteria.

(1) Minimum setback requirements, exterior lots as described in item g. Lots must be designed so to accommodate on-site parking for at least two vehicles and provide for side setbacks of 7.5 feet.

(2) No minimum tract size.

(3) The minimum lot size shall be 10,000 square feet for R-15 OSC; 13,000 square feet for R-20 OSC; and 15,000 square feet for R-30 OSC.

(4) [Reserved]

...

(10) In order to reduce and/or eliminate open space encroachment along individual lots, applicants will be required to establish fencing that is compatible with the architecture/landscaping/design of development to keep home owners from encroaching into open space areas.

(11) Open space shall be designed to provide connection to adjacent property when the adjacent property is currently undeveloped or consists of established open space or conservation area. All required open space must be on the same tract of property. Contiguity of open space is highly desirable.

(12) Floodplain, wetlands, and lakes may only account for 70 percent of required open space.

(13) The net density of the proposed project shall not exceed the average density found in the Summary of bulk regulation table (Sec. 134-191) for the requested zoning district with OSC. All OSC projects shall have a minimum of 35% open space.

- (14) Slopes greater than 25 percent must be included in the required open space, but shall allow for perpendicular (except when non-perpendicular is necessary to satisfy drainage/storm water requirements) utility and access crossings, when necessary.
- (15) A ten (10) foot landscape buffer shall be provided on any exterior lots that abut an existing subdivision. The buffer shall be natural, but may need to be enhanced with additional landscaping in order to provide sufficient screening between communities.