

THE ZONING ORDINANCE FOR THE CITY OF WINTERVILLE, GEORGIA

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WINTERVILLE, GEORGIA

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March, 2016

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PREFACE

The following analysis entitled Zoning Ordinance for The City of Winterville, Georgia, is designed to give the governing authority or authorities of Winterville with a recommended regulatory measure designed to met present-day and anticipated future needs for the promotion of the health, safety, morals, convenience, order, prosperity or general welfare of the city by the control of such matters as the location, height, bulk, number of stories and size of buildings and other structures, the percentage of lot which may be occupied, the sizes of yards, courts, and the other open spaces, the density and distribution of population, and the uses of buildings, structures, and land for trade, industry, residence, recreation, agriculture, forestry, conservation, water supply, sanitation, protection against floods, public activities, and other purposes.

These recommended regulations are made in accordance with a comprehensive plan and shall be designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of populations, water, sewerage, schools, parks, and other public requirements.

Said recommended regulations are made with responsible consideration, among other things, of the character of the district and its peculiar suitability for particular uses, and with a view to promoting desirable living conditions and the sustained stability of neighborhoods, protecting property against blight and depreciation, securing economy in governmental expenditures, conserving the value of buildings and encouraging the most appropriate use of land and other buildings and structure throughout the City of Winterville.

An Ordinance of the Mayor and Council of the City of Winterville, Georgia, establishing zoning districts and regulating the uses of land therein; specifying off-street parking and loading requirements; adopting general zoning regulations; adopting a map for the purpose of indicating land districts; describing zoning rules and regulations in said districts; defining said districts; providing for rezoning and redistricting; establishing certain building and zoning regulations in each of the said districts; regulating land uses and accessory uses; prescribing the percentage of land uses and accessory uses; prescribing the percentage of land area which may be occupied under varying circumstances; providing for variances and non-conforming uses; establishing an appeal procedure of zoning appeals; defining an appeal procedure of zoning appeals; defining certain terms herein used; providing a method of administration and practice and procedure; providing penalties for a violation; providing remedies for enforcement hereof; to repeal all conflicting ordinances; and for other purposes.

ARTICLE I

PURPOSE AND ENACTMENT

The Mayor and Council of the City of Winterville, Georgia, under the authority of the General Planning and Zoning Enabling Act of 1957 of the State of Georgia, as amended, and for the purpose of promoting the health, safety, morals, convenience, order, prosperity, or the general welfare of the municipality and designed to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land, to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other requirements, hereby ordain and enact into law the official Zoning Ordinance for the incorporated area of the City of Winterville for planning, zoning and subdivision control purposes and agreed upon through laws enacted by both the Mayor and Council of the City of Winterville, Georgia.

ARTICLE II

SHORT TITLE

This Ordinance shall be known and may be cited as "The Zoning Ordinance for the City of Winterville, Georgia."

ARTICLE III

DEFINITIONS OF TERMS USED IN THIS ZONING ORDINANCE

Section 3.1 General

Except as otherwise provided herein, all words shall have the customary dictionary meaning. The present tense of words includes the future tense. The singular includes the plural, and the plural includes the singular. The word "person" includes a firm, corporation, association, organization, trust, or partnership. The word "lot" includes "plot" or "parcel." The word "building" includes "structure." The word "shall" is always mandatory. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged or designed to be used or occupied." The words "atlas" or "map" mean the "Official Zoning District Atlas Maps for the City of Winterville, Georgia." "City" means the City of Winterville, Georgia. "Governing authority" means the City Council of the City of Winterville, Georgia.

Section 3.2 Specific Definitions

When used in this Ordinance, the following words and phrases shall have the meaning given in this Section:

- (1) **ACCESSORY BUILDING:** A building that is not the principle building on a lot.
- (2) **ACCESSORY USE:** A use customarily incidental to the principal use of land.
- (3) **AIRPORT:** A transportation terminal facility where aircraft take off and land.
- (4) **ALLEY:** A platted service way providing a secondary means of access to abutting properties.
- (5) **ALTERATION:** Any change, addition, or modification in construction of the structural members of a building, as walls, partitions, columns, beams, girders, or any change which may be referred to herein as "altered" or "reconstructed."
- (6) **APARTMENT:** A building arranged, intended or designed to be occupied by three or more families living independent of each other.
- (7) **APARTMENT DEVELOPMENT:** A development of multi-family dwelling units developed in accordance with the provisions of this Ordinance.
- (8) **APARTMENT HOTEL:** A building in which lodging for compensation by pre-arrangement with or without meals or kitchen facilities, is offered to transient

- guests for temporary occupancy or to persons for long term abode purposes provided entrances to each apartment is from within the building and any commercial activity is incidental to the residential nature of the establishment.
- (9) **AUTO DETAIL SHOP:** A business that provides through cleaning, polishing, and waxing automobiles, vans, and trucks with no more than 6 wheels.
 - (10) **AUTO GARAGE:** Any area of land, including structures thereon, used for the retail service of major repairs, minor repairs, including the incidental services of lubrication and cleaning of motor vehicles.
 - (11) **BED & BREAKFAST:** A private residence, several rooms of which are set aside for overnight guests whose paid accommodations include breakfast.
 - (12) **AUTOMOBILE SERVICE STATION:** Any area of land, including structures thereon, used for the retail sale of gasoline, oil, automobile accessories and incidental services including facilities for lubricating, minor repairs, hand washing and cleaning or otherwise servicing automobiles, but excluding painting, major repair or automatic washing of motor vehicles.
 - (13) **BLOCK:** A tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines of waterways, or boundary lines of municipalities.
 - (14) **BOARDING HOUSE:** A building other than a hotel where, for compensation and/or by pre-arrangement, meals or lodging and meals are provided for three (3) or more persons, but not exceeding twenty (20) persons.
 - (15) **BUILDING:** Any structure having a roof supported by columns or walls and intended for shelter, housing or enclosure of persons, animals, or chattels.
 - (16) **BUILDING, ALTERATIONS OF:** Any change in the supporting members of a building (such as bearing walls, beams, columns, and girders) except such change as may be required for its safety; an addition to a building, any movement of the building or use from one location to another.
 - (17) **BUILDING CODE:** The building code shall be the “International Building Code”; however the building code must adhere to Athens-Clarke County (ACC) Building Code which takes precedence if and when it is different from the International Code. References: The Winterville/ACC Intergovernmental Agreement of November 28, 2006.
 - (18) **BUILDING, HEIGHT OF:** The vertical distance measured from the average elevation of the proposed finished grade at the front of the highest level between

the eaves and ridge for gable, hip, or gambrel roofs and to the deck line of a mansard roof at their highest point.

- (19) **BUILDING, MAIN:** A building in which is conducted the principal use of the lot on which it is situated. In any residential district, any dwelling shall be deemed to be a main building on the lot on which it is situated.
- (20) **CEMETARY:** Any plot of ground, churchyard, building, mausoleum, or other enclosure used for burial of the human remains.
- (21) **CLINIC:** An establishment where human patients, who are not lodged overnight, are admitted for examination and treatment.
- (22) **CLINIC, VETERINARY:** An establishment where animals are admitted for examination and treatment and may stay overnight indoors.
- (23) **CLUB:** Buildings and facilities owned or operated by a corporation, association, person or persons for social, educational or recreational purposes, but not primarily for profit or to render a direct service to the general public.
- (24) **COMMISSION:** "The City of Winterville Planning and Zoning Commission."
- (25) **CONDOMINIUM:** Individual ownership units in a multi-family structure, combined with a joint ownership of common areas of the buildings and/or grounds.
- (26) **COUNCIL:** "The Mayor and Council for the City of Winterville, Georgia."
- (27) **DISTRICT:** A section of the City of Winterville within which the zoning regulations are uniform.
- (28) **DAY-CARE CENTER, ADULT:** A non residential facility specializing in providing activities for elderly and/or mentally or physically challenged individuals. The center may provide meals, social/recreational outings and general supervision. The center must meet all state and local regulations.
- (29) **DAY-CARE CENTER:** Any non-residential place operated by any person, society, agency, corporation or institution, or any other group wherein are received for pay seven (7) or more children under 18 years of age for group care, without transfer of custody, for more than four (4) hours and less than 24 hours per day. The center must meet all state and local regulations.

- (30) **DAY-CARE HOME:** Any place operated by any person who receives for pay three (3) to six (6) children under 17 years of age for group care, without transfer of custody, for more than four (4) and less than 24 hours per day. The center must meet all state and local regulations.
- (31) **DWELLINGS:** Any building or portion thereof which is designed for or used for residential purposes.
- (32) **DWELLING, MULTI-FAMILY:** A building designed for or occupied exclusively by three (3) or more families living independently of each other.
- (33) **DWELLING, SINGLE-FAMILY:** A building designed for and occupied exclusively by one (1) family;
- (34) **DWELLING, TENANT:** A residential structure located on a farm and occupied by non-transient farm workers and employed by the owner of the farm.
- (35) **DWELLING, TWO-FAMILY (DUPLEX):** A building designed for and occupied exclusively by two (2) families living independently of each other.
- (36) **EASEMENT:** A grant by a property owner of the use of land for a specific purpose or purposes by the general public, or a corporation or a certain person or persons.
- (37) **FALL-OUT SHELTER:** A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fall-out, air raids, storms or other emergencies.
- (38) **FAMILY:** Two or more persons residing in a single dwelling unit where all members are related by blood, marriage, or adoption up to the second degree of consanguinity, or by foster care. For the purposes of this definition, "consanguinity" means only the following persons are related within the second degree of consanguinity: Married couples, parents and children, grandparents and grandchildren, brothers and sisters, aunts and uncles, nephews and nieces, and first cousins. For the purposes of this definition, a person shall be considered to reside in a dwelling unit if he or she stays overnight in a dwelling unit for more than 30 days within a 90-day period. The term "family" does not include any organization or institutional group. This definition of "family" does not preclude two individuals cohabitating as a family unit.
- (39) **FLOOR AREA:** The sum of the gross horizontal areas of the total number of floors of a building measured from the exterior faces of the exterior walls or from the center line of walls separating two buildings, but not including the attic space

providing headroom for less than seven (7) feet; unusable basement or cellar space not used for retailing; uncovered steps or fire escape; open porches; accessory water or cooling towers; accessory off-street parking spaces; and accessory off-street loading berths.

- (40) **FRONTAGE:** The distance for which the front boundary line of the lot and the street line are coincident calculated at the right-of-way line. For the purpose of corner lots, all sides of a lot adjacent to streets shall be considered frontage.
- (41) **GARAGE APARTMENT:** A dwelling unit for one family erected above a private garage detached from the main dwelling.
- (42) **GARAGE, PARKING:** A building or portion thereof designed or used for storage of motor-driven vehicles.
- (43) **GARAGE, PRIVATE:** An accessory building or a portion of a main building used for the parking or storage of automobiles of the occupants of the main building.
- (44) **HOME OCCUPATION:** An occupation for primary gain or support conducted only by members of a family residing on the premises and within the main dwelling and one accessory building.
- (45) **HOTEL:** A building in which lodging or board and lodging are provided for more than twenty (20) persons and offered to the public for compensation and which ingress and egress to and from each sleeping room is generally made through the interior of the building.
- (46) **INSTITUTION:** A non-profit corporation or a non-profit establishment.
- (47) **JUNK VEHICLE:** A motor vehicle, trailer, automobile, contrivance, or part thereof (except farm equipment) which is either wrecked, dismantled, partially dismantled, inoperative, abandoned, discarded, or does not have a valid license plate attached thereto.
- (48) **JUNK YARD:** Any establishment which is maintained or used for storing, buying, or selling junk, or for an automobile graveyard; sanitary fills, and scrap processor establishments.
- (49) **KENNELS:** Any location where raising, grooming, caring for or boarding of dogs, cats, or other small animals is provided for commercial purposes.

- (50) **KINDERGARTEN:** A school for pre-elementary school children ranging in age from four (4) through six (6) years; which operates for less than six (6) hours per day.
- (51) **LANDING AREA:** The area of an airport used for landing, taking off, or taxiing of aircraft.
- (52) **LAUNDROMAT:** A business that provides home-type washing, drying and/or ironing machines.
- (53) **LAUNDRY AND DRY CLEANING PICK-UP:** A business that provides only for the convenience of taking and picking up of laundry, such as establishments not having any equipment for process of the laundry.
- (54) **LOADING SPACE:** A space within the main building or on the same lot, providing for the standing, loading, or unloading of trucks, and other carriers.
- (55) **LOT:** A parcel of land occupied or to be occupied by one main building and its accessory buildings with such open and parking spaces as are required by the provisions of this Ordinance and having its frontage upon a public or private street or streets.
- (56) **LOT OF RECORD:** A lot or parcel of land whose existence, location and dimensions have been recorded in the Office of the Clerk of the Superior Court of Clarke County.
- (57) **LOT, CORNER:** A lot abutting upon two (2) or more streets at their intersection where interior angle of intersection does not exceed one hundred thirty five degrees.(135°).
- (58) **LOT, DOUBLE FRONTAGE:** A lot having a frontage, both front, back and rear, on two (2) streets as distinguished from a corner lot.
- (59) **LOT, INTERIOR:** A lot other than a corner lot.
- (60) **MANUFACTURED HOME:** A structure defined by and constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended, 42 U.S.C. §5401, et seq. The definition at the date of adoption of this part is as follows:

"Manufactured Home" means 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, or, when erected on site, is three hundred twenty

(320) or more square feet, 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. Except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required.

- (61) **MOTEL:** A building or group of buildings containing sleeping accommodations for rental primarily to automobile transients and in which ingress and egress to and from each sleeping room is generally to the outside of the building.
- (62) **NON-CONFORMING USE:** A use of land existing at the time of the enactment of this Ordinance, or at the time of a Zoning Amendment and which does not conform with the regulations of the use district in which it is located.
- (63) **NURSING HOME:** A home for aged or ill persons in which three (3) or more persons not of the immediate family are provided with food, shelter, and care for compensation but not including hospitals, clinics, or similar institutions devoted primarily to diagnosis and treatment. Shall be licensed by the State of Georgia.
- (64) **OPEN SPACE:** A parcel or parcels of land or an area of water or a combination of both land and water within the site designated for development and designed and intended for the use and enjoyment of residents of the development or for the general public, not including streets or off-street parking areas. Open space shall be substantially free of structures, but may contain such improvements as are in the plans as finally approved and are appropriate for the benefit of residents of the development or for the general public. Unless dedicated and accepted by the Mayor and Council, maintenance shall be the responsibility of all property owners within the subdivision.
- (65) **PARKING SPACE:** An area of not less than 180 square feet with dimensions of not less than nine feet wide and 20 feet deep, the exclusive purpose of which is the parking of a vehicle.
- (66) **PLAYSCHOOL:** A school of pre-kindergarten children ranging in age from three (3) to four (4) years and which operates for less than four (4) hours per day.
- (67) **PLANNED UNIT DEVELOPMENT:** Any planned concentration that provides for innovative concepts in residential development that enables economy in capital expenditures on utilities and streets and in subsequent maintenance.

- (68) **PLAT, FINAL.** The final plat prepared by a registered land surveyor, described in these regulations, on which the sub-divider's plan of subdivision is presented to the City of Winterville for approval and which, if approved, may be submitted to the Clerk of the Superior Court for Clarke County for filing.
- (69) **PLAT, PRELIMINARY:** The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the City of Winterville for approval.
- (70) **PRINCIPAL USE:** The primary purpose for which land or a building is used in accordance with underlying zoning.
- (71) **PROFESSIONAL:** When used in connection with "use" and "occupancy" a use or occupancy by persons generally engaged in rendering personal, executive sales, or administrative services or activities including accountant, architects, professional engineers and land surveyors, doctors, lawyers, insurance officers, real estate offices, religious organizations, stock brokers, and administrative agencies considered professional in character. The term, however, does not include repairs or sales of the tangible personal property stored or located within the structure nor any use that would create any loud noise or noxious odors within the City of Winterville.
- (72) **RECREATIONAL VEHICLE:** Recreational vehicle and its acronym, RV, are generally used to refer to a vehicle equipped with living space and amenities found in a home; they are sometimes called motor homes. A recreational vehicle normally includes a kitchen, a bathroom, a bedroom and a living room.
- (73) **RENTAL, RESIDENCE:** Rental property in residential zoned districts for single family use. No more than two (2) individuals not family related may occupy a rented or leased residence in a single family residentially zoned district.
- (74) **RESTAURANT:** An eating establishment which caters to sit down table service or take-out service within an enclosed building or adjoining patio.
- (75) **RESTAURANT, DRIVE-IN:** An eating establishment which caters to motor-driven vehicles business where the person being served consumes food and/or drink while sitting in a vehicle.
- (76) **RIGHT OF WAY:** A strip of land occupied or intended to be occupied by a street, crosswalk, railroad, road, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, shade trees, or for any other special use. The usage of the term "right-of-way" for land platting purposes shall mean that every right-of-way hereafter established and shown on a final plat is to be separate and

distinct from the lots or parcels adjoining such right-of-way and not included within the dimensions or areas of such lot or parcels. Right-of-way intended for streets, crosswalks, water mains, sanitary sewers, storm drains, shade trees, or any other use involving maintenance by a public agency shall be dedicated to public use by the maker of the plat on which such right-of-way is established and owned in fee simple title by the property owner.

- (77) **RIGHT-OF-WAY LINE:** The dividing line between a lot, tract or parcel of land and contiguous right-of-way.
- (78) **SANITARY LANDFILL:** A solid waste disposal method in which the wastes are deposited in controlled manner at a site, then spread and compacted in thin layers, covered frequently with a layer of earth, and compacted daily.
- (79) **SETBACK:** The distance between a building and the street line or property line nearest to the building.
- (80) **SHOPPING CENTER:** A group of commercial establishments planned, and developed as a unit with common off-street parking provided on the property.
- (81) **SIGN:** Any words, lettering, parts of letters, figures, numerals, phrases, sentences, emblems, devices, designs, trade names or marks, or combinations thereof, by which anything is made known, an association, a profession, a church, business, a commodity, or product which are visible from any public way and used as an outdoor display.
- (82) **SINGLE FAMILY RESIDENCE:** A residential unit located on a single lot functioning as the only residential unit and designed and occupied for only one (1) family.
- (83) **STORAGE:** The placement of material of any kind such that it creates an unsightly appearance based on city codes and ordinances.
- (84) **STORY:** That portion of a building, other than a cellar, included between the surface of the floor and ceiling above it.
- (85) **STREET:** a public or private thoroughfare which affords the principal means of access to abutting property. The further definition of street(s) is found in the “An Ordinance Regulating the Subdivision of Land in the City of Winterville, Georgia September 2005).
- (86) **THOROUGHFARE MAP:** A map depicting the current and future streets in The City of Winterville by functional classification.

- (87) **TOWNHOUSE:** A single-family dwelling unit which is erected in a row as part of a single building on adjoining lots, each being separated from the adjoining unit or units by approved fire resistant party wall or walls extending from the basement or cellar floor to the roof along the dividing lot line.
- (88) **TRADE SHOP:** The business where persons are working in or associated with a specified business or industry.
- (89) **TRAVEL TRAILER:** A portable vehicular structure designed as a temporary dwelling for travel, recreational and vacation uses.
- (90) **TRAVEL TRAILER PARK:** Any lot on which two (2) or more travel trailers or RV's are parked for a period of more than thirty (30) days.
- (91) **VARIANCE:** A modification of the terms of these Regulations where such modification will not be contrary to the public health, safety and welfare; where, owing to conditions peculiar to the property, not the result of actions of the subdivider or owner, a literal enforcement of these Regulations would result in unnecessary and undue hardship. The Variance Hearing Board is the appointed body to hear all variance appeals.
- (92) **YARD:** A space on the same lot with a main building, such space being open, unoccupied and unobstructed by buildings or structures from ground to sky except when encroachments and accessory buildings are expressly permitted.
- (93) **YARD, FRONT:** An open, unoccupied space on the same lot with the main building, extending the full width of the lot and situated between the right-of-way line and front line of building projected to the side lines of the lot. The depth of the front yard shall be measured from between the front line of the building and projected to the side lines of the lot. Covered porches, whether enclosed or unenclosed, shall not project into a required front yard. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.
- (94) **YARD, REAR:** An open space on the same lot with the main building, such space being unoccupied except possibly by an accessory building and extending the full width of the lot and situated between the rear line of the lot and rear line of the main building projected to the side lines of the lot. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.
- (95) **YARD, SIDE:** An open, unoccupied space on the same lot with a main building, situated between the side line of the building and the adjacent side line of the lot

extending from the rear line of the front yard to the front line of the rear yard. If no front yard is required, the rear boundary of the side yard shall be the rear line of the lot. On corner lots, the side yard shall be considered as parallel to the street upon which the lot has its greatest dimension.

ARTICLE IV

ESTABLISHMENT OF DISTRICTS

Section 4.1 Districts

For the purpose of this Ordinance, the City of Winterville, Georgia is divided into zoning districts designated as follows:

Zoning Districts	Abbreviated Designation
Rural Residential One Unit per 5 Acres, 2000 square feet minimum house size	RR
Residential Single-Family 1200 square feet minimum house size	R12H
1500 square feet minimum house size	R15H
1800 square feet minimum house size	R18H
2000 square feet minimum house size	R20H
Commercial General Business	C
Professional Limited Commercial	PLC
Government	G

Section 4.2 Incorporation of the Zoning Atlas Maps

The zoning districts drawn on maps entitled "Official Zoning Atlas District Maps" for the City of Winterville, Georgia," hereinafter called the Official Zoning Atlas with all notations; references and other information shown thereon are a part of this ordinance. Said atlas shall be made a public record and shall be kept permanently in the office of the city clerk, where said atlas shall be accessible to the general public.

Section 4.3 Map Amendment

If, in accordance with provisions of this Ordinance, changes are made in the district boundaries or other information portrayed in the official zoning atlas, such changes shall be made on the official zoning atlas maps promptly after the change has been approved by the City Council.

Section 4.4 Rules for Determining Boundaries

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Official Zoning Atlas of Winterville, the following rules shall apply:

- (1) Unless otherwise indicated, the district boundaries are indicated as approximately following property lines, center lines of streets or highways or alleys or railroads, shorelines of streams, reservoirs, or other bodies of water, or civil boundaries, and they shall be construed to follow such lines.
- (2) Where district boundaries are approximately parallel to the center lines of streets, highways, or railroads, or right-of-way of the same, or the center lines of streams, reservoirs, or other bodies of water, or said lines extended, such district boundaries shall be construed as being parallel thereto and at such distance there from as indicated on the Official Zoning Atlas. If no distance is given, such dimensions shall be determined by the use of the scale shown on the Official Zoning Atlas.
- (3) Where a district boundary line as appearing on the Official Zoning Atlas divides a lot which is single ownership at the time of this enactment, the use classification of a larger portion may be extended to the remainder by the Council without recourse to the amendment procedure.
- (4) Where a public road, street or alley is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street or alley.
- (5) In the case the exact location of a boundary cannot be determined by the foregoing methods, the Council shall, upon application, determine the location of the boundary.

Section 4.5 20-Year Comprehensive Plan

Reference is made to the 20-Year Comprehensive Plan for Athens-Clarke County and the City of Winterville to be used as a general guide for future planning and zoning within the City. This Plan is available in the office of the City Clerk.

ARTICLE V

APPLICATION OF REGULATIONS

Except as hereinafter provided:

Section 5.1.1 Use

No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, constructed, moved, or altered except in conformity with the regulation herein specified for the district in which it is or is to be located.

Section 5.1.2 Building Heights and Densities

No buildings shall hereafter be erected, constructed or altered so as to exceed the height limit, to accommodate or house a greater number of families or occupy a smaller lot area per family than are required or specified in the regulations herein for the district in which they are located. No building shall have a narrower or smaller front or side yards or courts than are herein required.

Section 5.1.3 Lots

No lot, even though it may consist of one or more adjacent lots of record in the same ownership at the time of passage of this Ordinance, shall be reduced in size so that lot width or depth, front, side or rear yard, inner or outer courts, lot area per family or other requirements of this Ordinance are not maintained. This section shall not apply when a portion of a lot is acquired for public uses within the City of Winterville, Georgia.

Section 5.1.4 Yards

No part of a yard or other open space of the off-street parking or loading spaces required for any building for the purpose of complying with the provisions of this Ordinance shall be included as part of a yard or off-street parking or loading space or other open space similarly required for another building. Every part of a required yard or court shall be open from its lowest point to the sky unobstructed, except for the ordinary projection of sills, cornices, buttresses, ornamental features, chimneys, flues, and eaves, provided such projections shall not extend more than two (2) feet beyond the yard area requirements.

Section 5.1.5 One Principal Building on a Lot

Only one principal building and its permitted accessory buildings may hereafter be erected on any one lot.

Section 5.1.6 Conformity with Existing Codes

No building shall hereafter be constructed, located, erected, or otherwise situated in the City which does not meet applicable building, fire, electrical, gas, plumbing and other existing codes of the City.

Section 5.1.7 Construction and Use of Temporary Buildings

Temporary buildings other than provided herein shall not be allowed in any district except that temporary buildings and or roll-off dumpsters used in conjunction with construction work or pending completion of a permanent building for a period not to exceed six (6) months in a residential district or PLC district and one year in other districts. Such buildings must be located at least 50 feet from any residence and shall be removed when the construction has been substantially completed.

Section 5.1.8 Requirements for Moving a Building

No dwelling unit or other permanent structure shall be moved within or into the city without first obtaining a building permit. The structure shall be inspected on its original site to determine its compliance with the building code. When relocated it must meet all requirements of the Zoning Ordinance and other City code requirements.

Section 5.2 Construction

Nothing in this Ordinance shall require any change in the construction or intended use of a building which is legally under construction or for which a building permit has been issued at the effective date of this Ordinance and the construction of which shall be diligently pursued until its completion.

Section 5.2.1 Development Projects under Construction

Nothing in this Ordinance shall require any change in the development or proposed use of properties which are legally under development or for which a development plan or preliminary plat has been approved at the effective date of this Ordinance and the development of which shall be commenced within one year, or for which a permit has been approved, as provided in Article XII.

Section 5.2.2 Lots with Well and Septic Tank

Any lot upon which both an individual well and septic tank are to be provided shall have a minimum area of not less than 51,000 square feet, or a greater lot area if required by State and

County Health Department regulations. The site location on the lot of such facilities shall be approved by the County Health Department.

Section 5.2.3 Minimum Area for Lots Served by Septic Tank or a Sewer Line

Any lot which is to be served by an individual septic tank or ACC sewer line shall have an area of not less than 43,560 square feet (one acre) or greater. The site location on the lot of a septic tank shall be approved by the County Health Department.

Section 5.2.4 Fences and Walls

No fence or freestanding wall in a yard other than a retaining wall shall be more than eight feet in height, or be constructed in a public right-of-way or future street right-of-way. Any fence in a front yard in a residential district shall not exceed four (4) feet in height.

Section 5.2.5 Buffer Area

Buffer areas required by this Ordinance shall be established and maintained by the property owner under the following provisions:

- a. Be maintained as a planted area, using existing vegetation or, when required, additional plantings as provided below.
- b. Be landscaped with trees, shrubs, flowers, grass, stone, rocks, and other landscaping materials.
- c. Not be used for parking or a structure other than a fence or drainage improvements required by the city. However, a buffer area may be used for vehicular access and utility easements (only if such uses are provided approximately perpendicular to the greater distance of the buffer area) and for drainage improvements, required by the City based upon competent engineering studies which show such improvements to be necessary, upon approval of the Mayor and Council.
- d. Except as provided above, the natural topography of the land shall be preserved and natural growth shall not be disturbed beyond that which is necessary to prevent a nuisance, or to thin such natural growth where too dense for normal growth, or to remove diseased, misshapen, or dangerous and decayed timbers. However, a slope easement may be cleared and graded where required to prevent soil erosion upon approval of the Mayor and Council. Such easement may cover no more than 20 percent of the required buffer area, and shall be immediately replanted upon completion of easement improvements.

- e. Where the conditions described in the preceding paragraph cannot be met by reason of the topography of the land or of the prior removal of or lack of timber and foliage, the owner of said buffer area may erect a permanent wall or fence of not less than six feet in height or a screen of evergreen plantings, so designed and developed to provide visual screening between the properties described herein. Such plantings shall consist of evergreen shrubs not less than six feet in height, or shrubs which will, in normal growth, attain a height of approximately six feet within three years. The following plants shall be approved for such purpose but shall not be exclusive of other plants which may be suitable, provided that they can form a hardy screen, dense enough and high enough both to interrupt vision and to diffuse the transmission of sound:

Magnolia Grandiflora (Southern Magnolia)
Pinus Strobus (White Pine)
Prunus Caroliniana (Cherry Laurel)
Ilex Burfordi (Burford Hilly)
Elaeagnus Pungens (Elaeagnus)

- f. Any grading, improvements or construction adjacent to a buffer area shall be conducted far enough from the buffer area so as not to disturb or encroach upon the buffer area.
- g. Be designated on each plat and recorded as a permanent easement.

Section 5.3 Parking of Trailer

No trailer, recreational vehicle, travel trailer, camper, pick-up coach, motorized home, boat trailer or boat shall be permitted to be parked in front of the main building unless same is parked or stored completely within an enclosed garage. This requirement may be waived by the Commission if vehicular accessibility to a side or rear yard is impractical due to topographic conditions or distance between structures.

Section 5.4 Nonresidential Service Areas

All service areas for nonresidential uses shall be established so as not to infringe upon any yard requirement and shall be visually screened from adjacent residential properties.

Section 5.5 Fire Safety Requirements in all Nonresidential Districts and Planned Developments

Accessibility for fire fighting equipment on a hard surfaced sub base (sub grade plus an asphalt first layer of bound crushed stone aggregate) shall be maintained throughout all stages of construction in all nonresidential districts and planned development. Minimum widths of private access driveways within a development, excluding parking, shall be 20 feet.

Section 5.6 Storage

Exterior storage yards (but not including the parking of one vehicle for sale or lease) shall not be permitted in any district except the C-1 district. In the C-1 district such storage yards shall be enclosed by a fence not less than six (6) feet in height to provide visual screening.

Section 5.7 Open Space

Open space areas required to be established by this Ordinance shall be permanently maintained as open space and appropriately landscaped with trees, shrubs, flowers, grass, stones, rocks or other landscaping materials. Such areas may not be used for vehicular access, parking or similar uses except as otherwise permitted herein.

Section 5.8 Determination of Development Standards for Private Streets

When this Ordinance requires the establishment of minimum building setback lines, frontages and related development standards, such measurements for property not abutting a public street shall be made from or along a private street.

Section 5.9 Required Fence

When this Ordinance requires a fence to be constructed, such fence shall be completed prior to occupancy of the primary use structure.

Section 5.10 Site Plan Preparation

Site plans and other development plans required to be submitted under the provisions of this Ordinance shall be prepared only by those currently qualified for such work; no plans for structures shall be prepared by other than a currently State registered engineer or architect.

Section 5.11 Design Standards (Including Historic District Standards)

Section 5.11.1 Definitions

- a. REMODEL: Altering any portion of the exterior appearance and/or functional utility of a dwelling.
- b. SIDING: The covering of all vertical exterior surfaces of the dwelling.

Section 5.11.2 Introduction

It is the desire of the City of Winterville to promote the general welfare of the community and to protect the value of building and property, the image and character of the community, and the preservation and enhancement of property values. The design standards contained herein provide guidance on design matters that are directly related to ensuring that newly constructed and/or renovated residential structures are of appropriate architectural style and that new and/or renovated structures in the Commercial and PLC Districts are faced with appropriate materials that will protect and enhance the character of the existing zoning district.

Section 5.11.3 Residential Design Standards

These design standards are applicable to new construction or exterior renovation or rehabilitation of single-family dwellings in single-family residential zoning districts R12H, R15H, R18H and R20H. Residential design standards for the Winterville National Register District are found in a separate section of this ordinance.

- a. Goals
 - i. Provide standards for the orderly development of the City and the promotion of high quality residences in keeping with the characteristics of the dwellings within the City.
 - ii. Maintain and protect the value of property.
- b. Facades
 - i. All new single-family dwellings shall utilize at least two of the following design features to provide visual relief along the front of the dwelling:
 - (1) Dormers
 - (2) Gables
 - (3) Recessed entries
 - (4) Covered front porches
 - (5) Cupolas
 - (6) Pillars or posts
 - (7) Bay window with at least a twenty-five (25) inch projection
 - ii. Walls, which face a local, collector, and/or through street, must contain at least twenty (20) percent of the wall space in doors and windows.

- iii. Windows shall be provided with trim. Windows shall not be flush with exterior wall treatment. Windows shall be provided with an architectural surround at the jamb.
 - iv. No more than ten (10) percent of the homes within a block and facing the same local street can be of the same exterior design features.
- c. Siding/Foundations
- i. No vinyl siding is allowed, except for the eaves of the single-family dwelling.
 - ii. No concrete (CMU) block used for walls can be exposed.
 - iii. The following sidings are approved:
 - (1) Stone
 - (2) Brick
 - (3) Stucco (real)
 - (4) Lap-sided Wood
 - (5) Cedar Shakes
 - (6) Hardy Board
 - (7) Logs
 - iv. The portion of the foundation above grade must be finished in brick, stone, or stucco.
- d. Residential Heated Space: All single-family dwellings shall have the heated portion built over a crawl space, basement, or private garage.
- e. Garage: All new single-family dwellings must have an enclosed private garage with doors. The siding of the private garage must be consistent with that of the single-family dwelling.

Section 5.11.4 Site Placement in Major Subdivisions

Each group of three single-family dwellings with contiguous road front boundaries totaling four hundred fifty (450) feet or more shall contain at least one house whose front setback differs from those of its neighbors by a minimum of ten (10) feet.

Section 5.11.5 Landscaping

At least sixty (60) percent of the front yard must be covered with sod/turf. However, natural areas (i.e. undisturbed vegetative areas) consisting of trees, shrubs, and other plant

material are encouraged and can count for the turf requirement. Undisturbed vegetative areas that contain trees that are at least three (3) inch caliper diameter at breast height (DBH) and at least six (6) feet tall may count towards the minimum requirement of two (2) trees per lot.

Section 5.11.6 Miscellaneous

- a. Roofs covering the dwelling and/or private garage must have a minimum pitch ratio of four (4) vertical units to twelve (12) horizontal units.
- b. Roof materials - Roof materials shall be slate, tile, metal or asphalt shingles where the roof is visible from the street.
- c. All newly constructed private garages must be enclosed and have garage doors.
- d. Vehicular entry into all private garages must be on the side or rear of the structure.
- e. All driveways must be a minimum of twelve (12) feet wide.

Section 5.11.7 Commercial (C) and Professional Limited Commercial (PLC) Design Standards

These design standards are applicable to new construction or exterior renovation or rehabilitation of structures within the C and PLC zoning districts.

- a. No metal siding is allowed.
- b. No vinyl siding is allowed, except for the eaves of the structure.
- c. No smooth-faced concrete (CMU) block can be used for exposed walls.
- d. No exterior pre-cast concrete section walls can be exposed.

Section 5.11.8 National Register (Historic) District

- a. Introduction. There exists in the Winterville National Register District, a special character, which makes the district unique and distinguishable from all other areas in the city. This character is established by the continuity of architectural elements found in that district. These elements may be the consistent shape and pitch of roofs, the rhythm established by the spacing of buildings on the streets, the existence of walls and fences on streets, and/or many others design elements. It is the responsibility of the Winterville Planning and Zoning Commission and that of owners of properties within the historic district to preserve the image and enhance the character of the structures that makes the district unique. As buildings age and rehabilitation and redevelopment occur; it is important to preserve the unique design characteristics of Winterville, especially within the historic district. In promoting the objectives and enforcing the provisions of this Section, reference will be made to the National Register Historic Nomination forms that detail characteristics and features of structures within the District.
- b. Residential Design Standards. These design standards shall apply to any new single-family dwelling, or one which is to have the exterior remodeled or renovated that lies within the Winterville National Register District.
 - i. The single family dwelling:
 - (1) Should be placed compatibly among historic examples.
 - (2) Should be placed so that the setback is similar to nearby historic buildings.
 - (3) Should be placed so that the spacing between buildings is similar to nearby historic buildings.
 - (4) Should be placed on corner lots, as applicable, without disturbing the side street placement patterns.

- (5) Should have the same orientation as nearby historic examples.
 - (6) Should have a building mass and height that is within fifteen (15) percent of the average mass and height of existing residential dwellings within the block.
 - (7) Should have a composition compatible to that of other historic buildings.
 - (8) Should have a roof compatible to that of other historic buildings.
 - (9) Should have an above grade foundation similar in height to that of other historic buildings.
 - (10) Should have exterior materials that are compatible in type and texture with the dominant materials of adjacent buildings.
- ii. The single family dwelling should be in scale with nearby historic buildings.
 - iii. Facade elements should use porches, windows, and doors in a manner similar to nearby historic examples.
 - iv. The materials and ornamentation of the single family dwelling:
 - (1) Should be compatible to those of nearby historic buildings.
 - (2) Should use a degree of ornamentation compatible to that of nearby historic buildings.
 - v. Roof materials. Roof materials shall be slate, tile, metal or asphalt shingles where the roof is visible from the street.
 - vi. Walls and fences should be of brick, stone or stucco, wood, wrought iron or evergreen hedge when visible from the street, and be compatible with existing dominant materials.
 - vii. The National Register Historic Nomination forms will be utilized and referenced in construing the standards under this Section.

Section 5.11.9 Application

Thirty (30) days prior to the next scheduled meeting of the Planning and Zoning Commission, the applicant shall submit a completed Building Application Form and a drawing(s) of the proposed work to the City Clerk and pay the fees as designated by resolution by the Mayor and Council. The City Clerk will refer the design drawing(s) and application form to the Planning and Zoning Commission for approval prior to issuance

of a building permit. Such drawing(s) shall be prepared to scale on a reproducible format and should include elevations and dimensions of the proposed construction, renovation or rehabilitation.

ARTICLE VI

GENERAL PROVISIONS

Section 6.1 Non-Conforming Buildings, Off-Street Parking, and Street Provisions

It is the intent of this section is to control the non-conforming uses, buildings, and structures as to avoid any unreasonable invasion of established private property rights.

Therefore, the lawful use of any building, structures, or land existing at the time of the enactment of this section may be continued even though such use does not conform to the provisions of this section. However, use of non-conforming structures shall not be:

- Changed to another non-conforming use;
- Reestablished after discontinuance for one (1) year;
- Extended except in conformity with this Ordinance
- Continued after transfer of property title, except after transfer of title in the same immediate family;

Section 6.2 Alterations

Any change in a non-conforming building use, or building site or yard area is subject to the following:

- 6.2.1 No non-conforming building can be structurally altered, except repairs on or installation of plumbing fixtures required by law, the changing of interior partitions, and interior remodeling, unless, such building is structurally altered so as to conform with the provisions of this Ordinance.
- 6.2.2 No non-conforming building or lands, except those residential dwellings needing repairs on or installation of plumbing fixture as required by law, can be substantially added to, moved, or extended in any manner unless such building or land is changed so as to conform to the provisions of this Ordinance.
- 6.2.3 Whenever an existing residential dwelling must make repairs on or installation of plumbing fixtures which will force the location of the future addition of this dwelling nearer the lot line than the requirements set forth in this Ordinance, the addition to the dwelling shall be allowed to extend to the existing building line but no nearer the property line than any existing portion of the dwelling.

6.2.4 Should a non-conforming building be moved, all non-conforming yard areas shall be eliminated.

Section 6.3 Extension

A non-conforming use of land shall be restricted to the lot occupied by such use as of this Ordinance. A non-conforming use of a building or buildings shall not be extended to include either additional buildings or land after the effective date of this Ordinance.

Section 6.4 Discontinuance and Unsafe Structures

6.4.1 Discontinuance. A non-conforming use which became such after the adoption of this Ordinance and which has been discontinued for a continuous period of one (1) year shall not be reestablished and any future use shall be in conformity with the provisions of this Ordinance.

6.4.2 Discontinuance of Open Air Uses. All non-conforming uses not carried on within a building except those which are incidental and necessary to activities within a building shall be discontinued within three (3) years from date of adoption of this Ordinance or amendment thereto. Uses to be discontinued include but are not limited to: Outdoor sales area, automobile parking lots, trailer courts (mobile home parks), junkyards, and similar uses, including small buildings incidental to such uses.

6.4.3 Unsafe Structures. Any structure or portion thereof declared unsafe by an authority (i.e. the building inspector or city attorney) may be restored to a safe condition, provided the requirements in this section are met.

6.4.4 Non-conforming Building Rebuilt. If a non-conforming use structure is destroyed less than 50% it may be rebuilt as originally existed however must meet all building codes.

Section 6.5 Off-Street Automobile Parking

Within the City of Winterville off-street automobile storage or parking space shall be provided on every lot on which any permitted or conditional use is established in accordance with this Ordinance. No structure hereinafter shall be erected nor shall any of the following uses be established unless the minimum number of parking spaces as specified below are provided.

6.5.1 General Requirements. For the purpose of this Ordinance, the following general requirements are specified:

- a. The term "off-street parking space" shall mean a space at least nine (9) feet wide and twenty (20) feet in length with a minimum net area of one hundred and eighty (180) square feet, excluding area for egress and ingress and maneuverability of vehicles. Each parking area shall have access for vehicles to a public street. Parking lots for more than five (5) vehicles shall provide sufficient turning space to prevent cars from backing into the street.
- b. If an off-street parking space cannot be reasonably provided on the same lot on which the principle use is conducted, the building inspector may permit such space to be provided on other off-street property, provided such space lies within four hundred (400) feet of the property line of such principal use. Such vehicle parking space shall be associated with the permitted use and shall not thereafter be reduced or encroached upon in any manner.
- c. The required number of parking spaces for any number of separate uses may be combined in one (1) lot, but the required space assigned to one use may not be assigned to another use at the same time, except that portion of the parking space required for an existing church whose peak attendance will be at night or on Sunday, may be assigned to a use which will be closed at nights or on Sundays.
- d. Area reserved for off-street parking in accordance with the requirements of this Ordinance shall not be reduced in area or changed to any other use unless the permitted use which it serves is discontinued or modified, except where equivalent parking area is provided to the satisfaction of the Code Enforcement Officer.
- e. Off-street parking existing at the effective date of this Ordinance in connection with the operation of an existing building or use shall not be reduced to an amount less than hereinafter required for a similar new building or use.
- f. Required parking space may extend up to one hundred (100) feet into a residential district provided that the parking area adjoins a commercial district and has its only access on the same street as the property on which it serves and is separated from abutting residences by a planted buffer strip at least ten (10) feet wide.

6.5.2. Parking Area Requirements for All Districts. Off-street automobile storage or parking area shall be provided with vehicular access to a street or alley, and shall be equal in or to at least the minimum requirements for the specific use set forth.

Land Use	Parking Requirements
Dwellings:	
1. One Family	Two (2) spaces.
2. Two Family	One and a half (1-1/2) spaces per dwelling unit.
3. Hotels	One (1) space for each guest bedrooms plus one (1) additional space for each two (2) persons employed during period of peak employment.
4. Motels, Tourist Courts, and Homes	One (1) space for each accommodation.
5. Boarding and rooming houses, dormitories	One (1) space for each two (2) guest rooms.
Public Assembly:	
1. Churches and other.	One (1) space for each four (4) seats in the main places of worship auditorium or Sanctuary.
2. Private clubs, lodges, and fraternal buildings not providing overnight accommodations.	One (1) space for each eight (8) active members.
3. Theaters, auditoriums, coliseums, stadiums and similar places of assembly.	One (1) space for each four (4) seats
4. Libraries, museums	One (1) space for each 500 square feet of gross floor area.
5. Play-schools and Day Care	One (1) space per employee plus two (2) spaces for others.
Health Facilities:	
1. Hospitals, sanitariums, nursing homes, homes for the aged and similar institutional uses.	One (1) space for each (5) beds, plus (1) space for each staff or visiting doctor, plus (1) space for each four (4) employees including nurses.
2. Kennels and animal hospitals	A parking area equal to thirty (30) percent of the total enclosed or covered area.
3. Medical, dental and health offices and clinics	One (1) space for each two hundred (200) square feet of floor area used for offices and similar purposes.
4. Mortuaries and funeral parlors	Five (5) spaces per parlor or chapel units or one (1) space per four (4) seats in chapel, whichever is greater.
Businesses:	
1. Automobile repair establishments.	One (1) space for each regular employee plus one space for each 250 square feet of floor area used for repair work.
2. Food stores.	One (1) space for each 100 square feet of floor area designated for retail sales only.
3. Restaurants, including grills, diners, cafes,	One (1) space for each four (4) seats provided for

Land Use	Parking Requirements
night clubs, lunch counters, and all similar dining establishments.	patron use, plus one (1) space for each four (4) employees.
4. Office buildings, including banks, business, commercial and professional offices and buildings, but excluding medical, dental and health offices and clinics.	One (1) space for each 300 square feet of ground floor area, plus one (1) space for each employee.
5. General business, commercial or personal service establishments catering to the retail trade, but excluding food stores.	One (1) space for each 100 square feet of floor area designated for retail sales only.
6. Governmental offices.	One (1) space for each 300 square feet of ground floor area plus one (1) space for each 500 square feet of upper floor area and one (1) space for each governmental vehicle.
7. Shopping centers.	Five and one-half (5.5) spaces for each 1,000 square feet of floor area designated for retail sales only for centers up to fifteen (15) acres in size and four (4) spaces for each 1,000 square feet of floor area designated for retail sales only for centers of 15 or more acres in size.
8. Furniture stores.	One (1) space for each 1,000 square feet of gross floor area.
9. Public utilities, such as telephone exchanges and substations, radio and TV stations, and electric power and gas substations.	A parking area equal to 25 percent of the gross floor area.
10. Automotive Garage.	One (1) space for each regular employee plus one space for each 250 square feet of floor area used for repair work.
11. Wholesale business	One (1) space for each 300 square feet.
Commercial:	
1. Commercial and other establishments, not catering to the retail trade.	One (1) space for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.
2. Wholesale establishments.	One (1) space for every fifty (50) square feet of customer service area, plus two (2) spaces for each three (3) employees on the maximum working shift, plus one (1) space for each company vehicle operating from the premises.

6.5.3 Site Requirements. All off-street parking shall be laid out, constructed and maintained in accordance with the following requirements (except in residential areas).

- a. All such parking areas shall be hard surfaces with concrete or plant mix *bituminous material* and shall be maintained in a dust-proof condition and that a good stand of grass be maintained on the remainder of the lot.
- b. Lighting facilities shall be so arranged that light is reflected away from adjacent properties.
- c. The parking lot shall be adequately drained in accordance with City, County, State, and Federal regulations.
- d. All signs of any type must comply with the Winterville City Sign Ordinance.

Section 6.6 Off-Street Loading and Unloading Space

On every lot on which a business, trade, or industry is hereafter established, off-street loading and unloading spaces shall be provided as hereinafter required by this Ordinance for the loading and unloading of vehicles off the public street or alley.

- 6.6.1 Size of Off-Street Loading Spaces. Each off-street loading space shall have minimum dimensions of 14 feet in height, 12 feet in width, and 55 feet in length. However, upon sufficient demonstration that particular loading space will be used exclusively by shorter trucks, the Code Enforcement Officer may reduce the minimum length accordingly to as little as 35 feet.
- 6.6.2 Connection to Street or Alley. Each required off-street loading space shall have direct access to a street or alley or have a driveway which offers satisfactory ingress and egress for trucks.
- 6.6.3 Floor Area over 10,000 Square Feet. There shall be provided for each hospital, institution, hotel, commercial, or industrial building or similar use requiring the receipt or distribution of materials or merchandise, and having a floor area of more than 10,000 square feet, at least one off-street loading space for each 10,000 square feet of floor space or fraction thereof. Such space shall be so located as not to hinder the free movement of pedestrians and vehicles over a sidewalk, street or alley.

- 6.6.4 Bus and Trucking Terminals. There shall be provided sufficient space to accommodate the maximum number of busses or trucks to be stored or to be loaded at the terminal at any one time.
- 6.6.5 Retail Business of Less than 10,000 Square Feet Floor Area. Ten (10) percent of the floor area for loading and off-loading.
- 6.5.6 Wholesale and Industrial Less than 10,000 Square Feet Floor Area. Five (5) percent of the floor area for loading and unloading.
- 6.6.7 Location of Off-Street Loading Spaces. All required off-street loading spaces shall be located on the same lot as the business which they are intended to serve, or on an adjacent lot when shared with the use occupying said adjacent lot.
- 6.6.8 Permanent Reservation. Area reserved for off-street loading in accordance with the requirements of this Ordinance shall not be reduced in area or changed to any other use unless the permitted use which is served is discontinued or modified, except where equivalent loading space is provided and approved by the Code Enforcement Officer.

Section 6.7 Control of Curb Cuts and Vision Clearance

The requirements for controlling curb cuts and maintaining vision clearance shall be as follows:

- 6.7.1 Curb Cuts. No curb cut shall exceed fifty (50) feet in length, nor shall curb cuts be closer than twenty (20) feet to other curb cuts or closer than twenty (20) feet to an intersection of two (2) streets measured along the curb line.
- 6.7.2 Vision Clearance. In all use districts except the “C” General Business Commercial District, no fence, wall, shrubbery, sign, marquee or other obstruction to vision between the heights of three (3) feet and fifteen (15) feet from the ground level shall be permitted within twenty (20) feet of the intersection of the right-of-way lines of two (2) streets.

Section 6.8 Classification of Streets

All streets in the City of Winterville, Georgia, are hereby divided into three (3) classes as shown on the Existing Land Use and Major Thoroughfare Map in the Winterville Land Use Plan and in Article III, Section 3.5 of the City Land Subdivision Ordinance adopted by the Council and on record in the office of the City Clerk.

- 6.8.1 Arterial streets and highways are those which are used primarily for fast and heavy through traffic.
- 6.8.2 Collector streets are those which carry traffic from minor streets to the major system of freeways, expressways, and arterial streets and highways.
- 6.8.3 Local streets are those which are used for access to the abutting properties.

Section 6.9 Storage and Parking of Trailers and Vehicles

Commercial vehicles and trailers of all types, including travel, boat, camping, hauling and horse trailers, shall not be parked or stored on any lot occupied by a dwelling or any lot in any Residential District except in accordance with the following requirements:

- 6.9.1 No more than one commercial vehicle per dwelling shall be permitted; and in no case shall a commercial vehicle used for hauling explosives, gasoline, or liquefied petroleum products be permitted.
- 6.9.2 Travel trailers, hauling trailers, horse trailers, or boat trailers shall be permitted if parked or stored behind the front yard building line.
- 6.9.3 A travel trailer or recreational vehicle (RV) shall not be permanently occupied while it is parked or stored in any area unless a Special Use Permit is obtained from the Planning and Zoning Commission.

Section 6.10 Screening and Lighting in Commercial Districts

- 6.10.1 In a Commercial District, any operation not conducted within a building, such as drive-in businesses, outdoor recreation and outdoor storage of materials, shall be enclosed by a wall or fence or solid appearance or tight evergreen hedge where necessary to conceal such areas or facilities from a residential district adjoining or facing across a street in the rear or on the side of the principal building or use.
- 6.10.2 In any district where reference is made requiring adequate screening of a specified operation, such screening shall be a wall or fence of solid appearance or tight evergreen hedge not less than six (6) feet in height.
- 6.10.3 Outdoor lighting of all types shall be directed so as to reflect away from all residential dwellings, and shall be so situated as not to reflect directly into any public right-of-way.

Section 6.11 Minimum Distance between Buildings

6.11.1 The minimum distance between a main building and accessory buildings located on the same lot or parcel shall be:

- a. Front-to-Front Arrangement -- 40 ft.
- b. Front-to-Rear Arrangement -- 50 ft.
- c. Rear-to-Rear Arrangement -- 30 ft.
- d. Side-to-Side Arrangement -- 20 ft.
- e. All other combinations -- 20 ft.

6.11.2 There shall be a distance of not less than twenty (20) feet between a main and accessory building location on the same lot or parcel.

Section 6.12 Newly Annexed Land and Pending Applications

6.12.1 All land newly annexed into the corporate limits of the City of Winterville, Georgia, shall be automatically classified as Single-Family Residential District, pending further study by the council to determine its proper use district.

6.12.2 Pending Applications for Building Permits

Nothing herein contained shall require any change in the plans, construction, size or designated use of any building, structure, or part thereof, for which a building permit has been granted prior to the adoption of this Ordinance, provided construction shall start within sixty (60) days after the granting of such permit.

ARTICLE VII

DISTRICTS REGULATIONS

This article is established to insure that each district is reserved primarily for its intended use, including public and semi-public uses which are necessary to serve the needs of the most desirable use of land in accordance with the Winterville Master Plan.

Section 7.1 Rural Residential District: One unit per five (5) acres, 2000 square feet minimum house size.

Section 7.2 Residential Districts:

- a. R12H 1200 square feet minimum house size
- b. R15H 1500 square feet minimum house size
- c. R18H 1800 square feet minimum house size
- d. R20H 2000 square feet minimum house size

Section 7.3 C - Commercial District – General Business

Section 7.4 PLC Professional – Limited Commercial District

Section 7.5 G – Government District

ARTICLE VIII

ALLOWED USES IN WINTERVILLE ZONING DISTRICTS AND AREA, YARD, HEIGHT REQUIREMENTS AND SETBACKS

- Section 8.1 Single-Family Residential Districts. Within R12H, R15H, R18H and R20H Single-Family Residential Districts, the following uses are permitted:
- 8.1.1 Single Family Residences
 - 8.1.2 Residences set up to serve as Bed and Breakfast establishments.
 - 8.1.3 Accessory buildings and uses when located on the same plot of land as the main structure and customarily incident thereto.
 - 8.1.4 Home swimming pool provided the location is not closer than twenty (20) feet to any property line and the pool is enclosed by a wall or fence of at least 4 feet in height and provided approval has been obtained from the Clarke County Health Department.
 - 8.1.5 On a conditional basis, churches and related accessory uses provided they are located on a lot fronting an arterial or collector street and are placed not less than 50 feet from any property line.
 - 8.1.6 Home gardening and horticulture.
 - 8.1.7 The keeping of recreational animals or food animals for personal use as long as they are kept in a barn and/or fenced area and on a lot of 2 acres or larger as long as they do not pose a nuisance as defined in the City of Winterville Code Chapter 33.
- Section 8.2 C - Commercial Districts: The following uses are permitted.
- 8.2.1 Antique, furniture and appliance stores.
 - 8.2.2 Apparel stores.
 - 8.2.3 Automobile service stations, accessory and detail shops.
 - 8.2.4 Banks and savings institutions.
 - 8.2.5 Barber and beauty shops.
 - 8.2.6 Bicycle shops.
 - 8.2.7 Book stores.
 - 8.2.8 Buildings providing non-dwelling usage.
 - 8.2.9 Cafes, restaurants, grills, lunch counters, sweet shops.
 - 8.2.10 Cheese shops, specialty food shops and bakeries.
 - 8.2.11 China, earthenware, pottery and glassware shops.
 - 8.2.12 Churches and other places of worship with attendant buildings.
 - 8.2.13 Coin shops.
 - 8.2.14 Drug stores.
 - 8.2.15 Dry cleaning and laundry services and alterations.

- 8.2.16 Flower shops and nurseries.
- 8.2.17 Gift shops.
- 8.2.18 Golf course, swimming, and tennis or country clubs, privately owned and operated community clubs or associations, athletic fields.
- 8.2.19 Hardware.
- 8.2.20 Ice cream stores.
- 8.2.21 Insurance and real estate.
- 8.2.22 Jewelry stores.
- 8.2.23 Microfilm industry.
- 8.2.24 Moving and storage, providing that any materials or product which is stored outside of a fully enclosed building will be completely fenced in and a planted buffer between the fence and the property line if that distance is less than sixty (60) feet.
- 8.2.25 Music stores.
- 8.2.26 Neighborhood convenience grocery stores.
- 8.2.27 Off-street parking lots.
- 8.2.28 Other tourist-oriented specialty shops.
- 8.2.29 Outdoor advertising signs and business signs in accordance with the requirements set forth in Appendix I.
- 8.2.30 Parks and other recreation areas.
- 8.2.31 Professional offices.
- 8.2.32 Public utility structures and buildings, including electric and natural gas substations, telephone exchange, radio and television stations, and similar structures for the storage of supplies, equipment or service operations where properly screened.
- 8.2.33 Public utility structures other than buildings that the installation is properly screened. No office shall be permitted and no equipment shall be stored on the site.
- 8.2.34 Self-service laundry and dry cleaning establishments.
- 8.2.35 Toy shops.
- 8.2.36 Video rentals and sales.
- 8.2.37 Hospitals, clinics, sanitariums, nursing homes and convalescent homes.

Any similar retail uses which are deemed by the Planning & Zoning Commission to be similar in nature and intent as those previously listed.

Section 8.3 PLC Professional-Limited Commercial District. Within the PLC, Professional-Limited Commercial District, the following uses are permitted:

- 8.3.1 Professional offices.
- 8.3.2 Public buildings, providing non-dwelling usage.
- 8.3.3 Drug stores.
- 8.3.4 Insurance and real estate.
- 8.3.5 Banks, savings institutions, stock brokerage firms, and other similar financial service institutions.
- 8.3.6 Medical and dental clinics.
- 8.3.7 Single-family dwellings.
- 8.3.8 Libraries, museums, art galleries and reading rooms.
- 8.3.9 Studios for work or teaching of fine arts such as photography, music, drama, dance, and theater.
- 8.3.10 Kindergartens, play schools, and day care (centers and homes) provided there is at least 150 square feet of outdoor play area for each child and the play area is enclosed by a woven wire fence at least five (5) feet high.
- 8.3.11 Hospitals, clinics, sanitariums, nursing homes and convalescent homes.
- 8.3.12 Private schools.
- 8.3.13 Flower shops.

Section 8.4 G Government District

- 8.4.1 Post office
- 8.4.2 Public buildings, providing non-dwelling usage.
- 8.4.3 Telecommunication Towers.

Section 8.5 RR – Rural Residential District: The following uses are permitted

- 8.5.1 Single family dwellings, excluding dwelling built or suited exclusively for rental.
- 8.5.2 Crop or row farming
- 8.5.3 Truck gardening or farming
- 8.5.4 All uses listed as permitted within the R12H, R15H, R18H, and R20H districts will be permitted in the RR district

Section 8.6 Area, Yard, Height Requirements and Setbacks

This section is provided for information for previously approved and subdivided properties as amended May 5, 2005.

- 8.6.1 Amended by striking the Minimum Lot Width (in Ft.) for the R12H, R15H, R18H, and R20H zoning districts and inserting a Minimum Lot Width (in Ft.) for said residential districts of one hundred fifty (150) feet at the established front yard setback line for all lots not fronting on a cul-de-sac. Any lot fronting on a curved or cul-de-sac street, which has a minimum width at the established front yard setback line of seventy-five (75') feet, shall be deemed to satisfy the minimum width requirement for a residential lot. The setback line shall be measured by the same arc established by the front lot line.
- 8.6.2 Amended by striking the Minimum Lot Size Per Dwelling Unit of 25,000 sq. ft. for the R12H, R15H, R18H, and R20H zoning districts and inserting a Minimum Lot Size Per Dwelling Unit of 43,560 sq. ft for said zoning districts.
- 8.6.3 Amended by striking the Minimum Lot Area (in sq. ft.) of 25,000 sq. ft. for Septic Tank only for the R12H, R15H, R18H, and R20H zoning districts and inserting a Minimum Lot Size per Dwelling Unit for Septic Tank Only of 43,560 sq. ft for said zoning districts.
- 8.6.4 Said Article is further amended by adding to the heading “R18H,””RMH” so that the heading reads “R18H and RMH”.
- 8.6.5 Amended by adding “Any lot or parcel existing prior to the enactment of this amendment shall be considered a ‘lot of record’ and as such may be developed in accordance with Winterville regulations.’

Section 8.7 Table for Area, Yard, Height Requirements and Setbacks

District	Minimum Lot Size				Minimum Yard Requirements				Maximum Height of Building
	Minimum Lot Area (sq. ft.)		Lot Size Per Dwelling Unit (sq. ft.)	Lot Width (ft.)	Front Setback from Street Centerline		Minimum Side Yard	Minimum Rear Yard	
	Septic Tank Only	Septic Tank & Well			Major Street	All Other Streets			
R12H	-	51,000	43,560	150*	85	55	15	30	35
R15H	-	51,000	43,560	150*	85	55	15	30	35
R18H	-	51,000	43,560	150*	85	55	15	30	35
R20H	-	51,000	43,560	150*	85	55	15	30	35
C	25,000	51,000	-	-	50	40	-	-	45
PLC	25,000	51,000	-	150	50	40	15	20	35
G	-	-	-	-	50	40	-	-	45
RR	-	217,800	217,800	200*	150	150	30**	30**	35

*Any lot fronting on a curved or cul-de-sac street, which has a minimum width at the established front yard setback line of seventy-five (75') feet, shall be deemed to satisfy the minimum width requirement for a residential lot. The setback line shall be measured by the same arc established by the front lot line.

** Any animal quarters located on a property within the RR district must be set back a minimum of 75 feet from all property lines. When the RR property abuts the R12H, R15H, R18H, or R20H district, animal quarters must be set back a minimum of 150 feet from the abutting property line.

ARTICLE IX

EXCEPTIONS AND MODIFICATIONS

Section 9.1 Existing Lots

Where the owner of a lot at the time of the adoption of this Ordinance or his successors in title thereto does not own sufficient contiguous land to enable him to conform to the required dimensions in this Ordinance, such lot may be used as a building site provided that yards are established in accordance with the provisions of this Ordinance as applied to the district where the lot is located.

Section 9.2 Front Yard Setback for Dwellings

Front yard setback requirements of this Ordinance shall not apply to any dwelling on any lot where the average setback within the same block and zoning district and fronting on the same street is less than the minimum setback required. In such cases, the front yard setback shall be determined by location of the dwelling.

Section 9.3 Height Limits

The height limits of this Ordinance shall not apply to church spires, belfries, cupolas, domes, monuments, water towers, observation towers, (transmission towers, chimneys, smokestacks, conveyors, derricks, masts, radio and television towers and aerials,) barns and similar structures not intended for human occupancy.

ARTICLE X

SPECIAL PROVISIONS

Section 10.1 Mobile Homes, Trailers and Modular Homes

10.1.1 Travel Trailer Parks. Travel trailer parks are not allowed in the City of Winterville.

10.1.2 Mobile Homes. Individual mobile homes are not allowed in the City of Winterville.

10.1.3 Mobile Home Parks. Mobile Home Parks are not allowed in the City of Winterville.

10.1.4 Modular Units. Modular buildings are not allowed in the City of Winterville.

Section 10.2 Accessory and Temporary Buildings

10.2.1 Accessory Buildings. The location of accessory buildings and use in residential districts must meet the following requirements:

- a. Where an accessory building is attached to the main building, a substantial part of one wall of the accessory building shall be an integral part of the main building or such accessory building shall be attached to the main building in a substantial manner by a roof, and therefore such requirements applicable to the main building shall be applicable to the accessory building.
- b. A detached accessory building shall not be closer than twenty (20) feet to the main building, nor closer than ten (10) feet to the lot line.
- c. A detached accessory building, not more than two (2) stories in height, may be constructed on not more than thirty (30) percent of the rear yard.
- d. No detached accessory building may be located on the front yard of a lot.

10.2.2 Temporary Buildings. Temporary buildings used in conjunction with construction work may be permitted in any district and shall be removed within 30 days of completion of construction.

Section 10.3 Home Occupation

10.3.1 Special Requirements. Home occupations, where permitted, must meet the following special requirements:

- a. The applicant must be the owner of the property on which the home occupation is to be located, or must have written approval of the owner of the property if the applicant is a tenant.
- b. The home occupation shall be operated only by the members of the family residing on the premises.
- c. The home occupation shall be located in the main building and/or accessory building and shall not occupy more than twenty-five (25) percent of the floor area within said main building but may occupy all of the one accessory building.
- d. The home occupation shall not generate excessive traffic or produce obnoxious odors, glare, noise vibration, electrical disturbance, or radioactivity or other conditions detrimental to the character of the surrounding area.
- e. The building in which the home occupation is to be located must be an existing structure ready for occupancy and not a proposed structure.
- f. Parking for the home occupation shall be restricted to the rear of the main dwelling.

Section 10.4 Automobile Service Stations, Garages and Detail Shops within the districts permitting automobile service stations, the following requirements shall apply:

10.4.1 Location. The building of an automobile service station shall not be within 100 feet of any property containing a school, public playground, church, hospital, public library, institution for children or institution for the elderly.

10.4.2 Site Requirements. An automobile service station shall have a minimum frontage on the primary street of 120 feet. All buildings shall be set back forty (40) feet from all street right-of-way lines and all canopies shall be set back fifteen (15) feet from all street right-of-way lines.

10.4.3 Access to Site. Vehicular entrances or exits at an automobile service station:

- a. Shall not be provided with more than two (2) curb cuts for the first 120 feet of street frontage or fraction thereof.
- b. Shall contain an access width along the curb line of the street of not more than forty (40) feet as measured parallel to the street at its narrowest point and shall not be located closer than twenty (20) feet to a street intersection or closer than ten (10) feet to the adjoining property.
- c. Shall not have any two driveways, or curb cuts, any closer than twenty (20) feet at both the right-of-way line and the curb or edge or the pavement along a single street.

10.4.4 Gasoline Pump Islands. All gasoline pump islands shall be set back at least fifteen (15) feet from the right-of-way line and shall be measured from such line; and where pump islands are constructed perpendicular to the right-of-way line; however, the pumps shall be at least sixty (60) feet from the center line of an arterial street, fifty-five (55) feet from the center line of a collector street and forty-five (45) feet from the center line of other streets.

10.4.5 Off-Street Parking. A minimum of two (2) marked off-street parking spaces are required with an additional marked off-street parking space for each bay.

10.4.6 Other Site Improvements. In addition to the above requirements, the following additional site improvements shall be adhered to:

- a. A raised curb of at least six (6) inches in height shall be erected along the street property lines, except for driveway openings.
- b. A solid fence or wall six (6) feet in height shall be erected along all adjacent property lines bordering any adjacent residential lot.
- c. Signs shall meet the requirements in Winterville Sign Ordinance and shall not be placed within the public right-of-way, and shall not obstruct the visibility of drivers or pedestrians.
- d. All drives, parking, storage, and service areas shall be paved and curbed, and a good stand of grass shall be maintained on the remainder of the lot.
- e. Containers stored outside above ground for the use or storage of gasoline, liquefied petroleum gas, oil or other flammable liquids or gasses shall be prohibited at any automobile service station in all zoning districts.

Section 10.5 Cemeteries within the districts permitting cemeteries, the following requirements shall apply:

10.5.1 The site proposed for a cemetery shall not interfere with the development of a system of collector or larger streets in the vicinity of such site. In addition, such site shall have direct access to a thoroughfare.

10.5.2 Any new cemetery shall be located on a site containing not less than twenty (20) acres.

10.5.3 All structures shall be set back no less than thirty-five (35) feet from any property line or street right-of-way line.

10.5.4 All graves or burial lots shall be set back not less than thirty-five (35) feet from any property line or minor street right-of-way lines, and not less than fifty (50) feet from any collector, arterial, expressway, or freeway right-of-way line.

10.5.5 The entire cemetery property shall be landscaped and maintained.

Section 10.6 Fall-Out Shelters are permissible as principal or accessory uses and structures in any district, subject to the following conditions:

- 10.6.1 If any portion of the structure extends above the ground, that portion above the ground must comply with the yard and lot coverage regulations of the district in which it is located, and the site plan for such shelter must be approved by the Code Enforcement Officer.
- 10.6.2 If the structure is completely underground, it need not comply with yard requirements or percentage of lot coverage requirements.
- 10.6.3 A fall-out shelter, underground or above ground, shall be confined to a side or rear yard and shall not be located in the front yard between the main building and the street on which it fronts.
- 10.6.4 Fall-out shelters may obtain or be contained in other structures of may be constructed separately.
- 10.6.5 Fall-out shelters may be used for permissible use in the district where situated.

Section 10.7 Junk Vehicles: Any automobile, vehicle, or trailer of any kind or type without a valid license plate attached thereto (except farm equipment) shall not be parked or stand on any residentially zoned property or other zoned property unless it shall be in a completely enclosed building.

- 10.7.1 No automobile, vehicle, or trailer of any kind or type, which shall be in an inoperative or junk condition, shall be parked or stand on any residentially zoned property or other zoned property unless:
 - a. It shall be in an enclosed building;
 - b. It shall be on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise, or
 - c. It shall be on property occupied and used for repair, reconditioning, or remodeling of vehicles in conformance with the zoning ordinances.
 - d. It shall be farm equipment, excluding trucks.
- 10.7.2 Nothing in this ordinance shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.
- 10.7.3 An inoperative or junk condition shall include, but not be limited to, any automobile, vehicle, trailer of any kind or type, or contrivance or part thereof (except farm equipment) the condition of which is one or more of the following:
 - a. Wrecked
 - b. Dismantled
 - c. Partially dismantled

- d. Inoperative
- e. Abandoned
- f. Discarded
- g. One which does not have a valid license plate.

10.7.4 This ordinance shall not be the exclusive regulation of abandoned, wrecked, dismantled, or inoperative vehicles or contrivances within the incorporated limits of Winterville. It shall be supplemental and in addition to the other regulations and regulatory codes, ordinances, statutes, or provisions of law heretofore and hereinafter enacted by the City, State, or other legal entity or agency having jurisdiction.

10.7.5 Sign Ordinance – Planning & Zoning Involvement

The Winterville City Sign Ordinance is a “stand-alone” City Ordinance; however, the Planning and Zoning Commission (P&Z) has been given certain powers of regulatory authority within this Ordinance. The latest version of the City Sign Ordinance (Signed February 9, 2010) may be found in Appendix I of the current City P&Z Ordinance Book.

10.8 The specific sections of the Sign Ordinance in which the P&Z Commission has been granted powers by the Mayor and Council are in Section 7 Non-conforming abandoned signs; Section 9 Permits; Section 11 Appeals; and Section 12 Variance after Appeals. These are noted as follows:

Section 7 of Sign Ordinance. Removal of Nonconforming Abandoned or Illegal Signs

- a. *General Provisions: Nonconforming signs which are damaged or destroyed may be rebuilt as they were before in terms of height, area, and location. In all other ways, including but not limited to construction and safety standards, such signs must be rebuilt in compliance with the provisions of this Ordinance unless such compliance is impossible, in which case the requirement shall be administratively varied by Planning and Zoning to the minimum possible.*
- e. *Relocation of Non-conforming Signs: If a nonconforming sign must be removed due to a city, county or state road improvement project, Planning and Zoning shall authorize the relocation of said sign even though the new location may not meet the setbacks, location and/or spacing or other provisions of this section. Nonconforming signs may not be moved for any other reason unless it is brought into compliance with existing regulations.*

Section 9 of Sign Ordinance. Permits

- b. *Signs with electrical wiring and connections* The application for a permit for any sign in which electrical wiring and connections are to be used shall be applied for by a licensed electrician and reviewed by Planning and Zoning. Illuminated signs shall conform to the UL standards and shall have a UL sticker applied in a visible area on the metal edging of the sign. The sign manufacturer's name and phone number shall also be displayed. Such signs shall be installed by a licensed electrician in conformance with the electrical code.
- c. *Application for Sign Permit* Such other information as Planning and Zoning shall require showing full compliance with this and all other laws and ordinances of the City of Winterville.
 - vii. *Such other information as Planning and Zoning shall require showing full compliance with this and all other laws and ordinances of the City of Winterville.*
- d. *Permit Issued* Upon receipt of a complete application, the Planning and Zoning Commission shall examine such plans and specifications and other data and the premises upon which is proposed to erect the Sign.
 - ii. *Once application is complete, the Planning and Zoning Commission shall either approve or deny the application at its next regular meeting provided said application is submitted at least 14 days prior to the next regular meeting. If no decision is issued at the regular meeting where the application is considered, the permit shall be deemed approved.*

Section 11 of Sign Ordinance. Appeals

Any party aggrieved because of the alleged error in any order, requirement, decision or determination made by the Planning and Zoning Commission or any other party in enforcement of this ordinance, may appeal such order, requirement, decision, determination or interpretation in writing, to the Winterville City Clerk. Such notice of appeal must be submitted to the city clerk within thirty (30) days of the decision or the right to appeal shall be lost. The appeal shall be heard by the Mayor and Council within forty-five (45) days of a notice of appeal being filed with the clerk. In exercising this power, the Mayor and Council may, in conformity with the provisions of this ordinance, reverse or affirm any order, requirement, decision or determination made by the Planning and Zoning Commission or any other party. Appeals from the decision by the Mayor and Council shall be to the Superior Court of Clarke County, Georgia.

Section 12 of Sign Ordinance. Variances

f. Variances after Denials

*If a sign permit is denied by the P&Z Commission based on a regulation that can be varied, as an alternative to an appeal, a property owner or sign contractor may apply to the Mayor and Council for a variance by filing an application with the city clerk.
(See Appendix I for complete ordinance)*

Section 10.9 Manufactured Homes Regulations

10.9.1 Definitions

- a. Dwelling, Single-Family, Detached: A residential structure that contains one (1) dwelling unit designed for residential use that is surrounded by open space on the same lot, which meets or exceeds the following standards:
- i. Minimum width in excess of sixteen (16) feet.
 - ii. Minimum square footage required by the zone in which located.
 - iii. The roof shall have a minimum roof pitch greater than 5:12 and shall have a surface of wood shakes, asphalt composition, wood shingles, concrete, fiberglass or metal tiles, slate, build up gravel materials. The roof overhang must be at least 1 foot when measured from the vertical side.
 - iv. The exterior siding materials shall consist of wood, masonry, concrete, stucco, or masonite.
 - v. Be attached to a permanent foundation. Load bearing masonry curtain walls shall not be required (although curtain walls may be required for aesthetic purposes), and non-load bearing curtain walls for manufactured homes shall not have contact with the manufactured home for the purpose of structural support, although non-load bearing curtain walls may be attached to the manufactured home for aesthetic purposes and not for structural support. See Georgia Rules and Regulations Section 120-3-7-.14, as may hereinafter be amended.
 - vi. Stairs and Porch: Be provided with permanent stairs (front and back entrance) and covered porch (font entrance only), constructed of pressure treated lumber or masonry sufficient to provide safe ingress and aggress from the front exterior door of the unit. The covered porch shall meet Winterville's building codes; shall be a minimum size of 8' x 8'; shall be roofed with the same materials as the manufactured home; and, be underpinned with mason construction or other materials manufactured for such purpose.
- b. Manufactured Home: A structure defined by and constructed in accordance with the National Manufactured Housing Construction and Safety Standards Act of 1974 as amended, 42 U.S.C. §5401, et seq. The definition at the date of adoption of this part is as follows:

“Manufactured Home” means 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, or, when erected on site, is

three hundred twenty (320) or more square feet, 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, except that such term shall include any structure which meets all requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary and complies with the standards established under this title.

c. Mobile Home

A transportable, factory-built structure designed to be used as a year-round residential dwelling and built prior to the enactment of the Federal Manufactured Housing Act of 1974, which became effective June 15, 1976.

10.9.2 Permitted Use

Manufactured Homes meeting the definition of Dwelling, Single-Family shall be a permitted use in RMH District and shall meet all the requirements of that zoning district as set out in the Winterville Zoning Ordinance. No manufactured home shall be permitted in the Winterville National Historic District.

10.9.3 Relocation or Addition

- a. No mobile home, as defined in this ordinance, is permitted to be moved to or within Winterville for use as a residential dwelling.
- b. The attachment of a manufactured home to an existing mobile or manufactured home is permitted only if both units were engineered and manufactured for such attachment.

10.9.4 Age Limitation: Only new manufactured homes shall be moved to Winterville.

10.9.5 Building and Occupancy Permits: Building and Occupancy Permits issued by the Winterville Code Enforcement Officer or his/her authorized agent are required for any manufactured home:

- a. Which is hereafter located in the City of Winterville.
- b. Which is moved from one location to a second location within the city where that manufactured housing unit will house persons or property;
- c. Which has not been occupied within the preceding twelve (12) months;
- d. Where there is a change in use of the manufactured housing unit; or
- e. If a manufactured home is added to or structurally altered 100 sq. ft. or more.

- f. It is unlawful to move, locate, relocate, erect, or make utility connections of any kind to a manufactured home in Winterville.

10.9.6 Registration: Before a building permit is issued, the applicant must have approval of the septic system from the Clarke County Health Department or approval from Clarke County for connection to the Athens-Clarke County Public Utilities Sanitary Sewerage System. All manufactured homes must be registered with the Clarke County Tax Commissioner before an Occupancy Permit can be issued.

10.9.7 Application Requirements for Building and Occupancy Permits for Manufactured Homes

- a. An application for permits for location (building) and occupancy of a manufactured home is required to be filed by the owner or the owner's agent with the City Clerk before a Building or Occupancy Permit is issued.
- b. The permit application shall describe the manufactured home as to size, dimension, year, model, the Zoning District and tax map and parcel number of the planned location of the manufactured home, the intended use of the manufactured home, the name of the owner and the name of the intended occupants, and the source of water and type of sewage disposal system.
- c. Prior to issuing an Occupancy Permit it is unlawful to occupy or otherwise use as a residence a manufactured home in Winterville.

10.9.8 Grandfather Provision: Any lawfully existing mobile or manufactured home in existence at the enactment of this ordinance but otherwise not complying with this ordinance is grandfathered. The use of the mobile or manufactured home may be continued subject to the following conditions:

- a. Any mobile or manufactured home or portion thereof declared unsafe by an appropriate governing authority may be restored to a safe condition, provided the requirements of this ordinance are met.
- b. No lawfully existing non-conforming mobile or manufactured home can be structurally altered, except repairs on the unit or installation of plumbing fixtures required by law, changing of interior partitions, or interior remodeling. Improvements on a lawfully existing non-conforming mobile or manufactured home shall not exceed 50 percent of the value of the building as determined by the Building Official.
- c. No lawfully existing non-conforming mobile or manufactured home, except those used as residential dwellings and needing repairs on the unit or installation of plumbing fixtures as required by law, can be substantially added to or extended in any manner unless such building is changed to conform with the provisions of this Ordinance.

- d. A non-conforming mobile or manufactured home shall not be extended to include either additional building or land.
- e. Unless otherwise specified, a lawfully existing non-conforming mobile or manufactured home that is destroyed (damage equals or exceeds 50 percent of the structures' replacement value as determined by the Building Official), through no intent of the owner, may not be replaced, reconstructed or restored to the same non-conforming use.
- f. A lawfully existing non-conforming mobile or manufactured home which became such after the adoption of this Ordinance and which has been discontinued for a continuous period of 6 months, shall not be reestablished and any future use shall not be counted towards the time periods of this section.

10.9.9 Accessory Buildings: A manufactured home may not be used as an accessory building.

10.9.10 Manufactured Home Installation

- a. Installation. All manufactured homes, located to or moved within Winterville, Georgia, at or after the adoption of this ordinance shall be installed by a licensed installer as required by O.C.G.A. §8-2-164, and in accordance with the applicable manufacturer's installation instructions, specifically including, without limitation, correctly installed tie-downs and anchors. In the absence of such instructions, installations shall be performed in accordance with the applicable rules and regulations adopted by the Georgia Safety Fire Commissioner. (See O.C.G.A. §8-2-160 et.seq.)
- b. No manufactured home shall be located within thirty (30) feet of any permanent type of building.
- c. The manufactured home unit must be fitted with a masonry curtain wall that completely encloses the undercarriage, a vapor barrier must be installed by the dealer or installer, the soil must be treated for termites, and the unit must be connected to water and sewerage in compliance with the applicable ordinance of Winterville.
- d. All manufactured homes shall be located on a permanent foundation.
- e. Utility meters shall be mounted to the manufactured home rather than on a utility pole.
- f. No manufactured home shall be allowed to be occupied in Winterville, Georgia unless it bears decal issued by the Georgia Department of Community Affairs.
- g. Utilities.

- i. Electrical. Each manufactured home must have electrical service that is wired in accordance with the Georgia Electrical Code prior to issuing an Occupancy Permit.
 - ii. Water. If a water main exists adjacent to the property on which the manufactured home is to be located, the manufactured home shall be connected to such main prior to issuing an Occupancy Permit. If a water main is not available, the home shall be provided with water in conformance with the requirements of the Clarke County Health Department.
 - iii. Sewer. If a trunk line exists adjacent to the property on which the manufactured home is to be located, the manufactured home unit shall be connected to such line prior to issuing an Occupancy Permit. If a trunk line is not available, the home shall be provided with an individual sewerage disposal system in conformance with the requirements of the Clarke County Health Department.
- h. Penalties for Improper Installation. Failure by the owner of a manufactured home to obtain and utilize tie-downs and anchors for his manufactured home placed in Winterville, Georgia, after the effective date of this ordinance shall constitute a misdemeanor, punishable in the Clarke County Superior Court.

10.9.11 Non-Conformance: If a manufactured home is found to be in noncompliance with this ordinance, the city shall issue a citation giving the owner 30-days to correct the deficiency. Failure to correct the problem shall subject the owner to a fine up to \$200 and/or 30 days in jail. Each day of the violation continues beyond 30 days shall be considered a separate violation.

10.8.12 Variance – Manufactured Homes: A variance to the provisions of these regulations shall be made in conformance with the applicable provisions of the Zoning Ordinance for Winterville, Georgia.

ARTICLE XI

TELECOMMUNICATION TOWERS

- 11.1 Definitions - As used in this regulation, the following terms shall have the meanings indicated:
- a. Antenna: shall mean any exterior apparatus designed for telephone, radio, television or other forms of telecommunications.
 - b. Co-location: shall mean a common structure or tower occupied by two or more wireless license holders or one wireless license holder for more than one type of communication technology.
 - c. FAA Shall mean Federal Aviation Administration.
 - d. Height: shall mean, when referring to a tower or other structure, the distance measured from ground level immediately adjacent to the tower base to the highest level on the tower, including any antenna that may extend above the tower.
 - e. Tower: shall mean any structure that is designed and constructed for the purpose of supporting one or more antennas. These may include self-supporting lattice towers, guyed towers and monopole towers, as well as, alternative towers such as manmade trees, clock towers, water tanks, church steeples and similar structures that camouflage or conceal the presence of antennas or towers.
- 11.2 Location, Lighting, and Aesthetic Standards: The standards set forth in this section shall govern the installation of all towers and antennas. Should certain standards be contrary to applicable state and/or federal regulations or laws, such standards shall be subject to waiver or variance.
- a. Permitted tower types
Only monopole towers are to be permitted.
 - b. Height Restriction
Height of tower shall be limited to 90 feet.
 - c. Permitted areas:
Towers are permitted in the Government (G), Commercial, General Business (C), zoning districts only, provided, however, that said districts are not also part of the National Register Historic District. No tower may be located in the National Register Historic District.
 - d. Co-location: Each applicant shall provide a statement indicating intent to allow shared use of the tower and how others will be accommodated if the height of the tower permits such co-location.
 - e. Tower lighting: shall be unlit unless required by FAA regulations. Any required lighting shall be in accordance with applicable FAA regulations.

- f. Tower aesthetics/safety: Setback of tower shall be not less than 100% of the heights of the tower, plus 1 ft. for each 2 ft. of tower height in excess of 75 ft.
- g. A security fence of a minimum height of 6 ft, enclosing the entire structure, with suitable anti-climb device shall be provided.
- h. The perimeter of the security fence shall be landscaped with a tight evergreen hedge that shall be a minimum of (6) feet in height within three (3) years of planting. Landscaping and buffering shall provide continuous evergreen screening of the security fence.

11.3 Exemptions:

- a. Amateur Radio Antennas: This regulation shall not govern any amateur radio tower or antenna of less than 70 feet.
- b. Public Property: Towers or antennas owned or operated by the City of Winterville on government zoned (G) property shall be exempt from all provisions of this regulation, however, if the city leases the (G) property to an individual or corporation, all applicable requirements remain in effect.

11.4 Application Procedure:

- a. Each applicant for approval for the construction or placement of a tower shall apply to the Planning and Zoning Commission and provide the following information:
- b. Statement that a tower is actually needed in the referenced location and that no co-location possibilities exist.
- c. Proposed use of application of tower.
- d. Height of tower.
- e. A certificate or letter from a licensed professional engineer (structural) certifying the soundness of design of the proposed tower.
- f. Proximity of proposed tower to residential or historic district boundaries.
- g. Topography, for the site of the tower, as well as one-half (1/2) mile radius from the site shown on a plat at 10 foot contours.
- h. Surrounding existing tree coverage and foliage characteristics (i.e. evergreen, deciduous) for half mile.
- i. Design of the tower with particular reference to design characteristics for reducing or eliminating visual obtrusiveness.
- j. Ability of tower to provide co-location for future wireless communication providers.
- k. Details of protective, anti-climb fencing, and proposed visual screening.
- l. Proposed ingress and egress to the tower site.

11.5 Review Standards: All applications shall be considered pursuant to the Standards Governing the Exercise of Zoning Power found in Section 3.11 of “A Regulation Regulating the Subdivision of Land in Winterville, Georgia” dated 03/05/2005.

11.6 Application and Annual Fee: An application fee of \$1,000.00 shall be paid to the Winterville City Clerk at the time of application. The City of Winterville shall issue a receipt to the applicant showing that such application fee has been paid and a copy thereof shall be attached to the application. This fee is not refundable in the event of denial of application. An annual fee of \$1,000.00 will be required to be paid to the Winterville City Clerk by the applicant for continued operation of the tower and antenna(s).

11.7 Public Hearing Required

a. Planning and Zoning Commission public hearing and review.
The Planning and Zoning Commission shall provide an opportunity for public comment on the application at a public hearing following the submission of a complete and timely submitted application. The City Clerk shall submit a notice for publication in the legal organ of the city at least fifteen (15) days and not more than forty-five (45) days prior to the public hearing and shall maintain file copies of the plat application for public review prior to the public hearing.

Following a public hearing, the Planning and Zoning Commission shall have forty-five (45) days from the submission of the application to recommend approval, approval with conditions, disapproval, or table the application. They will then refer the application to Mayor and Council with their recommendation for approval or denial. If the Planning Commission does not take action within the forty-five (45) days of the submission of the application, the application shall be considered recommended for approval.

b. Mayor and Council public hearing and review.
Mayor and Council shall hold an additional public hearing before final approval or denial of application.
Following a public hearing on the application, the Mayor and Council shall review the recommendations of the Planning and Zoning Commission. The Mayor and Council shall have sixty (60) days following receipt of the recommendation from the Planning and Zoning Commission to review the application and shall approve, approve with conditions, disapprove, or table the preliminary application. If the application is disapproved, the City Clerk shall notify the applicant in writing, citing the reasons for disapproval. If the Mayor and Council does not take action within sixty (60) days of the receipt of the recommendation from the

Planning and Zoning Commission the application shall be considered approved.

- c. **Bond Requirement:** After approval of the application, and before a building permit may be issued, each applicant shall provide the City of Winterville with a bond secured by a letter of credit to the City of Winterville in the amount of \$200,000. Purpose of said bond is to cover the city's expense for repair or removal in the event of owner's refusal or inability to repair or remove the same.
- d. **Removal of Abandoned Facilities:** Towers, antenna and/or ancillary facilities not operated for a continuous period of 90 days shall be considered to be abandoned and the owner of same shall remove them within 30 days of abandonment or receipt of notice from the governing authority notifying the owner of such abandonment. If there are two or more users of a single tower, the provision shall not become effective until all users cease using the tower. This provision shall be deemed waived if the period of time between completion of tower construction and antenna installation exceeds 90 days.
- e. **Severability:** If any section, provision, or clause, or any part of this regulation shall be declared unconstitutional, or otherwise invalid, or if the provision of any part of this article as applied to any particular situation or set of circumstances shall be declared invalid or unconstitutional, such invalidity shall not be construed to effect the portions of this article no so held to be invalid, or the application of this article to other circumstances not so held to be invalid. It is hereby declared that the intent of this article would have been adopted had such invalid portion not been included herein.
- f. **Penalties:** Any person convicted of the violation of this regulation shall be subject to a fine not to exceed \$200.00 or imprisonment for a term not exceeding 30 days or both. Each day a violation continues shall be considered as a separate offense.
- g. **Construction:** All aspects of this regulation shall be construed under the laws of the State of Georgia-except where such construction shall be superseded by applicable Federal law.

ARTICLE XII

BUILDING PERMITS: ADMINISTRATION, ENFORCEMENT AND PENALTIES

- Section 12.1 Enforcement Officer (Code Enforcement Officer): It shall be the duty of the Code Enforcement Officer to interpret, administer, and enforce the provisions of this Ordinance. The governing body of the City of Winterville, Georgia, is hereby given the authority and responsibility to appoint a Code Enforcement Officer.
- 12.2 Building Permit Required: It shall be unlawful for any buildings to be located, erected, moved, added to or structurally altered in excess of \$500 building or alteration cost without obtaining a Building Permit issued by the Planning and Zoning Commission. No building permits shall be issued except in conformity with the provisions of this Ordinance.
- 12.3 Two or more copies of drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work, shall accompany every application. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with this code. Such information shall be specific, and this code shall not be cited as a whole or in part, nor shall the term “legal” or its equivalent be used, as a substitute for specific information.
- 12.4 The Athens-Clarke County Building Inspector may require details, computations, stress diagrams, and other data necessary to describe the construction and basis of calculations and they shall bear the signature of the person responsible for the design.
- 12.5 All drawings, specifications, and accompanying data shall bear the name and address of the designer. In the case of buildings or structures exceeding two stories in height of 5,000 square feet in area, except one or two family dwellings, such designer shall be an architect or engineer legally registered under the laws of this state regulating the practice of architecture or engineering and shall affix his official seal to said drawings, specifications and accompanying data.
- 12.6 Plot Diagram. The Building Inspector shall require drawings showing the location of the proposed building or structure and of every existing building or structure on the site or lot. He may also require a boundary line survey, if necessary, prepared by a qualified surveyor.
- 12.7 Construction Progress
Any building permit issued shall become invalid unless the work authorized by the permit shall have been commenced within six (6) months of the date of issue

or if the work authorized by the permit is suspended or abandoned for a period of one (1) year.

- 12.8 Certificate of Occupancy issued by Athens-Clarke County after approval by the Winterville Planning and Zoning Commission.
 - 12.8.1 When Required. No new building shall be occupied and no change in occupancy of a building or part of a building shall be made until after Athens-Clarke County Building Inspection Office has issued a certificate of occupancy.
- 12.9 Temporary Occupancy. A temporary certificate of occupancy may be issued for a portion or portions of a building which may safely be occupied prior to final completion of the building.
- 12.10 Existing Buildings. A certificate of occupancy for any existing building may be obtained by applying to the Athens-Clarke County Building and Inspection Department and supplying the information and data necessary to determine compliance with this code for the occupancy intended. Where necessary, in the opinion of the Athens-Clarke County Building and Inspection Department, two sets of detailed drawings, or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provision of this code for such occupancy, a certificate of occupancy shall be issued.
- 12.11 Penalties for Violation: Any person violating any provisions of this Ordinance shall be guilty of a misdemeanor and upon conviction shall be punished for each offense according to law. Each day such violation continues shall be considered as a separate offense.

ARTICLE XIII

Authority & Administration

Section 13.1 Authority: The governing authority of the City of Winterville may from time to time amend the boundaries of the districts established on the Official Zoning Map and/or the regulations set forth in this Ordinance. Any proposed amendment shall first be submitted to the Winterville Planning Commission for its recommendations, as outlined in the following procedure.

13.2 Procedure:

13.2.1 Any person or persons desiring to submit a petition requesting a change in zoning shall file such petition, with a plat of the property attached thereto, together with a payment of the current fee to cover administrative and advertising costs with the City Clerk. The costs are non-refundable.

13.2.2 Upon the filing of a petition for a change in zoning, the applicant shall at his expense erect in a conspicuous place on the property in question a sign of not less than three (3) square feet, which shall read as follows:

NOTICE TO THE PUBLIC

APPLICATION TO REZONE FROM (INSERT PRESENT ZONING) TO (INSERT PROPOSED ZONING). PUBLIC HEARING ON (DATE/TIME) AT (LOCATION).

13.2.3 At least fifteen (15) days before such public hearing, the City Clerk shall advertise the date, time, place, and purpose of such hearing in a newspaper of general circulation of the city.

13.2.4 The public hearing shall be held by the Winterville Planning and Zoning Commission.

13.2.5 The Planning and Zoning Commission shall make a recommendation to the governing authority within thirty days (30) of the public hearing or the request shall be deemed to have been recommended for approval.

13.2.6 Any petition for a zoning amendment may be withdrawn prior to action thereon by the council at the discretion of the person, firm, or corporation initiating such a request upon written notice to the council.

13.2.7 A property owner or his appointed agent shall not initiate action for a zoning amendment affecting the same parcel of land more often than once every six (6) months.

13.2.8 Any person, firm, or corporation aggrieved by a decision of the Council shall have the right of certiorari as provided by law.

13.3 Administration

13.3.1 An application to amend the text of this Ordinance may be initiated by the Planning and Zoning Commission or be submitted to the Planning and Zoning Commission by the Mayor and Council or by any person having an interest in the city. An application to amend the official zoning map or applications for conditional use permits may be initiated by the Planning and Zoning Commission by the Mayor and Council.

13.3.2 Unless initiated by the Mayor and Council or the Planning and Zoning Commission, all applications to amend the official zoning map or for a conditional use permit must be submitted by the owner of the affected property or the authorized agent of the owner. If submitted by an agent of the owner, such authorization shall be notarized and attached to the application.

13.3.3 An application for an amendment to the official zoning map or for a conditional use permit affecting the same property shall not be submitted more than once every twelve (12) months, such interval to begin on the date of final decision by the Mayor and Council. The twelve-month interval shall not apply to applications initiated by the Mayor and Council, except for amendments to the zoning map or conditional use permits which were defeated by the Mayor and Council, in which case the interval required for the subsequent application shall be at least six (6) months.

13.3.4 An application to alter conditions of rezoning may be submitted at any time after the final decision of the Mayor and Council. The applicant must show a change in circumstances or additional information not available to the Applicant at the time of the original decision by the Mayor and Council to impose the condition. Another application to alter the same condition shall not be submitted more than once every twelve (12) months, such interval to begin on the date of the final decision by the Mayor and Council on said application to amend the condition.

13.3.5 An application may be withdrawn without prejudice at any time prior to or during the Planning and Zoning Commission public hearing on the application. Withdrawal subsequent to that time

shall mean such application may not be resubmitted for consideration for a period of one-hundred twenty (120) days, counting from the date of withdrawal to the date of a renewed application. Unless withdrawn at a hearing, the withdrawal must be in writing, signed and dated by the applicant, except that an application will be considered withdrawn if the applicant or his representative fails to appear at the Planning and Zoning Commission or Mayor and Council public hearing scheduled to consider the application. By withdrawing in this manner, a new application may not be resubmitted for consideration for a period of one-hundred twenty (120) days from the date of withdrawal.

- 13.4 Application Requirements: Each application required by this Ordinance, including without limitations, to amend this Ordinance or the official zoning map or for a conditional use permit shall be filed with the City Clerk. Applications shall be submitted in compliance with the following:
- 13.4.1 Text amendment applications shall include the following:
 - a. Name and current address of the applicant;
 - b. current provisions of the text to be affected by the amendment;
 - c. proposed wording of text change; and
 - d. reason for the amendment request.

 - 13.4.2 Official zoning map amendment applications shall include the following:
 - a. A survey of the property prepared by a licensed surveyor showing existing and proposed structures and uses, access drives, easements, utilities, buffers, existing zoning, and any other supporting documentation as required by the Planning and Zoning Commission to assist the Planning and Zoning Commission and Mayor and Council in rendering a decision, including concept plans;
 - b. A list of adjoining property owners as shown on the tax rolls;
 - c. Any additional information the applicant believes to be pertinent.
 - d. Additionally, the applicant, if other than the local government, must pay the required application fee, as determined by the Mayor and Council, to cover the administrative and advertising cost of the application and the posted sign and submit it a signed statement by the owner of at least fifty-one percent (51%) of the subject property authorizing the filing the application for zoning map amendment:
 - e. Incomplete applications will not be processed.

- 13.4.3 Application for a conditional use permit shall include the following:
- a. Three (3) copies of a written description of the proposal designed to inform the City, in detail, about all aspects of the proposed use and its anticipated impact on the community. The description should include, when pertinent, information on the hours of operation, number of employees, number of dwelling units, vehicle trip ends, noise, water usage, sanitary waste treatment and any other relevant concerns identified by the City or applicant.
 - b. Three (3) copies of surveyed plat signed by a registered surveyor.
 - c. Three (3) copies of preliminary building and site plans drawn to scale by a Registered Engineer, Surveyor, or Landscape Architect showing the following information:
 - i. Project name.
 - ii. Project owner.
 - iii. Date, scale, and north arrow.
 - iv. Vicinity map.
 - v. Use of adjacent property.
 - vi. Exterior dimensions of the site.
 - vii. Total project acreage.
 - viii. Location, name and width of all existing or proposed streets.
 - ix. Location of all proposed structures.
 - x. Location of all off-street parking and driveway serving the project.
 - xi. Proposed buffers and/or screening.
 - xii. Location, height, fixture type and wattage of site lighting.
 - xiii. Dumpster locations.
 - xiv. Rough floor plans, including gross floor area.
 - xv. Building height.

13.5 Public Notification

- 13.5.1 Legal Notice. Due notice of the public hearings pursuant to this Article shall be published in the newspaper of general circulation within the city at least fifteen (15) days but not more than forty-five (45) days prior to the date of the scheduled public hearing of the Planning and Zoning Commission and at least fifteen (15) days but not more than forty-five (45) days prior to the scheduled public hearings of the Mayor and Council. If an application is initiated by the Mayor and Council, the notice shall state the time, place and purpose of the public hearing. If an application for amendment to the official zoning map is initiated by anyone other than the

Mayor and Council, then the notice shall also include the location of the property, the present zoning district of the property, and the proposed zoning district of the property. The cost of the advertisement shall be borne by the applicant.

- 13.5.2 Signs Posted. If the application for amendment to the official zoning map is initiated by anyone other than the Mayor and Council, the City Clerk shall cause to be posed, at least fifteen (15) days prior to the Planning and Zoning Commission's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign containing information as to the application and date, time and place of the public hearing before the Planning and Zoning Commission and the public hearing before the Mayor and Council. The cost of the sign and posting shall be borne by the applicant.

13.6 Planning and Zoning Commission Action

- 13.6.1 The Planning and Zoning Commission shall hold a public hearing on each application for an amendment pursuant to this Article in accordance with a schedule adopted by the Planning and Zoning Commission. As to each application, the Planning and Zoning Commission shall make a recommendation to the Mayor and Council for approval, approval with conditions, or denial. A tie vote on any motion shall equal to denial. The Planning and Zoning Commission may also table the application one time for the presentation of more information.

- a. A written report of the Planning and Zoning Commission's recommendation shall be submitted to the City Clerk, or designee, and shall be a public record. The Planning and Zoning Commission may also recommend amendments to the applicant's request which would reduce the land area for which the application is made, change the district requested and recommend conditions of rezoning which may be deemed advisable so that the purpose of this Ordinance will, if applicable, be served, and health, public safety and general welfare secured. If the Planning and Zoning Commission determines that the subject property should be rezoned, but only to a less dense zoning classification than the classification requested by the applicant, the Planning and Zoning Commission may recommend approval of rezoning to the less dense zoning classification. If, however, the Planning and Zoning Commission fails to submit a recommendation within forty (40) days after its public hearing on the application, the Planning and

Zoning Commission's recommendation shall be deemed one for approval of the application.

- b. At a public hearing, applications shall be called in the order determined by the City Clerk. If requirements of this Ordinance have not been complied with, the application is out of order and will not be called at that hearing. It shall be tabled for one month. If the application is out of order at the next meeting, it shall be deemed withdrawn. The application shall have to wait six (6) months from such date of withdrawal to reapply.

13.6.2 Conduct of hearing

- a. All persons who wish to address the Planning and Zoning Commission at a hearing on an application under consideration by the Planning and Zoning Commission shall first sign up on a form to be provided by the City prior to the commencement of the hearing. The Chair will read the proposed application under consideration in the order determined by the City Clerk. The City Clerk, or designee, shall then present the application, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed application. The Chair will then call each person who has signed up to speak on the amendment in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the board, in its discretion, allows the person to speak to the amendment, notwithstanding the failure of the person to sign up prior to the hearing.
- b. Each speaker shall be allowed three (3) minutes to address the Planning and Zoning Commission concerning the application then under consideration, unless the Planning and Zoning Commission, by two-thirds vote of the members present, prior to or at the time of the reading of the proposed application, vote to allow additional time in which to address the Commission. The speaker may initially use all of the time allotted to speak, or may speak and reserve a portion of the allotted time for rebuttal. Provided, however, that the proponents and opponents of each application shall have not less than six (6) minutes per side for presentation of data, evidence, and opinions thereon. If a speaker represents a group or organization or other entity, he/she may speak for ten (10) minutes provided no other person of said entity may speak.

- c. Each speaker shall speak only to the merits of the proposed application under consideration and shall address his remarks only to the members of the Planning and Zoning Commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed amendment under consideration. The Chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.
- d. Nothing contained herein shall be construed as prohibiting the Chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed application is conducted in a fair and orderly manner.
- e. These procedures shall be available in writing at each hearing.

13.7 Mayor and Council Action

13.7.1 Before taking action on a proposed application and after receipt of the Planning and Zoning Commission recommendations, the Mayor and Council shall hold a public hearing on the proposed application made pursuant to this Article. At the public hearing, the Mayor and Council shall review the application submitted by the initiating party, and the recommendation prepared by the Planning and Zoning Commission. So that the purpose of this Ordinance will be served, health, public safety and general welfare secured, the Mayor and Council may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or add or delete conditions made a part of the application. The Mayor and Council shall have the power to impose a different zoning classification from the classification requested, and may impose zoning conditions which ameliorate the impact of the zoning on neighboring property owners, or serve other lawful purposes of this Ordinance. If the Mayor and Council determine that the subject property should be rezoned, but only to a less dense zoning classification than the classification requested by the applicant, the Mayor and Council may recommend approval of rezoning to the less dense zoning classification. An action by the Mayor and Council to defer the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application; and no further notice is required.

13.7.2 Conduct of the hearing

- a. All persons who wish to address the Mayor and Council at a hearing concerning a proposed application under consideration by the Mayor and Council shall first sign up on a form to be provided by the City prior to the commencement of the Hearing.
- b. The City Clerk or designee will read the proposed application under consideration prior to receiving public input on said proposed application. Proposed applications shall be called in the order determined by the City Clerk. If all requirements of this Ordinance have not been complied with, the application is out of order and will not be called at that meeting.
- c. The Chair shall call each person who has signed up to speak on the zoning decision in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the Mayor and Council, in its discretion, allows the person to speak to the application, notwithstanding the failure of the person to sign up prior to the hearing.
- d. Each speaker shall be allowed three (3) minutes to address the Mayor and Council concerning the application then under consideration, unless the Mayor and Council, prior to or at the time of the reading of the proposed zoning decision, allows additional time in which to address the Mayor and Council. The applicant or his representative may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of the allotted time for rebuttal. Provided, however, that the proponents and opponents of each application shall have no less than ten (10) minutes per side for presentation of data, evidence, and opinions thereon.
- e. Each speaker shall speak only to the merits of the proposed application under consideration and shall address his remarks only to the Mayor and Council. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The Mayor and Council may limit or refuse a speaker the right to continue,

if the speaker, after first being cautioned, continues to violate this subsection.

- f. Nothing contained herein shall be construed as prohibiting the Mayor and Chairman from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.
- g. These procedures shall be available in writing at all hearings.

13.8 Standards Governing the Exercise of Zoning Power: When evaluating an application for amendment for a change of zoning classification or use (including rezoning, conditional use, or variance). The Planning and Zoning Commission and the Mayor and Council shall consider factors relevant in balancing the interest in promoting the public health, safety, morals, or general welfare against the right of the individual to the unrestricted use of property, and shall specifically consider the following criteria.

- a. Whether the zoning proposal is in conformity with the policy and intent of the City of Winterville Comprehensive Plan, the Transportation Plan, or any other duly adopted plans for the development of the City.
- b. Whether there is reasonable evidence, based upon existing and anticipated land use, which could indicate a mistake was made in the original zoning of the property.
- c. Whether the present zoning district boundaries are illogically drawn in relation to existing conditions in the area.
- d. Whether the change will create an isolated district unrelated to the surrounding districts, such as “spot zoning?”
- e. Whether the need for rezoning could be handled instead by a variance request.
- f. Whether the subject property is suitable for the existing zoned purpose.
- g. Whether the subject property is suitable for the proposed zoning or use (location, size, lot configuration, topography, drainage, availability of public water supply and sewage system, or space and soil type to accommodate a safe water supply and an appropriately sized septic system, etc.)
- h. Whether the zoning proposal will permit a use that is suitable in view of the use, development, and zoning of adjacent and nearby property.

- i. The impact and suitability of the most intense possible future use that would be permitted on the subject property under the proposed change in zoning classification.
- j. Whether the change requested is out of scale with the immediate neighborhood or the needs of the city as a whole.
- k. Whether the zoning proposal will result in a use that could cause an excessive or burdensome use of or other adverse impact on existing streets, traffic patterns and congestion, transportation facilities, utilities, schools, police protection, fire protection, public health facilities or emergency medical services.
- l. Whether there could be a significant threat for ecological, environmental, or pollution impact, including but not limited to air quality; ground and surface water supply and quality; significant destruction of habitat for wildlife, deterioration or destruction of significant or sensitive natural and environmental resources, habitat for endangered or threatened plants or animals, waste generation and disposal; waste water quality, sanitary sewage disposal capacity; toxic or hazardous materials; odors, noise, vibration, and other nuisances; diseases of public health importance, and any related concerns, resulting from the proposed use or from major modifications to the land if the request is granted.
- m. Whether the requested change would have an adverse impact on significant natural, historic, or scenic resources.
- n. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property.
- o. To what extent the zoning proposal will adversely affect the property values of adjacent or nearby property.
- p. Whether it is impossible to find adequate sites for the proposed use in districts permitting such use and already appropriately zoned.
- q. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned.
- r. The length of time the property has been vacant as zoned considered in the context of land development in the area, in the vicinity of the property.
- s. Whether there are other existing or changing conditions affecting the use or development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.
- t. To what extent subject's property values will be diminished by the existing zoning restrictions.
- u. To what extent the destruction of the subject's property value under the existing zoning will promote the health, safety, morals, or general welfare of the public.

- v. The relative gain to the public as compared to the hardship imposed upon the individual property owner.

13.9 Standards for Considering Applications for Conditional Use Permits: The following standards apply to the consideration of an application for a conditional use permit:

- 13.9.1 A proper application has been filed in accordance with the requirements of this Ordinance;
- 13.9.2 A recommendation has been received from the Planning and Zoning Commission;
- 13.9.3 The applicant is in compliance with the particular conditions for the proposed conditional use that are required by this Ordinance;
- 13.9.4 The applicant is in compliance with conditions imposed by the Mayor and Council for the purpose of reducing the harmful effects of the use on surrounding uses and assuring compatibility with surrounding uses; and
- 13.9.5 The Mayor and Council determines that the benefits of and need for the proposed conditional use are greater than any possible depreciating effects and damages to the neighboring properties.

13.10 Appeals to Superior Court: Any person aggrieved by a decision on an application made pursuant to this Article shall file an appeal within thirty (30) days by filing an appeal to the superior court pursuant to the provisions of Title 5 of the Official Georgia Code.

ARTICLE XIV

LEGAL STATUS PROVISIONS

Section 14.1 Conflict with Other Laws

When the provisions of this Ordinance specify more restrictive standards than required by any other statute, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards, the provisions of such statute shall govern.

Section 14.2 Severability

Should any section or part of a section or any provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

Section 14.3 Repeal of Conflicting Ordinances

All Ordinances and parts of Ordinances in conflict herewith are repealed.

Section 14.4 Effective Date

This Ordinance shall take effect and be in force from and after its adoption, the public welfare demanding it.

Date

Mayor

ATTEST:

Date

City Clerk

Effective Date

City Attorney

APPENDIX I
Winterville City Sign Ordinance

Section 1. Objectives and Purposes

The objective of this Ordinance is to establish requirements for the placement, installation and maintenance of signs in order to preserve and protect the health, safety, welfare, and general well-being of the community's citizens. As the regulations of the placement, construction and maintenance of buildings and structures through zoning is a valid use of the police power, so, too, is the regulation of the placement, installation and maintenance of signs, since such signs in the literal sense must ordinarily be considered structures, and in a practical sense are capable of producing many of the same nuisances as are produced by buildings. The regulation of the placement, installation and maintenance of signs is further justified by the signs' innate scheme and primary purpose to draw mental attention to its content, potentially to the detriment of sound driving practices and the safety of the motoring public to whom a majority of the signs are oriented. Therefore, it is the intent of this Ordinance to regulate the size and location of signs such that their purpose can be served without unduly interfering with motorists and causing unsafe conditions. However, it is not the intent of this Ordinance that all signs are built to the maximum size. The City of Winterville encourages use of the minimum signage necessary to meet the purposes required.

Further, recognizing that the aesthetic, cultural and historic qualities of the City of Winterville are unique and, therefore, vital to the community's interest, it is the objective of this Ordinance to ensure compatibility to the aforementioned themes and to ensure that these qualities are not compromised.

Further, it is an objective of this Ordinance to protect and preserve the aesthetic qualities of the community by regulating the number, size, placement, installation and maintenance of signs. The fact that such signs are intended to command visual contact grants to signs a proportionately greater role than other structures in determining the overall aesthetic quality of the community.

The aesthetic impact of signs is an economic fact that can bear heavily upon the enjoyment and value of property; therefore, the regulation of signs is validly justified on the basis of conserving the value of property and encouraging the most appropriate use of land throughout the community. It is contended that it is not irrational for a community's citizens to plan their physical surroundings in such a way that unsightliness is minimized.

It is the belief of the City that more communication is desirable during the election cycle, so that all citizens may freely express their viewpoints during the election campaigns, and therefore the ordinance allows increased opportunities to erect signs during these periods, without limiting content or favoring content in any fashion.

In seeking to comply with federal and state law, the City has determined the following: large signs are, as the U.S. Supreme Court has recognized, an aesthetic harm; the Georgia Supreme Court has upheld SIGN regulations on the basis of aesthetics and preserving the beauty of

environment; and the Eleventh Circuit has recognized portable signs are visual clutter and a potential traffic hazard. These holdings show that the City's ordinance is within the law and constitutional, which is a goal of the City. The goal of this Ordinance is to avoid being an impermissible content-based regulation, and instead to be a permissible time, place and manner regulation.

In addition, it is declared that the regulation of signs within the City of Winterville is necessary and in the public interest for the following reasons:

- a. To protect property values within the City of Winterville.
- b. To protect the motoring public from damage or injury caused or partially attributable to distractions or obstructions from improperly designed or situated signs.
- c. To promote the economic well-being of the City of Winterville by creating a favorable image.
- d. To eliminate the clutter of excess signage.
- e. To protect the right of citizens to enjoy the City of Winterville's natural scenic beauty.
- f. To protect and enhance the unique aesthetic, cultural and historic attractions to tourists and thereby promote and stimulate business.
- g. To regulate the construction, erection, maintenance and size of signs that may constitute a direct danger to pedestrians and property, especially during periods of high winds.
- h. To promote the aesthetic beauty of the environment of the City of Winterville.
- i. To ensure reasonable opportunities for communication for all groups and interests.
- j. To preserve and promote the public health, safety and welfare in the City of Winterville.

Section 2. Definitions

Words or terms spelled in all capital letters throughout the ordinance are specifically defined in this section.

- a. **ABANDONED SIGN OR STRUCTURE**
Any sign or sign structure where the business activity or firm which such sign advertises is no longer in operation, or does not have a current occupation tax certificate in effect or where the sign or sign structure contains no sign copy for six months.
- b. **AWNING**
A structure projecting from and supported by the exterior wall of a building constructed of rigid or non-rigid materials such as cloth, plastic or metal.
- c. **BANNER**
A sign made of fabric or any non-rigid material with no enclosing framework.
- d. **CITY**
The City of Winterville

- e. **CITY CLERK**
The Winterville City Clerk
- f. **CODE ENFORCEMENT OFFICER**
The Winterville Code Enforcement Officer
- g. **DOUBLE-FACED SIGN**
A sign constructed to display its message on the outer surfaces of two identical and opposite parallel planes.
- h. **ELECTION CYCLE**
The time period 60 days prior to any primary, special election, general election, or run-off, and ending 7 days after the primary, special election, general election, or run-off is held. Election cycles may overlap. "Election," as used herein, shall refer to Federal elections, Georgia statewide elections, Athens-Clarke County elections, or municipal elections for the City of Winterville.
- i. **ENTRANCE SIGN**
A ground sign erected at the entrance to a building, planned center, or subdivision.
- j. **FACADE**
The entire building front including the parapet.
- k. **GROUND SIGN**
A permanently affixed sign which is not dependent on a building for support.
- l. **HEIGHT**
The vertical distance measured from the lowest adjacent grade to the highest point of the sign or sign structure.
- m. **ILLEGAL SIGN**
A sign that was not lawfully placed and maintained under the provisions governing such sign at the time of placement.
- n. **MARQUEE**
A permanent roof-like structure projecting sign having areas on the sides for display or changeable graphics or copy, projecting from and supported by a building.
- o. **NON-CONFORMING SIGN**
Any sign which was erected legally prior to the adoption of this ordinance, but which does not conform to the requirements of this ordinance.
- p. **PARAPET SIGN**
A sign attached to that portion of a building's exterior wall that projects above the plate line of a building.

- q. **PERMANENT**
Intended to last indefinitely without change.
- r. **PLANNED CENTER**
A single office, commercial, or industrial property or lot that is designed or intended for occupancy by two or more principal businesses that are separately owned and have no corporate relationship (e.g., strip shopping mall, office complex, etc.) or two or more businesses platted as one lot.
- s. **PLANNING AND ZONING COMMISSION**
The Winterville Planning and Zoning Commission.
- t. **PORTABLE SIGN**
Any SIGN that is not permanently attached to the ground, a structure or a building that can be moved from one location to another. A-frame signs, banners or billboards attached to vehicles and trailers are examples of portable signs.
- u. **PROJECTING SIGN**
Any sign, other than a wall sign which projects from and is supported by a building and projects more than 12 inches.
- v. **ROOF LINE**
The highest continuous horizontal line of a roof. On a sloping roof, the roof line is the principal ridge line, or the highest line common to one (1) or more principal slopes of roof. On a flat roof, the roof line is the highest continuous line of the roof or parapet, whichever is higher.
- w. **ROOF SIGN**
A sign that is erected, constructed, or maintained on a roof below the roof line of any building.
- x. **SIGN**
Any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, BANNERS, windows and similar devices.
- y. **SIGN COPY**
All words, letters, numbers, figures, characters, artwork, symbols, or insignia that are used on a display surface area.
- z. **SIGN FACE**
The actual message-carrying portion of the sign that can be used to display content, including any area that can display or does display words, pictures or other communicative elements of the sign, including the background color.

aa. SIGN OWNER

A person recorded as such on official records. For the purposes of this Ordinance, the owner of property on which a sign is located is presumed to be the owner of the sign unless facts to the contrary are officially recorded or otherwise brought to the attention of the City Clerk (e.g., a sign leased from a sign company).

bb. SIGN STRUCTURE

Any aboveground portion of a freestanding base, supports, uprights, or braces the primary purpose of which is to support a sign or signs and excluding those portions of any such structure the primary purpose of which is to serve an architectural function (i.e., building wall, freestanding wall, entrance wall, fence, gate, etc.)

cc. TEMPORARY SIGN

Having or suggesting a nondurable character or a limited or short-term period of use.

dd. VEHICLE SIGN

A sign that is attached to or painted on a vehicle that is parked on or adjacent to any property, the principal purpose of which is to attract attention to a product sold or business located on the property.

ee. WALL SIGN

Any sign painted on or attached flat and parallel to the exterior wall or surface of a building which projects less than 12 inches from that wall or surface; includes awning signs, marquee signs, and parapet signs.

ff. WINDOW SIGN

Any letters, words, or symbols which are displayed on or attached to the window glass of a structure and oriented towards outside the building, primarily to attract the attention of the passing public using the public right-of-way.

Section 3. Permitted Signs

If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited. These regulations apply to all signs within the city.

- a. Number, Type, and Size of Permitted Signs by Zoning District
The following signs are permitted in the following zoning districts:

District	Ground Sign				Window Sign	Wall Sign or Projecting Sign		
	Number of signs	Max. area of single ground sign face	Total area of all sign faces	Max. Height	% of window area facing road frontage	No. of signs per business	Max. Wall Sign size	Max. Projecting Sign size
R12H	1	6 sf	12 sf	3 ft	Not Permitted	Not Permitted	n/a	n/a
R15H	1	6 sf	12 sf	3 ft				
R18H	1	6 sf	12 sf	3 ft				
R20H	1	6 sf	12 sf	3 ft				
C-1 on individual lot	1	32 sf	60 sf	5 ft	25%	1 ¹	32 sf	6 sf
C-1 in Planned Center	1 per entrance road or access point	50 sf	100 sf ²	10 ft	25%	1 ¹	32 sf	6 sf
PLC	1	12 sf	24 sf	5 ft	10%	1 ¹	32 sf	6 sf
G	Government signs are exempt from compliance with the sign ordinance.							

¹ Double frontage lots may have one additional sign of the same area, size and height limitations, and one per road front. Total area of all sign faces doubles accordingly.

² The ground sign for a planned center may contain a sign for each business in the Planned Center; however, the aggregate of all sign faces on the Planned Center Sign shall not exceed 100 sf.

- b. Entrance Signs

Entrance signs are permitted at each entrance road or access point of a Planned Center or a subdivision. Entrance signs must be ground signs and constructed of brick, stucco, wood, stone or similar material, and no more than six (6) feet high, not more than single sided, and not more than thirty-two (32) square feet in area. Entrance signs must be setback from the right-of-way a distance equal to their height plus one (1) foot.

c. Internal Signs

Any sign not visible from the outside of a structure or to passing members of the public traveling on the street right-of-way shall be allowed in unlimited numbers.

d. Weekend Temporary Signs

Weekend temporary signs are permitted in any zoning district, may be erected without a sign permit, and must meet the following regulations:

- i. Signs shall be erected after 1:00 p.m. on Friday and must be taken down by 8:00 p.m. on the Sunday immediately following the Friday that signs were erected.
- ii. Signs may not exceed three (3) feet in height and four (4) square feet per side, shall not be more than two-sided, and shall include the name and address of the party responsible for the event or activity.
- iii. Signs shall not be placed within five (5) feet of the curb or pavement or within the public right-of-way, or in any fashion that blocks sight lines for traffic or otherwise creates a hazard.
- iv. On any single lot, no more than one sign
- v. Is permitted per lot street frontage.
- vi. Signs must meet the construction standards of Section 5.f.

Weekend temporary signs erected in violation of this Ordinance, in improper areas (especially the public right-of-way), or erected before or after the permissible time frame, constitute a violation of this Ordinance, a safety hazard, and a public nuisance, and are subject to being taken down by the city and destroyed without notice.

e. Election Cycle Temporary Signs

Election Cycle Temporary signs are permitted in any zoning district, may be erected without a sign permit, and must meet the following regulations:

- i. Signs are permitted only during an election cycle.
- ii. Signs shall not exceed three (3) feet in height and six (6) square feet per side, and shall not be more than two-sided.
- iii. Signs must not be placed within five (5) feet of the curb or pavement or within the public right-of-way, or in any fashion that blocks sight lines for traffic or otherwise creates a hazard. On any single lot, one such sign may be placed for every ten feet of frontage on a public street.
- iv. Signs must meet the construction standards of Section 5.f.

Election cycle temporary signs erected in violation of this ordinance, in improper areas (especially the public right-of-way), or erected before or after the permissible time frame, constitute a violation of this ordinance, a safety hazard, and a public nuisance, and are subject to being taken down by the city and destroyed without notice.

- f. Construction Phase Temporary Signs
During the construction phase of any development or subdivision, two additional signs may be erected for the entire development or subdivision. The “construction phase” is the period between issuance of a building permit and issuance of a certificate of occupancy, or in the case of a subdivision, prior to at least 80% of the lots being sold to a person other than the developer. Signs may be double-faced but the total face of each sign shall not exceed 20 square feet. Sign height shall not exceed 8 feet. Such signs shall be set back at least ten feet from the right-of-way and 25 feet from adjacent property lines, and may be placed only at the entrance to the development or subdivision. Such signs are to be removed by the developer of the subdivision at the end of the construction phase.

Section 4. Regulations for Signs

a. Location and Setback.

- i. Unless otherwise specified:
- (1) Signs may not be placed on any property without the property owner’s permission.
 - (2) Signs are not permitted in the public right-of-way.
 - (3) Signs must comply with all side and rear setbacks of the underlying zoning ordinance.
 - (4) Signs may be located in front setback areas provided they are set back at least five feet from the public right-of-way.
 - (5) No portion of a sign or sign structure erected on private property shall encroach on or overhang the public right-of-way or any other person’s property.
 - (6) Distances are measured from the closest portion of the sign (whether that is the base, sign face, or the sign structure) to the right-of-way or adjacent property line.

b. Height

- i. Awning and marquee signs shall be no less than eight (8) feet above the ground at the lowest extremity of the sign when erected over pedestrian walkways.
- ii. Wall and projecting signs shall be securely fastened to the building surface. These signs may project from the building a maximum of four (4) feet including brackets; provided that, if they project more than twelve (12) inches from the building surface, they shall be no less than eight (8) feet above the level of the ground or pavement at the lowest extremity of the sign when erected over pedestrian walkways.

c. Number

For the purpose of determining the number of signs, ground signs shall be equal to the number of sign structures. All other signs shall be considered to be a single display surface or display device containing elements organized, related and

composed to form a unit. Where matter is displayed in random manner without organized relationship of elements, such elements shall be considered a single sign.

d. Sign Area

The sign area is calculated by determining the area of the smallest square or rectangle which encloses the sign face and the structure surrounding the sign face. For example, the pole or base would not be included, but any frame holding the sign face in place would be counted.

e. Unusual Shaped Signs

Unusual shaped signs are signs that are a shape other than a square or rectangle, and include signs with projecting elements or features, round, oval and triangular signs, signs with more than four sides, signs in the shape of an animal, object, or device, and so forth. For all such signs, the area is calculated by calculating the area of the smallest rectangle that will completely enclose all elements of the sign face and sign structure supporting the face, not including the base.

Section 5. Safety and Construction Standards

a. Confusion with Official Sign

Signs which contain or are in imitation of an official traffic sign or signal, or can be confused with an official traffic sign, are prohibited.

b. Fire Safety

No sign or sign structure may be erected or maintained which obstructs any fire escape, emergency exit, ventilation, or door; nor shall any sign or sign structure be attached to a fire escape.

c. Corner Visibility

No sign or sign structure above a height of three feet shall be maintained within 15 feet of the intersection of the right-of-way lines.

d. Traffic Visibility

No sign shall obstruct the view of vehicles entering the roadway (i.e., the view of oncoming traffic by vehicles attempting to enter the road) or of vehicles entering or leaving the driveways.

e. Good Repair

All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair. All burned-out bulbs or damaged panels must be replaced. All sign copy shall be maintained securely to the face and all missing copy must be replaced.

f. Temporary Sign Standards

All temporary signs shall be made of waterproof material and must be attached to an independent mounting device no more than forty inches above ground level.

The mounting device shall bear the name and address of the party responsible for the event.

g. Removal of Unsafe Signs and Safety Hazards

The City may remove a sign in violation of this Ordinance, without giving notice of any party, if said sign is upon the public right-of-way or upon other public property; or said sign poses an immediate safety threat to the life of or health of any members of the public. The City shall keep such signs for ten days prior to disposal, unless otherwise indicated in this ordinance.

h. Permanent Independent Mounting

Ground signs shall be securely affixed to a substantial support structure which is permanently attached to the ground and wholly independent of building support.

Section 6. Prohibited Signs

a. Prohibited Signs

The following are signs are prohibited:

- i. Roof signs.
- ii. Rotating signs, including signs with rotating elements or parts, and signs where the entire sign face or structure rotates.
- iii. Portable signs including, but not limited to, printed banners attached to vehicles and trailers.
- iv. Changeable electronic copy, moving signs, or signs with moving parts. This includes, but is not limited to, animated signs involving motion or sound; “trivision”-type signs; signs displaying moving pictures, electronic directories or electronic images; LED signs; EVMC (electronic variable message center) signs; signs with content that changes more than once daily; signs with moving words; signs with waving elements, whether motorized or wind-powered; or similar moving signs. Signs with changeable non-electronic copy (e.g., message board, movie theater marquee) are permitted provided such copy is not changed more than once per day.
- v. Flashing, blinking or signs of varying light intensity, or signs containing exposed neon tubing except signs of less than 4 sq. ft. provide the total square footage of all such signs does not exceed 4 sq. ft. per business.
- vi. Signs with reflective elements that sparkle in the sunlight or that contain luminous paint that glows in the dark.
- vii. Signs that spell words or create images with numerous small lights or other illumination.
- viii. Courtesy benches, trash cans, and other similar devices displaying signs.

- ix. Vehicle signs.
- x. Inflatable figures and objects.
- xi. Signs that produce noise or any sound capable of being heard.
- xii. Signs that produce smoke, vapor, particles or odor.
- xiii. Signs created by projecting light onto an object, a wall, a cloud or other matter, where in the light creates the sign copy.
- xiv. Signs that are tacked, painted, posted, marked or otherwise affixed on trees, utility poles or other similar structures or on rocks, or other natural features.
- xv. Pennants and streamers.

Section 7. Removal of Nonconforming, Abandoned, or Illegal Signs

a. General Provisions

Subject to the following conditions, nonconforming PERMANENT signs may be continued in operation and maintenance. Such signs shall not be:

- i. Changed or replaced with another nonconforming sign; or
- ii. Enlarged, extended, moved, or structurally altered except to bring the sign into conformance with all provisions of this ordinance.

Nonconforming signs which are damaged or destroyed may be rebuilt as they were before in terms of height, area, and location. In all other ways, including but not limited to construction and safety standards, such signs must be rebuilt in compliance with the provisions of this Ordinance unless such compliance is impossible, in which case the requirement shall be administratively varied by Planning and Zoning to the minimum possible.

b. Nonconforming Signs

Nonconforming signs made of paper, cloth, or other non-durable material; all temporary signs other than those permitted herein; and all prohibited signs shall be removed within thirty (30) days of the effective date of this ordinance.

c. Illegal Signs

Illegal signs shall be removed within thirty (30) days of the effective date of this ordinance.

d. Removal of Nonconforming Signs on Public Property

The code enforcement officer or their designee shall be authorized to remove and dispose of nonconforming signs or illegal signs from public rights-of-way and

other public lands with or without notice to and at the expense of the owner builder or other parties responsible for placement of said SIGN.

e. Relocation of Nonconforming Sign

If a nonconforming sign must be removed due to a city, county or state road improvement project, Planning and Zoning shall authorize the relocation of said sign even though the new location may not meet the setbacks, location and/or spacing or other provisions of this section. Nonconforming signs may not be moved for any other reason unless it is brought into compliance with existing regulations.

Section 8. Abandoned Signs or Structures

a. When Considered Abandoned

A sign face or sign structure is considered abandoned under the following circumstance and must be removed within 6 months:

- i. from the lapse of a valid occupation tax certificate, or
- ii. When any sign or sign structure has not been in use (i.e., has not contained sign copy) for a 6 month period.

b. Removal of Abandoned Signs

The code enforcement officer is authorized to seek the removal of abandoned signs and abandoned sign structures. The code enforcement officer shall first attempt to contact the record owner of the sign and the lot containing the sign, by first class mail, advising them of the abandoned status of the sign and providing thirty days to remove or re-permit the sign. Upon expiration of thirty days, the code enforcement officer shall be authorized to petition the Municipal Court for an order requiring the property and/or sign owner to abate the nuisance by requiring removal of the abandoned sign or sign structure, and further authorizing the city to abate the nuisance upon the failure of the property owner or sign owner, or in the event no such person can be located, the city attorney or other designated attorney shall also be authorized to seek similar relief in Superior Court.

Section 9. Permits

a. Permits Required

It shall be unlawful for any person to erect, repair, alter, or relocate within the city, any sign without first obtaining a sign permit and making payment scheduled for the same, unless otherwise exempt by this ordinance. Routine maintenance of a sign shall not require a permit or a fee. All signs shall, in addition, be subject to the provisions of the electrical code and the permit fees required hereunder.

- i. The city shall not be financially responsible for any sign erected within any future right-of-way, designated as such at the time the permit is sought or the sign erected. Any application to erect a sign within any future right-of-way shall forfeit all claims to compensation on the part of the sign owner should the acquisition of the future right-of-way become necessary by the city.

b. Signs with Electrical Wiring and Connections

The application for a permit for any sign in which electrical wiring and connections are to be used shall be applied for by a licensed electrician and reviewed by Planning and Zoning. Illuminated signs shall conform to the UL standards and shall have a UL sticker applied in a visible area on the metal edging of the sign. The sign manufacturer's name and phone number shall also be displayed. Such signs shall be installed by a licensed electrician in conformance with the electrical code.

c. Application for Sign Permit

Applications for sign permits shall be made upon application forms provided by the city clerk and shall contain or have attached thereto the following minimum information:

- i. Name, address, and telephone number of the applicant;
- ii. Address of building, structure, or lot to which or upon which the sign is to be attached or erected;
- iii. Position of the sign in relation to nearby buildings, structures, or property lines;
- iv. One (1) accurate scale drawing of the plans, specifications, and method of construction and attachment to the building or ground for the sign, as well as a scale drawing of the size showing drives, structures, and any other limiting site features.
- v. Name or person, firm, corporation, or association erecting the structure.
- vi. Any electrical permit required and issued for said sign;
- vii. Such other information as Planning and Zoning shall require showing full

compliance with this and all other laws and ordinances of the City of Winterville.

- viii. Authorization by owner, if applicable.
- ix. Proof of current occupation tax certificate issued by the city.
- x. Such other pertinent information as may be useful or necessary.

Within 3 working days of submission, the applicant will be notified by the city clerk whether the application is complete. Incomplete applications will not be processed and shall be deemed withdrawn if complete information is not submitted within 10 calendar days of receipt of notice.

d. Permit Issued

- i. Upon receipt of a complete application, the Planning and Planning and Zoning Commission shall examine such plans and specifications and other data and the premises upon which is proposed to erect the Sign.
- ii. Once application is complete, the Planning and Zoning Commission shall either approve or deny the application at its next regular meeting provided said application is submitted at least 14 days prior to the next regular meeting. If no decision is issued at the regular meeting where the application is considered, the permit shall be deemed approved.
- iii. If the permit is denied, the city clerk shall notify the applicant in writing, the reason for the denial.
- iv. If work authorized under a sign permit has not been completed within six (6) months after the date of the issuance of said permit, the permit shall become null and void and a new permit shall be required.

e. Permit Fee Schedule

- i. Permanent signs \$50.00 per SIGN
- ii. Construction Phase Temporary signs \$10.00 per application

The Mayor and Council may from time to time by resolution, establish and/or modify said fee schedule as necessary to include, but not necessarily be limited to the cost of issuing permits, making inspections and other administrative matters related to this section.

Section 10. Administration, Enforcement, and Penalties

a. Administration

It shall be the duty of the Code Enforcement Officer and he is hereby given the authority to administer and enforce the provisions of these regulations.

b. Enforcement and Violations

It shall be unlawful for any person to violate any provisions or fail to comply with any of the requirements of this ordinance. Any person who has violated or continues to violate the provisions of this Ordinance may be subject to the enforcement actions outlined in this section or may be restrained by injunction or otherwise dealt with in a manner provided by law.

c. Inspections

The code enforcement officer and law enforcement personnel of the city shall have the power to conduct such investigations as may be reasonably deemed necessary to carry out the duties as prescribed in this ordinance, and for the purpose to enter at reasonable times, upon any property, public or private, for the purpose of investigation and inspecting signage. No person shall refuse entry or access to any authorized official who requests entry for the purposes of inspection and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

d. Citations

The code enforcement officer or his designee is authorized to issue citations and otherwise enforce this Ordinance. Citations shall be heard in Municipal Court. Citations for violation of this Ordinance shall be commenced by the completion, signing, and service of a citation, which shall cite the provision of this Ordinance that has been violated. A duplicate original of the citation shall be personally served upon the violator, his or her authorized representative or, if a corporation or other legal entity, an officer or representative of the entity. Upon a finding of any violation of this ordinance, fines shall be assessed as specified in Section 10.h.

e. Stop-Work Order

In the event a SIGN is under construction in violation of this ordinance, the code enforcement officer shall be authorized to issue a stop work order in lieu of or in addition to a citation. Such stop work order shall prevent further work until said violation is corrected or overturned.

- f. Multiple Violations
Each day a violation exists shall be a separate violation. Each separate action or occurrence of any specific provision of this ordinance shall be a separate violation, subjecting the offender to a separate citation. Any offender may be cited with a maximum of ten citations per day.
- g. Responsible Parties
Both the sign owner and the property owner, if different, may be cited for violations of this ordinance.
- h. Fines
Fines for violations of this ordinance shall be assessed according to the following schedule as a minimum. The maximum permissible fine for violations shall be \$1,000. As a deterrent to violation, second and subsequent violations by the same offender of any provision of this ordinance, whether violations of the same or different provisions of this ordinance as the initial violation shall increase the fine owing. However, repeated citations for the same violation on a second and subsequent day shall not count as a subsequent violation, but shall rather be assessed at the same rate as the initial violation. Multiple violations on the same day shall also be assessed at the same level.
- i. First Violation: for the first violation of any provision of this Ordinance by any violator (whether an individual or corporation), the fine shall be a minimum of \$200.
- ii. Second Violation: for the second violation of any provision of this Ordinance (whether the same or different as the first violation) by the same violator (whether an individual or corporation), the fine shall be a minimum of \$400.
- iii. Third and Subsequent Violations: for the third and subsequent violation of any provision of this Ordinance (whether the same or different as the prior two violations) by the same violator (whether an individual or corporation), the fine shall be a minimum of \$600.
- i. Superior Court
In addition to or in lieu of any other remedy, any authorized official, appropriate authority, or any person who is or would be damaged by such violation, may seek injunctive, mandamus or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this ordinance. Such action may also seek civil fines at the rates specified above for violation of this ordinance, and may additionally seek any other costs associated with the action to enjoin or prevent any violation of any provision of this ordinance. The city shall be entitled to its reasonable attorney's fees and costs for bringing an action in superior court against any violator wherein any relief is granted or fine assessed.

Section 11. Appeals

Any party aggrieved because of the alleged error in any order, requirement, decision or determination made by the Planning and Zoning Commission or any other party in enforcement of this ordinance, may appeal such order, requirement, decision, determination or interpretation in writing, to the Winterville City Clerk. Such notice of appeal must be submitted to the city clerk within thirty (30) days of the decision or the right to appeal shall be lost. The appeal shall be heard by the Mayor and Council within forty-five (45) days of a notice of appeal being filed with the clerk. In exercising this power, the Mayor and Council may, in conformity with the provisions of this ordinance, reverse or affirm any order, requirement, decision or determination made by the Planning and Zoning Commission or any other party. Appeals from the decision by the Mayor and Council shall be to the Superior Court of Clarke County, Georgia.

Section 12. Variances

a. Variances

The Mayor and Council are hereby empowered to vary or adapt the strict application of the requirements of this ordinance. It is the intent of this ordinance that the variance be used only to overcome some exceptional physical condition of a parcel of land which poses practical difficulty and prevents the owner from obtaining the full use and purpose of the sign as intended by this sign ordinance. Any variance granted shall be the minimum adjustment necessary for the reasonable use of the sign. No variance in the strict application of the provisions of this ordinance shall be granted by the Mayor and Council unless it finds that the requirements and standards detailed in this ordinance are satisfied.

b. Standards for Granting Variance

A variance may only be granted if the Mayor and Council find that all of the following conditions exist:

- i. By reason of exceptional narrowness, shallowness, or shape; or by reason of other exceptional topographic conditions; or other extraordinary and exceptional situations or conditions on a piece of property, the strict application of the regulations would result in peculiar, exceptional, and undue hardship on the owner of such property;
- ii. The hardship or problem was not created by the property owner or a predecessor property owner, such as an illegal lot split creating a substandard lot, or other self-imposed hardship;
- iii. The variance can be granted without impairing the purposes of this ordinance and without infringing on the rights of neighboring property owners or impairing the public health, safety and welfare.

c. Conditions

In granting a variance, the Mayor and Council may impose conditions on the variance that they deem necessary to secure substantially the objectives of the regulations or provisions to which the variance applies.

d. Regulations that May be Varied

A variance may only be granted as to the following regulations: sign setback,

- i. Sign Height,
- ii. Sign placement and/or
- iii. Sign type

e. Regulations that May Not be Varied

The following regulations enacted in this Ordinance are not subject to variance:

- i. Maximum allowable square footage of sign area,
- ii. Total number of signs allowed,
- iii. Maximum allowable total sign square footage allowed per site, and
- iv. Regulations that protect public safety.

f. Variance after Denials

If a sign permit is denied by the Planning and Zoning Commission based on a regulation that can be varied, as an alternative to an appeal, a property owner or sign contractor may apply to the Mayor and Council for a variance by filing an application with the city clerk.

Section 13. Legal Status Provisions

a. Conflict with Other Regulations

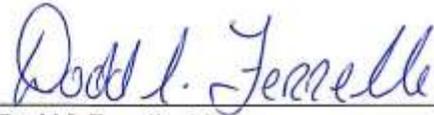
Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this ordinance, the provisions of such statute or ordinance shall govern.

b. Severability

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

c. Effective Date

This ordinance shall take effect and be in force from and after its adoption, the public welfare of Winterville demanding.



Dodd I. Ferrelle, Mayor

5/10/2016

Date

ATTEST:

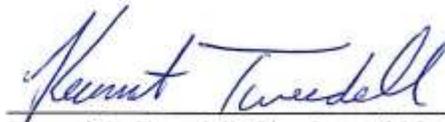


Wendy L. Bond, City Clerk

APPROVED AS TO FORM:



Albert Stone, Jr., City Attorney



Kenneth P. Tweedell, City Council Member



Mary W. Quinn, City Council Member

APPENDIX II – VARIANCE HEARINGS BOARD

Variance Hearing Board

Appointment. The Variance Hearing Board of the City of Winterville, Georgia, (hereinafter called the “Board”) is hereby established in accordance with the provisions of this Ordinance. Said Board shall consist of five (5) members appointed by the City of Winterville. The five (5) members shall serve for overlapping terms of three (3) years or until succeeded. The initial individual appointments shall be two (2) members for terms one (1) year one (1) member for two (2) years, and two (2) members for the regular term. No member shall hold any other public office or to be a member of the Planning Commission. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointments. Members shall be removed for cause by the appointment authority upon written charges and after a public hearing.

Officers and Meetings. The Board shall elect one of its members as Chairman who shall serve for one (1) year, or until he is re-elected or his successor is elected. The Board shall appoint a secretary who may be an officer of the governing authority or of the Planning Commission. The Board shall adopt rules in accordance with the provisions of this Ordinance.

Meetings of the Board shall be held at the call of the chairman and at such other times as the Board may determine. The chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses by subpoena. All meeting of the board shall be open to the public.

No member of the Board shall participate in a hearing in which he has any pecuniary or special interest.

The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or falling to vote indicating such fact, and shall keep records of examination and other officials actions, all of which shall immediately filed at City Hall and shall be a public record.

Powers. The Board shall have the following powers:

To hear a request variance and to recommend approval, approval with conditions, or denial to the governing authority of such variance from the terms of this Ordinance as will not to contrary to the public interest where, owing to special conditions, a literal enforcements of the provisions of this Ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this Ordinance shall be observed, public safety and welfare secured and substantial justice done. Such variance may be granted only upon a finding by the governing authority that the conditions of § 1277 exist.

Variance Application

Application for variance shall be filed with the City Clerk. Application shall be submitted in compliance with the following:

A survey of the property prepared by a licensed surveyor showing existing and proposed structures and uses, access drives, easements, utilities, buffers, existing zoning and any other supporting documentation as required by the Hearings Board to assist the Board in rendering a decision;

A list of adjoining property owners as shown on the tax rolls;

Any additional information the applicant believes to be pertinent:

The required application fee, if the applicant is other than the local government, as determined by the Mayor and Council, to cover the administrative and advertising costs of the application and the posting of the sign;

A signed statement by the owner of at least fifty-one percent (51%) of the subject property authorizing the filling of the application variance.

Public Notification

Legal Notice. Due notice of the public hearing pursuant to this Article shall be published in the newspaper of general circulation within the city at least fifteen (15) days but not more than forty-five (45) days prior to the date of the scheduled public hearing of the Board. The notice shall state the time, place, and purpose of the public hearing. The cost of the advertisement shall be borne by the applicant.

Sign Posted. The City Clerk shall cause to be posted, at least fifteen (15) days prior to the Board's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign containing information as to the application and date, time and place of the public hearing before the Board. The cost of the sign and posting shall be borne by the applicant.

Board Action

The Board shall hold a public hearing on each application for variance. The Board shall a recommendation to the Mayor and Council for approval, approval with conditions or denial. The Board may also table the application one time for the presentation of more information.

At a public hearing, applications shall be called in the order determined by the City Clerk. If requirements of this Ordinance have not been complied with, the application is out of order and will not be called at that hearing. It shall be tabled for one month. If the application is out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months from such date of withdrawal to reapply.

Conduct of hearing

All persons who wish to address the Hearings Board at a hearing on an application under consideration shall first sign up on form to be provided by the City prior to the commencement of the hearing. The Chair will read the proposed application under consideration in the order determined by the City Clerk. The City Clerk or designee shall then present the application along with the pertinent departmental reviews, if any prior to receiving public input on the proposed application. The Chair will then call each person who has signed up to speak on the application in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself and or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the board, in its discretion allows the person to speak to the application notwithstanding the failure of the person to sign up prior to the hearing .

Each speaker shall be allowed three (3) minutes to address the Board concerning the application then under consideration, unless the Board, by two- thirds vote of the members present, prior to or at the time of the reading of the proposed application, vote to allow additional time in which to address the Board. The speaker may initially use all of the time allotted to speak, or may speak and reserve a portion of the allotted time for rebuttal. Provided, however, that the proponents and opponents of each application shall have no less than six (6) minutes per side for presentation of date, evidence, and opinions thereon. If a speaker represents a group or organization or other entity, he/she may speak for ten (10) minutes provided no other person of entity may speak.

Each speaker shall speak only to the merits of the proposed application under consideration and shall address his remarks only to the member of the Board. Each speaker shall refrain from personal attacks on any other speaker or discussion of facts or opinions irrelevant to the proposed amendment under consideration. The Chair may limit or refuse a speaker the right to continue, if the speaker after first being cautioned continues to violate this subsection.

Nothing contained herein shall be construed as prohibiting the Chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed application is conducted in a fair and orderly manner.

These procedures shall be available in writing at each hearing.

Within fifteen (15) days following its recommendation, the Board shall notify the applicant and the governing authority, in writing of its recommendation. The governing authority shall act upon the recommendation of the Board within 30 days.

Standards for Considering Applications for Variance

Where the owner of a plot of land consisting of one (1) or more adjacent lots of record at the time of the enactment of this ordinance, does not own sufficient contiguous land to enable him/her to conform to the minimum lot size requirements of this ordinance; or if the topography,

physical shape, or other unique features of such lots or record prevent reasonable compliance with the setback if used as a building site upon approval of the governing authority, the yard and other spaces requirements of the Zoning District in which the property is located may be reduced by the smallest amount that will permit reasonable use of the property as a building site. Such reduction of these spaces requirements shall constitute a variance. However, in no case shall any lot in a residential Zoning District to be used as a building site which is less than seventy-five percent of the Zoning District's minimum area and yard requirements. Further the governing authority may grant variances only upon finding that all of the following conditions exist;

There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that do not apply generally to other land in the vicinity; and the strict application of the provisions of this title to this particular piece of property would create and undue and unnecessary hardship so that the grant of the variance is necessary of the preservation and enjoyment of a property right and not merely to serve as convenience to the applicant; and The special conditions and circumstances do not result from the actions of the applicant; and The benefits of granting the variance will be greater than any negative impacts on the development of the adjacent uses and will further the purposes and intent of this title and the comprehensive plan of the City of Winterville; and The variance requested is the minimum variance that will make possible the legal use of the land, building or structure. No variance shall be granted for the use of the land or building that is prohibited by this title nor shall it be granted for a variance from residential densities. In granting a variance, the governing authority may attach conditions which it finds necessary to protect the best interest of the surrounding property or neighborhood and to otherwise achieve the purpose of this title. The conditions to an authorized variance shall also be part of the public record and be a part of the requirements for an issuance of a building permit. Authorization of a variance shall be void after one (1) years unless a building permit has been issued and construction begun. No application for variance involving the same parcel of land once heard and acted upon by the governing authority shall be accepted for a rehearing until the expiration of at least six (6) months immediately following the decision by the governing authority.

Appeals from an Application for Variance

Any persons aggrieved by a decision by the governing authority shall file an appeal within thirty (30) days with the superior court pursuant to the provisions of Title 5 of the Official Code of Georgia Annotated.

APPENDIX III Planned Unit Development (P.U.D.)

Repealed: January 11, 2005

The Winterville City Sign Ordinance is a “stand-alone” City Ordinance; however, the Planning and Zoning Commission (P&Z) has been given certain powers of regulatory authority within this Ordinance. The latest version of the City Sign Ordinance (Signed February 9, 2010) may be found in Appendix I of the current City P&Z Ordinance Book.

The specific sections of the Sign Ordinance in which the Planning & Zoning Commission has been granted powers by the Mayor and Council are noted as follows:

Section 7. Removal of Nonconforming Abandoned or Illegal Signs

- a. General Provisions: Nonconforming signs which are damaged or destroyed may be rebuilt as they were before in terms of height, area, and location. In all other ways, including but not limited to construction and safety standards, such signs must be rebuilt in compliance with the provisions of this Ordinance unless such compliance is impossible, in which case the requirement shall be administratively varied by Planning and Zoning to the minimum possible.
- b. Relocation of Non-conforming Signs: If a nonconforming sign must be removed due to a city, county or state road improvement project, Planning and Zoning shall authorize the relocation of said sign even though the new location may not meet the setbacks, location and/or spacing or other provisions of this section. Nonconforming signs may not be moved for any other reason unless it is brought into compliance with existing regulations.

Section 9. Permits

- a. Signs with electrical wiring and connections The application for a permit for any sign in which electrical wiring and connections are to be used shall be applied for by a licensed electrician and reviewed by Planning and Zoning. Illuminated signs shall conform to the UL standards and shall have a UL sticker applied in a visible area on the metal edging of the sign. The sign manufacturer’s name and phone number shall also be displayed. Such signs shall be installed by a licensed electrician in conformance with the electrical code.
- b. Application for Sign Permit Such other information as Planning and Zoning shall require showing full compliance with this and all other laws and ordinances of the City of Winterville.
 - i. Such other information as Planning and Zoning shall require showing full compliance with this and all other laws and ordinances of the City of Winterville.

- c. Permit Issued Upon receipt of a complete application, the Planning and Planning and Zoning Commission shall examine such plans and specifications and other data and the premises upon which is proposed to erect the Sign.
- i. Once application is complete, the Planning and Zoning Commission shall either approve or deny the application at its next regular meeting provided said application is submitted at least 14 days prior to the next regular meeting. If no decision is issued at the regular meeting where the application is considered, the permit shall be deemed approved.

Section 11. Appeals

Any party aggrieved because of the alleged error in any order, requirement, decision or determination made by the Planning and Zoning Commission or any other party in enforcement of this ordinance, may appeal such order, requirement, decision, determination or interpretation in writing, to the Winterville City Clerk. Such notice of appeal must be submitted to the city clerk within thirty (30) days of the decision or the right to appeal shall be lost. The appeal shall be heard by the Mayor and Council within forty-five (45) days of a notice of appeal being filed with the clerk. In exercising this power, the Mayor and Council may, in conformity with the provisions of this ordinance, reverse or affirm any order, requirement, decision or determination made by the Planning and Zoning Commission or any other party. Appeals from the decision by the Mayor and Council shall be to the Superior Court of Clarke County, Georgia.

Section 12. Variances

- a. Variances after Denials
If a sign permit is denied by the P&Z Commission based on a regulation that can be varied, as an alternative to an appeal, a property owner or sign contractor may apply to the Mayor and Council for a variance by filing an application with the city clerk.