

ARTICLE 2. ADMINISTRATION

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8-17-2021, Ordinance No. 2021-15 (Sec. 2-3.11.3 deleted)

ARTICLE 2. ADMINISTRATION

Sec. 2-1. Administrative and decision-making bodies.

2-1.1. *City Council. Reserved.*

2-1.2. *Planning Commission.* The City of Perry Planning Commission, herein referred to as the Planning Commission or Commission, is created and established to be organized and empowered as provided herein.

2-1.2.1. *Membership; compensation.*

- A. The Planning Commission shall consist of seven (7) members who shall be residents of the City of Perry, Georgia. The Mayor and each Councilperson shall appoint one member to the Planning Commission at the first meeting in January at the beginning of the Mayor or Councilperson's term of office.
- B. The term of office of the member of the Planning Commission shall run concurrently with the term of office of the Mayor or Councilperson by whom the Planning Commission member was appointed.
- C. Any vacancy in membership shall be filled for the unexpired term by the Mayor or Council member who appointed the vacating member. The Mayor or Council shall have the authority to remove any member for cause, on written charges, after a public hearing.
- D. All members may receive compensation as determined by Mayor and Council.

2-1.2.2. *Officers.*

- A. Chair. The planning commission shall elect its chairperson from among its members. The term of the chairperson shall be one (1) year with eligibility for re-election. The Planning Commission shall also elect a vice-chairperson from among its members.
- B. Vice-chair. The planning commission shall elect a vice-chair from among its members. The term for the vice-chairperson shall be one (1) year with eligibility for re-election. The vice-chairperson shall serve as chair in absence of the chairperson.
- C. The Planning Commission shall appoint a secretary, who may be an officer or an employee of the City of Perry.

2-1.2.3. *Meetings; rules of procedure; records; finances.*

- A. Prior to the beginning of each calendar year, the planning commission shall establish its meeting schedule for the coming calendar year, which shall include the date, time, and place of the meetings. Meetings are not required to be conducted if there is no business to transact.
- B. The planning commission shall adopt rules of procedure governing its procedures and policies governing the conduct of meetings, calling special meetings, presentation of evidence, and other policies as necessary.
- C. All meetings of the planning commission shall be open to the public, except as allowed by law, and all records of the planning commission shall be public records.
- D. The planning commission may appoint such city employees as it may deem necessary for its work and may contract with the state planning agencies and other consultants for services as it may require.
- E. Expenditures of the planning commission, exclusive of gifts, shall be within the amounts appropriated for such purposes by the city council.

2-1.2.4. *Duties and responsibilities.* It shall be the function and duty of the Planning Commission to make such careful and comprehensive surveys and studies of existing conditions and probable future developments and to prepare such plans for physical, social, and economic growth as will best promote public health, safety, morals, convenience, prosperity, or the general welfare as well as efficiency and

economy in the development of its political jurisdiction. In particular, the Commission shall have the power and the duty to:

- A. Prepare and recommend for adoption a comprehensive plan of the City of Perry, and or parts thereof, including any updates to the comprehensive plan as may be necessary from time to time;
- B. Prepare and recommend for adoption a unified development code, which shall include a zoning ordinance and land development regulations, including any modifications to such unified development code as may be necessary;
- C. Prepare and recommend for adoption an official zoning map, including any modifications to such official zoning map as may be necessary;
- D. Prepare and recommend for adoption an official street map, including any modifications to such official street map as may be necessary;
- E. Initiate, review and make recommendations to the city council to approve, approve with conditions, or disapprove applications for rezoning, and text amendment;
- F. Review and make recommendations to the city council to approve, approve with conditions, or disapprove applications for annexation, and special exception;
- G. Hear and decide appeals where it is alleged there is error in any order, requirement, decision, or interpretation made by the administrator in the enforcement of this ordinance;
- H. Hear and approve, approve with conditions, or disapprove applications for variance;
- I. Prepare and approve a design and specifications manual;
- J. Study, consider and recommend to city council any matter referred to the commission by city council;
- K. Unincorporated areas adjacent to municipalities may be added to and included in the area under the jurisdiction of the Perry Planning Commission for general planning and for master plan preparation and for the preparation and administration of zoning ordinances or resolutions, land subdivision regulations, and official maps, provided that the governing bodies of the county and municipality shall agree to the boundaries of such additional areas, procedures for the adoption and administration of ordinances and resolutions, and regulations applying to the area, and the manner of obtaining equitable representation on the Perry Planning Commission. Such agreement shall be formally established by appropriate official action by the governing authorities involved; and
- L. The Perry Planning Commission may make, publish, and distribute maps, plans and reports and recommendations relating to the plan and development of its political jurisdiction to public officials and agencies, public utility companies, civic, education, professional and other organizations and citizens. It may recommend to the executive or legislative officials of its political jurisdiction programs for public improvements and the financing thereof. All public officials shall, upon request, furnish, to the Planning Commission, within a reasonable time, such available information as it requires for its work. The Planning Commission, its members and employees, in the performance of its functions, may enter upon any land, make examinations and surveys and place and maintain necessary monuments and marks thereon, provided, however, that the Planning Commission shall be liable for any injury or damage to property resulting therefrom. In general, the Planning Commission shall have powers as may be necessary to enable it to perform its functions and promote the planning of its political jurisdiction, including the authority to enter into agreements with political subdivisions and Planning Commissions, by whatever name known, in adjacent states.

2-1.3. *Main Street Advisory Board.* In addition to the provisions of Chapter 2. Article V, Division 5 of the Code of the City of Perry, Georgia, within the downtown development overlay district, the main street advisory board is authorized to:

- (A) Review and act on applications for Mural Permit;
- (B) Provide recommendations on Certificates of Appropriateness to the administrator.

2-1.4. *Duties and powers of the administrator.* The administrator shall have the responsibility of interpreting, administering and enforcing the provisions of the Ordinance unless specifically provided otherwise. In particular, the administrator shall have the following powers and duties under the Ordinance:

- A. *Authorization.* The administrator is authorized to review and make final decisions regarding permits and other development requests authorized in the Ordinance.

- B. *Duty.* It shall be the duty of the administrator to administer and enforce the provisions of the Ordinance.
- C. *Records.* The administrator shall keep records of actions on Comprehensive Plan amendments, Official Zoning Map or text amendments, variances, conditional use permits, appeals, and concept plans, preliminary and final plats, permits, licenses and Certificates of Occupancy along with notation of all special conditions involved. The administrator shall file and safely keep these records along with copies of all related applications, reviews, opinions, public hearings, sketches and plans submitted and other related documents that are to be made a part of the public record.
- D. *Review.* The administrator shall receive and review applications and plans for land disturbance permits, land development permits and building permits to ensure conformity with the requirements of the Ordinance and other relevant state and City regulations and approve, approve with conditions, or deny said applications within 30 days of receipt of complete applications, except where another time limit is specified for the type of action under review.

Sec. 2-2. Procedures.

- 2-2.1. *Variances and appeals of administrative decisions.* Applications for variances and appeals of administrative decisions shall be considered at a public hearing held by the Planning Commission for such purposes, following the adopted policies and procedures governing zoning hearings.
- (A) *Initiation of application.* An application for variance or appeal of an administrative decision may be initiated by the owner(s) of the subject property or their authorized agent(s). Any person aggrieved or affected by a decision or interpretation of the administrator may also initiate an appeal.
 - (B) *Application requirements.*
 - (1) An application for variance or appeal of an administrative decision must be submitted in writing to the administrator on the form provided by the administrator.
 - (2) The application shall be accompanied by plans, plats, photographs, or other documents as may be required by the administrator to fully understand the extent of the proposed variance or the grounds of the appeal.
 - (3) An application for appeal shall be filed within ten (10) business days of the date of the decision/interpretation being appealed.
 - (4) No application shall be scheduled for a public hearing until it is deemed complete by the administrator, including payment of any required fees established by council.
 - (C) *Public hearings.*
 - (1) The administrator shall cause to have posted in a conspicuous place on the property in question a minimum of one (1) "public hearing" sign for every 1,000 feet of road frontage, each of which shall not be less than six (6) square feet in area, and which shall state the date, time, place, and purpose of the public hearing. Such signs shall be placed on the subject property at least fifteen (15) days prior to but not greater than forty-five (45) days before the public hearing.
 - (2) The commission shall fix a reasonable time for the hearing of appeals or variances and shall decide the same within forty-five (45) days from the date of such public hearing at which the application was first heard.
 - (3) The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards of this chapter.
 - (4) Any person may appear at a hearing and submit testimony, either individually, or as a representative of a person or an organization.
 - (5) When considering a variance, the commission shall approve, approve with conditions, approve with modifications, or deny the application.
 - (6) When considering an appeal of an administrative decision, the commission shall, in conformity with the provisions of this ordinance, reverse or affirm, wholly or in part, or may modify the order,

requirements, decisions or determination of the administrator, and to that end, shall have all the powers of the administrator and may issue or direct the issuance of a zoning compliance permit.

(7) The planning commission may continue a hearing to a fixed date, time and place, subject to the time restriction for deciding an application listed above in section (C)(2).

(D) *Stay of legal proceedings.* An appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the administrator certifies to the commission after the notice of appeal shall have been filed with him that, by reason of facts stated in the certificate a stay would, in his opinion, cause imminent peril to life and/or property. In such case, a proceeding shall not be stayed other than by a restraining order which may be granted by said commission or by a court of record, on application, on notice to the official from whom the appeal is taken and on due cause.

(E) *Withdrawal of application.* Any petition for a hearing before the planning commission may be withdrawn prior to action thereon by said commission at the discretion of the person, firm or corporation initiating such a request upon written notice to the administrator. The fee for a withdrawn application shall not be refunded once public notice of the application has been initiated.

(F) *Time for reconsideration following denial.* When an application for variance is denied by the Commission, another application for variance on the same property shall not be considered for six (6) months from the date of the denied application.

(G) *Appeal to Superior Court.* Any person or persons severally or jointly aggrieved by any decision of the planning commission may take an appeal to the superior court.

2-2.2. *Amendments to the official zoning map, annexation and zoning of land, de-annexation of land, text amendments, and special exceptions.* Applications for amendments to the official zoning map, annexation and zoning of land, de-annexation of land, text amendments, and special exceptions shall be considered by the Planning Commission at an informational hearing to provide a recommendation to City Council. City Council shall conduct a public hearing on each application. Informational hearings and public hearings shall follow the adopted policies and procedures governing zoning hearings.

(A) *Initiation of application.*

(1) Amendments to the official zoning map and special exceptions may be initiated by the owner(s) of the subject property, the authorized agent(s) of the owner(s) of the property, by the city council, by the administrator, or by recommendation of the planning commission.

(2) Annexation and zoning of land may be initiated by the owner(s) of the subject property, their authorized agent(s), or by the city council through resolution and referendum or pursuant to a local act passed by the General Assembly.

(3) De-annexation of land may be initiated by the owner(s) of the subject property or their authorized agent(s).

(4) Amendments to the text of the ordinance may be initiated by city council, by the administrator, or by recommendation of the planning commission.

(B) *Application requirements.*

(1) An application must be submitted in writing to the administrator on the form provided by the administrator.

(2) An application shall be accompanied by plans, plats, photographs, or other documents as may be required by the administrator to fully understand the extent of the proposal.

(3) All applications shall be submitted to the administrator pursuant to established application submittal schedules included in the administrative manual.

(4) No application shall be scheduled for an informational or public hearing until it is deemed complete by the administrator, including payment of any required fees established by Council.

(C) *Informational hearings.*

- (1) For an informational hearing, the administrator shall cause to have posted in a conspicuous place on the property involved in an application a minimum of one (1) "informational hearing" sign for every one thousand (1,000) feet of road frontage, each of which shall be not less than six (6) square feet in area and shall include the date, time, place and purpose of the informational hearing. Such signs shall be posted on the subject property at least fifteen (15) days prior to but not greater than forty-five (45) days before the informational hearing.
- (2) Informational hearings for a text amendment to the ordinance are not subject to the sign posting requirements outlined in section (C)(1) above.
- (3) The planning commission shall hold an informational hearing and shall make a recommendation to City Council. A report of planning commission's recommendation accompanying a summary of the proceedings of the hearing shall be submitted to mayor and council.
- (4) The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards of this chapter.
- (5) Any person may appear at a hearing and submit testimony, either individually, or as a representative of a person or an organization.
- (6) The planning commission's recommendation shall be for approval, approval with conditions, approval with modifications, or denial of the application. For zoning amendments, the commission may include recommendations for conditions or limitations on uses appropriate to ameliorate the impact on the surrounding area and may recommend a less intense use or intermediate zoning classification. Where the applicant does not agree to such conditions or limitations on uses, the recommendation shall be interpreted as a recommendation for denial.
- (7) The commission shall have forty-five (45) days from the date of the informational hearing at which the application was first heard within which to submit a report to the council. If the commission fails to submit a report within the forty-five (45) day period, it shall be deemed to have recommended approval of the application.
- (8) The planning commission may continue a hearing to a fixed date, time and place, subject to the time restriction for submitting a report on an application to city council as listed above in section (C)(7).

(D) *Public hearings.*

- (1) The council shall hold a public hearing thereon provided that legal notice has been published in a newspaper of general circulation in the city no less than fifteen (15) days and no more than forty-five (45) days prior to the public hearing. Such published notice shall comply with the provisions of O.C.G.A. §36-66-4.
- (2) For a public hearing, the administrator shall cause to have posted in a conspicuous place on the property involved in an application, a minimum of one (1) "public hearing" sign for every one thousand (1,000) feet of road frontage, each of which shall be not less than six (6) square feet in area and shall include the date, time, place and purpose of the public hearing. Such signs shall be posted on the subject property at least fifteen (15) days prior to but not greater than forty-five (45) days before the public hearing.
- (3) The council shall hold a public hearing at the earliest possible time under the time limits spelled out above to consider the application.
- (4) The recommendations of the commission shall be read aloud into the minutes at the public hearing.
- (5) The applicant bears the burden of proof to demonstrate that an application complies with applicable approval standards of this chapter.
- (6) Any person may appear at a hearing and submit testimony, either individually, or as a representative of a person or an organization.

- (7) The council shall take action on the application within forty-five (45) days from the date of the public hearing by approving or disapproving the recommendation, by approving it with conditions, by approving it with modifications, by approving a less intense use or intermediate zoning classification, or by remanding the matter with instructions to the planning commission. For zoning amendments, the council may include conditions or limitations on uses appropriate to ameliorate the impact on the surrounding area and may approve a less intense use or intermediate zoning classification. Where the applicant does not agree to such conditions or limitations on uses, the application will be denied.
 - (8) Following remand, upon resubmission by the commission, the council shall hold a public hearing as described above and take final action on the request.
 - (9) City council may continue any hearing to a fixed date, time and place, subject to the time restriction for acting on an application as listed above in section (D)(7).
- (E) *Modification of application by applicant.*
- (1) *Prior to public hearing.* An application may be modified by the applicant any time prior to the administrator submitting the required notice for the public hearing for publication to the newspaper of general circulation. Such modification request must be in writing from the applicant and submitted to the administrator.
 - (2) *During the public hearing.* In response to questions or comments by persons appearing at the public hearing, or in response to suggestions or recommendations from the reviewing body, the applicant may agree to modify his application, including the plans and specifications submitted. Unless such modifications are so substantial or material that the reviewing body cannot reasonably perceive the nature and impact of the proposed modifications without having revised plans before it, the reviewing body may approve the application contingent upon receiving plans reflecting the agreed-upon changes. Any required permit will not be issued until the plans reflecting the agreed-upon modifications are verified by the administrator.
- (F) *Withdrawal of application.* Any application may be withdrawn prior to final action at the discretion of the person, firm or corporation initiating such request upon written notice to the administrator. The fee for a withdrawn application shall not be refunded once public notice of the application has been initiated.
- (G) *Time for reconsideration following denial.* When an application is denied by city council, the same type of application on the same property shall not be considered for six (6) months from the date of the denied application.

Sec. 2-3. Specific Application Requirements.

2-3.1. Official zoning district map amendments; annexation and zoning of land.

- (A) In reviewing a proposed amendment to the official zoning district map and taking action on said proposed amendment, the planning commission and city council shall consider the following standards governing the exercise of the zoning power as adopted in accordance with O.C.G.A. § 36-66-5(b):
 - (1) The existing land uses and zoning classification of nearby property;
 - (2) The suitability of the subject property for the zoned purposes;
 - (3) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
 - (4) The extent to which the destruction of property values of the subject property promotes the health, safety, morals or general welfare of the public;
 - (5) The relative gain to the public as compared to the hardship imposed upon the individual property owner;
 - (6) Whether the subject property has a reasonable economic use as currently zoned;
 - (7) 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;

- (8) Whether the proposed zoning will allow uses that are suitable in view of the uses and development of adjacent and nearby property;
 - (9) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
 - (10) Whether the zoning proposal is in conformity with the policies and intent of the Comprehensive Plan;
 - (11) Whether the zoning proposal will result in a use which will cause an excessive burden upon existing streets, transportation facilities, utilities, or schools; and
 - (12) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.
- (B) In reviewing an application for annexation and zoning of land and taking action on said application, the planning commission and city council shall consider the following standards:
- (1) The existing land uses and zoning classification of nearby property;
 - (2) Whether the proposed zoning will allow uses that are suitable in view of the uses and development of adjacent and nearby property;
 - (3) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
 - (4) Whether the zoning proposal is in conformity with the policies and intent of the Comprehensive Plan;
 - (5) Whether the zoning proposal will result in a use which will cause an excessive burden upon existing streets, transportation facilities, utilities, or schools; and
 - (6) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

2-3.2. Amendments to the text of the ordinance.

- (A) In reviewing an application for an amendment to the text of the ordinance and acting on said application, the planning commission and city council may consider the following standards:
- (1) Whether, and the extent to which, the proposed amendment is consistent with the Comprehensive Plan;
 - (2) Whether, and the extent to which, the proposed amendment is consistent with the provisions of this chapter and related city regulations;
 - (3) Whether, and the extent to which, there are changed conditions from the conditions prevailing at the time that the original text was adopted;
 - (4) Whether, and the extent to which, the proposed amendment addresses a demonstrated community need;
 - (5) Whether, and the extent to which, the proposed amendment is consistent with the purpose and intent of the zoning districts in this chapter, will promote compatibility among uses, and will promote efficient and responsible development within the city;
 - (6) Whether, and the extent to which, the proposed amendment will result in logical and orderly development pattern;
 - (7) Whether, and the extent to which, the proposed amendment will result in beneficial impacts on the natural environment and its ecology, including, but not limited to, water, air, noise, stormwater management, wildlife, vegetation, and wetlands; and
 - (8) Whether, and the extent to which, the proposed amendment will result in development that is adequately served by public facilities and services (roads, potable water, sewerage, schools, parks, police, fire, and emergency medical facilities).

2-3.3. *Planned unit development (PUD)*. Permitted uses for planned unit development districts are established in subsection 4-1.3 of this chapter. Use, area, bulk, and height requirements shall be determined by the procedures set forth in this section.

- (A) *Specific requirements*. In order to qualify for a planned unit development district zoning classification a proposed development area shall be in one ownership or management, or if in several ownerships, the application for amendment to this section shall be filed jointly by all of the owners of the properties included in the plan. Applications for planned unit development shall be submitted to the administrator pursuant to established application submittal schedules included in the administrative manual.
- (B) *Procedure for approval of a planned unit development (PUD) district*. The filing of a plan for a planned unit development shall follow the procedures for amendment to the official zoning map in Section 2-2.2 and shall meet the requirements specified in this section. In addition, the following regulations shall apply:
 - (1) Two (2) copies of a preliminary site plan shall be submitted to the commission.
 - (2) The commission shall review the proposals prior to submitting a recommendation to the council. The commission may make reasonable additional requirements including but not limited to utilities, drainage, landscaping, and maintenance thereof, lighting, signs and advertising devices, screening, access ways, curb cuts, traffic control, height and setback of buildings, to protect adjoining uses, or to protect the PUD from adjacent uses.
 - (3) Approval by the council subsequent to a public hearing constitutes creation of the planned unit development (PUD) district.
- (C) *Preliminary site plan required*. The preliminary site plan which accompanies an application for approval of PUD shall show the following:
 - (1) The proposed title of the project and the name of the engineer, architect, designer, or landscape architect, and the development.
 - (2) The north point, scale, and date; the scale of the site plan shall be as follows:
 - (a) For projects containing fifty (50) acres or more, not more than one hundred (100) feet to one inch.
 - (b) For projects containing less than fifty (50) acres, not more than fifty (50) feet to one inch.
 - (3) Existing zoning and zoning district boundaries and proposed changes in zoning.
 - (4) The boundaries of the property involved, the location of all existing easements, section lines, and property lines, existing streets, buildings and other existing physical features in or adjoining the project.
 - (5) The location and size of existing and proposed streets, alleys, driveways, curb cuts, entrances and exits, loading areas (including number of parking and loading spaces), and outdoor lighting systems.
 - (6) The location of proposed lots, setback lines, and easements, and proposed reservations for parks, parkways, playgrounds, school sites, and open spaces.
 - (7) The location and height of all proposed main and accessory buildings for all structures except single- and two-family dwellings.
 - (8) Location, height and material of all fences, walls, screens, plants and landscaping.
 - (9) Proposed location, intended use, and character of all buildings. For residential structures, show type and number of dwellings, and minimum square footage of single-family detached dwellings.
 - (10) Location, character, size and height and orientation or proposed signs.
 - (11) A location map showing the position of the proposed development in relationship to the surrounding area.

- (12) A tabulation of the total number of acres in the project, gross and net, and the percentage thereof proposed to be devoted to different dwelling types, commercial uses, other nonresidential uses, off-street parking, streets, parks, schools, and other public and private reservations.
 - (13) A tabulation of the total number of dwelling units of various types in the project and the overall project density in dwelling units per acre, gross and net, as required by district regulations.
 - (14) A detailed legal description of the location of the site.
 - (15) A discussion of the proposed standards for development including restrictions on the use of the property, density standards and yard requirements restrictive covenants. The commission may establish additional requirements for the preliminary site plan and in special cases, may waive a particular requirement if, in its opinion, the inclusion of that requirement is not essential to a proper decision on the project.
- (D) *Final plat required.* A final plat shall be recorded prior to submission of an application for a building permit. The plat shall comply with all laws, regulations, and resolutions governing the approval of subdivisions and, in addition, shall show all the features required on the preliminary site plan. A plat of development shall be recorded regardless of whether a subdivision is proposed. At least one of the final site plan maps shall include topographical contour lines at intervals no less than five (5) feet.
- (E) *Review standards.* The commission shall review plans for proposed planned unit developments for conformity with the comprehensive plan. Specifically, the proposed plan shall meet the following conditions.
- (1) The plan shall conform to the purpose and intent of this chapter as stated in section 1-3.
 - (2) Access to all developed property shall be sufficient to provide for an acceptable level of fire protection.
- (F) *Miscellaneous provisions.*
- (1) *Amendments and additions.* Amendments or additions to an approved plan or to the boundaries of the PUD shall be accomplished subject to the same regulations and procedures applicable to a new application.
 - (2) *Deed restrictions.* The commission may require filing of deed restrictions to help carry out the intent of this chapter.
- (G) *Site design requirements.*
- (1) *Location of district.* A PUD district may be established anywhere within the City of Perry, Georgia.
 - (2) *Site design, general.* The proposed development must be designed so as to produce an environment of stable and desirable character not out of harmony with its surrounding neighborhoods. The review by the commission shall consider the following design elements:
 - (a) *Privacy.* Personal and individual privacy shall be maintained and balanced with the provision of public and common areas.
 - (b) *Variety.* Interest and variety shall be sought by means of street design and changes in mixtures of building types, heights, facades, uses, setbacks, plants, or size of open space. The design should be harmonious as a whole and not simply from street-to-street.
 - (c) *Traffic and parking.* No through or commercial traffic should be permitted; streets should not be straight for long distances, but should curve so as to discourage fast movement of traffic; group parking areas should be screened as defined in section 6-3 so that the vehicles are substantially hidden from the street.
 - (d) *Lot area and lot width, general.* The commission will establish lot area and lot width. However, the minimum lot or width may not be reduced if the Houston County/Peach County Health Department determines that an increased area or width is necessary for health reasons.

- (e) *Setbacks.* The commission will establish setback requirements for all structures.
- (f) *Open space.* Open space should be incorporated into the PUD plan. It can be common areas, parks, recreational facilities, greenspace, landscape buffers, pedestrian trails, etc. The open space can be suitably improved or unimproved if containing natural features worth of preservation.
- (g) *Street standards.* All streets in the PUD plan should be standard streets.
- (h) *Other building requirements.* The commission shall determine other development standards.

2-3.4. *Designation of historic overlay districts.* The following criteria and procedures shall govern the designation of historic districts by the Mayor and Council. Applications for designation of historic overlay district shall be submitted to the administrator pursuant to established application submittal schedules included in the Administrative Manual.

- (A) *General criteria.* A geographically definable area, urban or rural, which contains structures, sites, objects, landscape features and works of art, or a combination thereof, which:
 - (1) Have special character or special historical or aesthetic interest or value;
 - (2) Represent one or more periods or styles or architecture typical of one or more eras in the history of the city, county, state or region; or
 - (3) Cause such area, by reason of such factors, to constitute a visibly perceptible area of the City of Perry.
- (B) *Boundary specifications.* The boundaries of any historic district shall be drawn so as to include all lands closely related to and bearing upon the character of the area to be protected, thus providing a landscaped unit and affording regulations needed to control potentially adverse environmental influences. They shall be included in each designation ordinance and shown on the official zoning maps of the City.
- (C) *Classification/Descriptions.* Records shall be maintained by the Commission describing the specific boundaries of each historic district as well as each property within a historic district and setting for the name(s) of the property owner(s). All buildings and structures shall be divided into three classes:
 - (1) *Contributing:* Those buildings possessing identified historical or architectural merit of a degree warranting their preservation and contributing to the significance of the district and more than fifty (50) years old.
 - (2) *Non-Contributing:* Those buildings and structures not classified as contributing due to age (less than fifty (50) years old) or integrity but which do not detract from the district. Those buildings and structures considered non-contributing because of age may later be considered as contributing.
 - (3) *Intrusion:* Those buildings and structures which are extremely out of context or character with the majority of buildings and structures in the district, whether by design, materials, scale, workmanship or other factors and which detract from the overall integrity of the district.

2-3.5. *Special exceptions.*

- (A) In reviewing a proposed application for a special exception, the planning commission and the city council shall consider the following standards, where applicable:
 - (1) The existing land use pattern.
 - (2) Whether the proposed use is consistent with the Comprehensive Plan.
 - (3) Whether all proposed structures, equipment or material will be readily accessible for fire and police protection.
 - (4) Whether the proposed use will be of such location, size, and character that, in general, it will be in harmony with the appropriate and orderly development of the area in which it is proposed to be situated and will not be detrimental to the orderly development of adjacent properties or a

deterrent to the improvement of adjacent properties in accordance with the zoning classification of such properties, the existing land use pattern or the Comprehensive Plan.

- (5) Whether, in the case of any use located in, or directly adjacent to, a residential district or area:
 - (a) The nature and intensity of operations will be such that both pedestrian and vehicular traffic to and from the use and the assembly of persons in connection therewith will not be hazardous or inconvenient to, or incongruous with, said residential district or area, or conflict with the normal traffic of the neighborhood; and
 - (b) The location and height of buildings, and other structures, and the nature and extent of screening, buffering or landscaping on the site will be such that the use will not hinder or discourage the appropriate development and use of adjacent land and buildings in conformance with existing zoning districts and development pattern.
- (6) Whether the proposed use will increase the population density resulting in the increase or overtaxing of the load on public facilities such as schools, utilities, streets, etc.; or approval of the use would encourage adjacent areas to develop at higher densities than provided in the comprehensive plan resulting in the overtaxing of such public facilities.
- (7) Whether the proposed use will cause a health hazard, a public safety problem, or create a nuisance or cause excessively increasing traffic and associated congestion; create a drainage problem; generate unnecessary disturbance due to noise, the emission of smoke or other contaminants, odor, electrical interference, or cause pollution to land, air and/or water.
- (8) Whether the proposed change will adversely affect property values in adjacent areas.
- (9) Whether there are substantial reasons why the property cannot be used for a permitted use in the district where the property is located.

2-3.9. *Conditional use permit.*

- (A) *Purpose.* Conditional uses are uses that are generally compatible with the other uses permitted in a zoning district, but require individual review of their location, design, configuration, and density and intensity of use, and usually require the imposition of conditions to ensure the appropriateness of the use at a particular location.
- (B) *Authority.*
 - (1) *General.* The administrator is authorized to review and decide on an application for a conditional use permit pursuant to this section.
 - (2) *Uses authorized.* Only those uses identified as conditional uses in subsection 4-1.2, table of uses, are authorized to be considered for conditional use permits under this section. The designation of a use as a conditional use in subsection 4-1.2, table of uses, does not constitute authorization that such use shall be approved as a conditional use permit pursuant to this section. Rather, each proposed conditional use shall be evaluated by the administrator for compliance with the standards set forth in this section, and the standards for the use in section 4-3, standards for specific uses.
- (C) *Procedure.*
 - (1) *Initial submission of application and staff review.* Application for conditional use permit shall be submitted in the form established by the administrator.
 - (2) *Review and action by administrator.* The administrator shall review and take action on the application consistent with the procedures and requirements of subsection 2-1.4, duties and powers of the administrator.
- (D) *Standards.* A conditional use permit shall be approved only upon a finding that the applicant has demonstrated all of the following standards are met:
 - (1) *Complies with use specific regulations.* The proposal must comply with the goals, policies, and standards of this chapter and, in particular, with the standards in section 4-3, standard for specific uses.
 - (2) *Facilities and services.* There is adequate infrastructure capacity available to serve the proposed conditional use (roads, potable water, sewerage, schools, parks, police, fire, and emergency medical facilities).

- (E) *Conditions of approval.* In approving a conditional use permit, the administrator may impose restrictions and conditions on the approval, the proposed use, and the premises to be developed or used pursuant to such approval as are required to ensure compliance with the general goals and policies of this chapter or with particular standards of this chapter to prevent or minimize adverse effects from the proposed development on surrounding lands. The restrictions and conditions imposed must be related in both type and scale to the impact that the proposed development would have on the public and surrounding development. All conditions imposed shall be expressly set forth in the permit approval.
- (F) *Inspection.* Upon completion of the development authorized by the permit, the applicant shall contact the administrator to inspect and verify compliance with the provisions of the ordinance and the conditions of the permit.
- (G) *Effect.* Issuance of a conditional use permit shall authorize only the particular conditional use that is approved in the permit. Unless limited by a condition of approval, a conditional use permit, including any conditions, shall run with the land and not be affected by a change in ownership.
- (H) *Expiration.* The administrator may prescribe a time limit within which the activity authorized by the permit shall begin or be completed, or both.
- (I) *Appeal.* An applicant may appeal the decision of the administrator with respect to the issuance of a conditional use permit pursuant to the provisions of subsection 2-3.7.
- (J) *Amendment.* A conditional use permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.

2-3.7. *Variances.*

- (A) In reviewing a proposed application for variance, the planning commission shall find that the application meets all the following standards:
 - (1) By reason of exceptional narrowness, shallowness, shape, topographical conditions, or other extraordinary situations or conditions peculiar to a specific parcel of property, the strict application of these regulations would result in peculiar or unusual, practical, difficulties to or exceptional or undue hardship upon the owner of such property;
 - (2) Such variance is the minimum reasonably necessary to overcome the aforesaid exceptional conditions;
 - (3) Such variance can be granted without substantial impairment to the intent, purpose, and integrity of this chapter and/or the comprehensive plan or other master plan adopted for the property;
 - (4) Such variance will not be detrimental to the use and enjoyment of adjoining or neighboring properties.
- (B) Nothing herein shall permit the commission to grant a variance to any setback or yard requirements for property zoned for commercial or industrial purposes when such property abuts or immediately adjoins any property zoned for residential purposes unless such residential property is proposed for commercial or industrial use in the Comprehensive Plan.
- (C) Variances cannot be granted for use of land or structures not permitted or prohibited, or to increase the density of development for a tract beyond that permitted by the zoning district.
- (D) If the hardship invoking the provisions of this section was the result of the applicant's intentional disregard or willful failure to comply with the terms of this ordinance, the commission may refuse to grant a variance.

2-3.8. *Certificate of Appropriateness.*

2-3.8.1. *Downtown Development District.*

- (A) *Application.* Application for a Downtown Development District Certificate of Appropriateness shall be made to the office of the administrator on forms provided therefore, obtainable from the office of the administrator. Detailed drawings, plans or specifications shall not be required but each application shall be accompanied by such sketches, drawings, photographs, descriptions, or other information showing

the proposed sign, exterior alterations, additions, changes of new construction as are reasonably required for the administrator.

- (B) *Action on application for certificate of appropriateness.* The administrator shall receive the application, together with the supporting information and materials, and act upon the application within 30 days after filing thereof; otherwise, the application shall be deemed to be approved and a Certificate of Appropriateness shall be issued. Nothing herein shall prohibit an extension of time where mutual agreement has been made. The administrator shall present the application for a Certificate of Appropriateness to the Downtown Development District Board of Review and the Board may advise the administrator and make recommendations in regard to the appropriateness. If the administrator approves the application, a Certificate of Appropriateness shall be issued. If the Certificate of Appropriateness is issued, the application shall be processed in the same manner as applications for building permits. If the administrator disapproves the application, a Certificate of Appropriateness shall not be issued. The administrator shall state its reasons in writing and shall advise the applicant and a Certificate of Appropriateness shall not be issued.
- (C) *Appeal provision.* Any person adversely affected by any determination made by the administrator relative to the issuance or denial of a Downtown Development District Certificate of Appropriateness may appeal such determination to the Planning Commission.

2-3.8.2. *Historic Overlay District.*

- (A) *Certificate of appropriateness required.* After a historic district is designated, no material change in the appearance of such historic district shall be made or be permitted to be made by the owner or occupant thereof, unless and until application for a certificate of appropriateness has been submitted to the Commission and approved. Such application shall be accompanied by such drawings, photographs, or plans as may be required by the Commission.
- (B) *Exemptions.* The Georgia Department of Transportation and contractors (including cities and counties) performing work funded by the Georgia Department of Transportation are exempt from the provisions of subsection (C) below and local governments are exempt from the requirement of obtaining certificates of appropriateness; however, the Mayor and Council shall notify the Commission forty-five (45) days prior to beginning an undertaking that would otherwise require a certificate of appropriateness and allow the Commission an opportunity to comment.
- (C) *Application review procedure.* Applications for certificates of appropriateness shall be reviewed in the following manner:
 - (1) *Development standards.* The Commission shall establish development standards regulating buildings and structures in the Historic District. A structure or building shall only be established, constructed, reconstructed, altered, demolished, moved or maintained in a manner consistent with the historical and architectural character of the district.
 - (2) *Exemption from hearing.* The administrator may approve Certificates of Appropriateness which are in conformance with performance criteria established by the Commission. The administrator may require a hearing before the Commission at his/her discretion.
 - (3) *Appeal to commission.* Any applicant whose Certificate of Appropriateness has been denied by the administrator may appeal the decision to the Commission.
 - (4) *Review criteria.* The Commission shall approve a certificate of appropriateness if it finds that the proposed material change in appearance is in accordance with any published guidelines; would not have a substantial adverse effect on the aesthetic, historical, or architectural significance and value of the historic property of the historic district. In making this determination, the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design, arrangement, texture and material of the architectural features involved and the relationship thereof to the exterior architectural style and pertinent features of other structures in the

immediate neighborhood. The Commission shall not consider interior arrangement or use having no effect on exterior architectural features.

- (5) *Commission recommendation.* The Commission shall approve or reject an application for a certificate of appropriateness within no more than thirty (30) days after the filing thereof by the owner or occupant of a historic property or of a structure, site, or work of art located within a historic district. Evidence of a recommendation for approval shall be by issuance of the certificate of appropriateness. Failure of the Commission to act within said thirty (30) days shall constitute approval. In the event the Commission rejects an application, it shall state its reasons for doing so and shall transmit a record of such notice and reasons therefore in writing, to the applicant. The Commission may suggest alternative courses of action it thinks proper if it disapproves of the application submitted. The applicant, if he or she so desires, may make modifications to the plans and may resubmit the application at any time after doing so.
 - (6) *Binding nature of decision.* In cases where the application covers a material change in the appearance of a structure which would require the issuance of a building permit, the rejection of an application for a certificate of appropriateness shall be binding upon the Building Inspector and, in such a case, no building permit shall be issued. Where, by reasons of natural circumstances, the strict application of any provision of this section would result in exceptional practical difficulty or undue hardship upon any owner of any specific property, the Commission in passing upon applications shall have power to vary or modify strict adherence to said provision or to interpret the meaning of said provision so as to relieve such difficulty or hardship; provided such variance modification, or interpretation shall remain in harmony with the general purpose and intent of said provisions so that the architectural or historical integrity or character of the property shall be conserved and substantial justice done. In granting variations, the commission may impose such reasonable and additional stipulations and conditions as will, in its judgment, best fulfill the intent of the historic district.
 - (7) *Appeal to city council.* Any person adversely affected by any determination made by the Commission relative to the issuance or denial of a Certificate of Appropriateness may appeal such determination of the Mayor and Council by filing a notice of appeal with the Council.
 - (8) *Public notice.* An appeal to the Mayor and Council of a Commission decision on a Certificate of Appropriateness shall require a public notice of said appeal. The administrator shall cause to have posted in a conspicuous place on the property one (1) or more signs with orange background and black lettering; each sign shall contain information as to the appeal and the date and time of the public hearing.
- (D) *Affirmation of existing building and zoning codes.* Nothing in this Ordinance shall be construed as to exempt property owners from complying with existing City building and zoning codes, nor prevent any property owner from making any use of his property not prohibited by other statutes, ordinances or regulations.
- (E) *Demolition or relocation of historic buildings.* The Commission shall have the authority to grant or deny certificates of appropriateness for demolition or relocation.
- (1) *Public hearing.* A public hearing may be scheduled for each application for a certificate of appropriateness for demolition or relocation.
 - (2) *Consideration of post-demolition or post-relocation plans.* The Commission shall not grant certificates of appropriateness for demolition or relocation without reviewing at the same time the post-demolition or post-relocation plans for the site.
 - (3) *Demolition/relocation criteria.* Upon receipt of an application for a certificate of appropriateness for demolition or relocation, the Commission shall use the criteria described in this ordinance to determine whether to deny the application or issue a Certificate of Appropriateness for demolition or relocation.
 - (4) The Commission shall approve the application and issue a certificate of appropriateness if it finds that the proposed material change(s) in the appearance would not have a substantial adverse effect on the aesthetic, historic, or architectural significance and value of the historic

property of the historic district. In making this determination, the Commission shall consider, in addition to any other pertinent factors, the historical and architectural value and significance, architectural style, general design arrangement, texture and material of the architectural features involved, and the relationship thereof to the exterior architectural style, and pertinent features of the other structures in the immediate neighborhood.

- (F) *New structures.* All new structures erected within a designated historic district shall be compatible in appearance, as seen by the traveling public, with existing structures located within one hundred (100) feet, on the same street, of the new structure. New structures shall not be required to be compatible with structures located outside of a designated historic district. The new structure shall be deemed compatible if the following features of the new structure are consistent with structures within one hundred (100) feet:
- (1) Finished floor elevation
 - (2) Roof heights
 - (3) Roof shapes
 - (4) Windows
 - (5) Architectural features
 - (6) Building facade
 - (7) Scale

2-3.9. *Zoning compliance permit.* The administrator shall issue a zoning compliance permit, which may be incorporated into the building permit issued under the building code adopted by the Council, for any permitted use of land or structural alteration provided such proposed use of land or structure, or structural alteration is in conformance with the provisions of this Ordinance.

- (A) An application shall be accompanied by two (2) copies of a dimensional sketch or a to-scale plan signed by the owner, or his authorized agent, to include, as a minimum the following; lot dimensions with property line monuments located thereon; shape, size, height, and location of the buildings proposed to be erected, demolished, altered, or moved, and of any buildings already on the lot; yard dimensions and the use of structures, including the number of dwelling units within each structure where appropriate; easements (private and public); watercourses; fences; street names and street rights-of-way lines; and such other information regarding abutting property as directly affects the application.
- (B) Each permit shall be conspicuously posted and displayed on the premises described in the permit during the period of construction or reconstruction.
- (C) If the proposed excavation, filling, construction, or movement set forth in said sketch or plan are in conformity with the provision of this ordinance, and other appropriate codes and ordinances of the Council then in effect, the administrator shall sign and return one (1) copy of the sketch plan to the applicant and shall issue a zoning compliance permit. The administrator shall retain one (1) copy of the zoning compliance permit and one (1) copy of the sketch or plan for his records.
- (D) If the sketch or plan submitted describes work which does not conform to the requirements of this ordinance, the administrator shall not issue a zoning compliance permit, but shall return one (1) copy of the sketch or plan to the applicant along with a signed refusal in writing. Such refusal shall state the reasons for refusal and shall cite the portions of this ordinance with which the submitted sketch plan does not comply. The administrator shall retain one (1) copy of the sketch plan and two (2) copies of the refusal.
- (E) Any zoning compliance permit shall automatically expire six (6) months from the date of issuance if the person, firm, or corporation to which the certificate or permit was issued has not clearly demonstrated that the permit is being exercised for the purpose for which it was issued, or if the work so authorized is suspended or discontinued for a period of one (1) year.

2-3.10. *Certificate of occupancy.* A certificate of occupancy shall be required in advance of occupancy or use of a building hereafter erected; a building hereafter altered so as to affect height, or side, front or rear yards; and or a change of type of occupancy or use of any building on premises.

- (A) *Issuance of certificate of occupancy.* The administrator shall sign and issue a certificate of occupancy if the proposed use of land or building, as stated on the application for such certificate and signed thereto by the owner or his appointed agent, is found to conform to the applicable provisions of this ordinance and the building, as finally constructed, complies with the sketch or plan submitted for the zoning compliance permit.
- (B) *Denial of certificate of occupancy.* A certificate of occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this Ordinance, or unless the building, as finally constructed, complies with the sketch plan upon which the Zoning Compliance Permit was issued.
- (C) A certificate of occupancy shall not be issued for any project, excluding single- and two-family dwellings, unless all aspects of construction, including, but not limited to, landscaping, building construction, stormwater management, and paving are inspected and found to conform to plans submitted to the zoning enforcement officer.

2-3.11. *Sign Permit.* All signs allowed by this ordinance, except those exempted from obtaining a permit shall require a permit issued by the City prior to posting, displaying, substantially changing, or erecting a sign in the City.

- (A) *Application information.* Applications for sign permits required by this ordinance shall be filed by the sign owner or the owner's agent with the administrator. The application shall describe and set forth the following:
 - (1) The street address of the property upon which the sign is to be located and a plat map of the property, drawn to scale, showing all existing structures, including existing signage and an indication of the proposed location of the sign.
 - (2) The aggregate area for all signs on the parcel.
 - (3) The name and address of all of the owner(s) of the real property upon which the subject sign is to be located.
 - (4) Consent of the owner, or the owner's agent, granting permission for the placement or maintenance of the sign.
 - (5) Name, address, phone number of the sign contractor.
 - (6) The type of sign to be erected, the area of the sign, the height of the sign, the shape of the sign, and an explanation of how the sign is to be mounted or erected.
 - (7) The distance of the sign from the closest adjacent sign in either direction.
 - (8) The size of the parcel on which the sign is to be placed.
- (B) *Time for consideration.* The City shall process all sign permit applications within thirty (30) business days of the City's actual receipt of a completed application and accompanying sign permit fee. The administrator shall give notice to the applicant of the decision of the City by hand delivery or by mailing a notice, by first-class mail, to the address on the permit application on or before the thirtieth (30th) business day after the City's receipt of the completed application and fee. If mailed, notice shall be deemed to have been given upon the date of mailing in conformity with this section. If the City fails to act within the thirty (30) business-day period, the permit shall be deemed to have been granted.
- (C) *Procedure for Denial and revocation.* The City shall deny permits to applicants that submit applications for signs that do not comply with the provisions of this ordinance, are incomplete applications, or applications containing any false material statements. Violation of any provision of this ordinance will be grounds for terminating a permit granted by the City for the erection of a sign. Should it be determined that a sign permit was issued pursuant to an incomplete application

or an application containing a false material statement, or that a permit has been erroneously issued in violation of this ordinance, the administrator shall revoke the permit. Should the City deny a permit, the reasons for the denial are to be stated in writing and mailed by first-class mail or via electronic delivery to the address on the permit application on or before the thirtieth (30th) business day after the City's receipt of the completed application. Any application denied and later resubmitted shall be deemed to have been submitted on the date of resubmission, instead of the date of the original submission. No permit shall be denied or revoked, except for due cause as hereinafter defined.

- (D) *Appeal to planning commission.* An individual whose permit application has been denied or a permittee whose permit has been revoked may appeal to the Planning Commission upon filing of a variance or administrative review application. Such appeal shall be considered by the Commission at the next Planning Commission meeting provided the posting requirements of subsection 2-3.7(C) are met.
- (E) *Appeal to superior court.* An individual whose permit has been denied or revoked by the Planning Commission may petition for writ of certiorari to the superior court as provided by law.
- (F) *Permit expiration.* A sign permit shall become null and void if the sign for which the permit was issued has not been completed and installed in accordance with the permit application within six (6) months after the date of issuance. No refunds will be made for permit fees paid for permits that expired due to failure to erect a permitted sign. If later an individual desires to erect a sign at the same location, a new application must be processed and another fee paid in accordance with the fee schedule applicable at such time.
- (G) *Fees.* The cost of a permit shall be in an amount as determined by Mayor and Council.

2-3.11. Subdivisions. The Commission shall be the official platting authority.

- (A) *Pre-application review.* Whenever the subdivision of a tract of land within the jurisdiction of the commission is proposed, the subdivider should consult early and informally with the administrator for advice and assistance. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision. The administrator shall return within fifteen (15) days the submitted sketch to the subdivider and shall inform the subdivider where the plans do not comply with the regulations set forth in the ordinance. No fee shall be charged for the pre-application review and no formal application shall be required.
- (B) *Modification of subdivision requirements.* Modifications of the provisions set forth in the subdivision regulations may be authorized by the Commission in specific cases when, in its opinion, undue hardship may result from strict compliance; provided only such determination shall be based fundamentally on the fact that unusual topographical and other exceptional conditions require such modifications will not adversely affect the general public or nullify the intent of these regulations; provided further that any such modifications granted by the Commission shall be made in writing to the subdivider and also made a part of the Commission's records and the plat. Application for any modifications must be filed in writing with necessary supporting documents with the reasons and facts supporting the application.

2-3.11.1. *Minor subdivisions.* Notwithstanding the provisions stated elsewhere in this ordinance the administrator is hereby delegated the authority to give preliminary and final approval in the name and on behalf of the Commission to applications for approval of a subdivision not exceeding five (5) lots in size provided no new street is involved; the required certifications have been approved by the appropriate agent; no variances are involved; and all the requirements set forth in this ordinance are met. Final approval may be given by the administrator on a plat that was preliminarily approved by the Commission.

2-3.11.2. *Preliminary Plats.* Prior to the cutting or grading of any street or the making of any street improvements or the installation of utilities, the subdivider shall submit to the Commission a preliminary plat of the proposed subdivision in accordance with the following.

- (A) *Application for preliminary plat approval.* Applications for preliminary plat shall be submitted to the administrator pursuant to established application submittal schedules included in the Administrative Manual.
- (B) *Review of preliminary plat.* The administrator shall check the plat for conformance to the rules and regulations of this ordinance and report his findings and recommendations to the Commission, which shall afford a hearing on the preliminary plat.
- (C) *Preliminary approval.* Following the hearing of the preliminary plat and other related material the Commission may express preliminary approval noting the conditions of such approval on three (3) copies of the preliminary plat with one (1) copy being returned to the subdivider, one (1) copy to the administrator for the Council and one (1) copy to be added to the records of the Commission. Approval of a preliminary plat does not constitute approval of a final plat. It indicates only approval of the layout as a guide to the preparation of the final plat.
- (D) *Automatic approval.* Failure of the Commission to act on the preliminary plat within thirty (30) days after submission thereof, without due cause, shall be deemed to be approval of the plat and a certificate of preliminary approval shall be issued by the Commission on demand, provided, however, that the subdivider may waive this requirement and consent to an extension of time.
- (E) *Disapproval.* Following the hearing of the preliminary plat and other related material, the Commission may find reasons detrimental to the public safety, health, and general welfare, or in conflict with adopted plans of the Commission which required the disapproval of the preliminary plat. A statement of the reasons for disapproval shall be made on two (2) copies of the preliminary plat with one (1) copy being added to the records of the Commission. The applicant may reapply for preliminary plat approval in accordance with section 2-3.11(A) herein.
- (F) *Expiration time.* Preliminary approval shall expire and be of no further effect twelve (12) months from the date of the preliminary approval unless final plat approval has been given on at least one (1) lot of the development.

2-3.11.3. Reserved.

2-3.11.4. *Final Plats.* After completion of the physical development of the subdivision or the posting of a performance bond the subdivider shall submit to the administrator a final plat in accordance with the following procedure:

- (A) *Application for final plat approval.* After the preliminary plat of a proposed land subdivision has been given preliminary approval by the Commission, the subdivider may within one (1) year or within such additional time as may be granted by the Commission, submit the following to the administrator:
 - (1) Application for final plat.
 - (2) Four (4) printed copies of the final plat with signed certifications and other documents as specified in the administrative manual.
 - (3) A final plat filing fee.
- (B) *Review of the final plat.* The administrator shall check the plat for conformance with the approved preliminary plat, and with regulations of this ordinance.
- (C) *Approval.* The administrator shall approve application for final plat, if consistent with the preliminary plat approved by the Commission, and once the required certifications have been approved by the appropriate approving agents as required in the administrative manual.
- (D) *Disapproval.* The administrator may find the final plat in conflict with the approved preliminary plat or with this ordinance requiring the disapproval of said plat. The disapproval shall be placed on two (2) copies of the final plat with one (1) copy being returned to the subdivider and one (1) copy being added to the public record. No certificate of approval shall be given. The final plat may be resubmitted as a new application for final plat approval after the corrections noted are made.

- (E) *Automatic approval.* Failure of the administrator to act on the final plat within thirty (30) days after submission of a complete application thereof shall be deemed to be approval of the plat and a certificate of final approval shall be issued by the administrator on demand, provided, however, that the subdivider may waive this requirement and consent to an extension of time.
- (A) *Recording of final plat.* Upon the approval of a final plat, the owner or his agent, shall have the final plat recorded in the Office of the Clerk of the Superior Court prior to the sale of any lot in the subdivision. Failure to record the final plat after thirty (30) calendar days from the final approval will result in the administrator recording the final plat in the Office of the Clerk of the Superior Court. Upon recording of the final plat, a copy of any private covenants or deed restrictions shall be provided by the sub-divider for the public record.

2-3.12. *Land disturbance permit.*

- (A) General.
 - (1) Purpose. The purpose of this subsection is to ensure that no development or development activity disturbs or alters the surface of land in the city without a land disturbance permit approved pursuant to this section.
 - (2) Authority. The administrator is authorized to approve, approve with conditions or disapprove an application for a land disturbance permit. Conditions imposed by the administrator shall be reasonable to ensure compliance with the requirements of applicable regulations.
 - (3) Applicability. No development activity, unless exempted pursuant to subsections 7-1.4(A)(3), 7-2.2 and or 7-3.4(E), shall disturb or alter, for any purpose, the surface of land in the city without a land disturbance permit.
 - (4) Action by administrator. The administrator shall review and take action on the application for a land disturbance permit.
 - (5) Responsibilities of the applicant.
 - (a) During any land-disturbing operation the applicant shall be responsible for carrying out the proposed work in accordance with the permit, approved plan, specifications, and time schedule in compliance with all the requirements of this chapter and any other state or federal permit.
 - (b) The applicant shall maintain on-site at all times the stamped and approved set of plans from the city for the permitted land-disturbing activity.
 - (6) Inspection.
 - (a) Representatives of the city are authorized to enter upon any land or water to inspect development activity, to verify the existing conditions of a development site, and to verify compliance with this chapter whenever the city deems necessary.
 - (b) The applicant shall contact the administrator to inspect and verify compliance with the provisions of this chapter and the conditions of the permit prior to initiating any activity, once construction is complete, and any other time as determined by the administrator, design and specifications manual, city specifications, or the regulations of this chapter.
 - (c) All public infrastructure or work within the right-of-way must be approved by the administrator or be replaced to the standards of the design and specifications manual, city specifications, or the regulations of this chapter.
- (B) Administrative procedures for subdivision improvements. The administrative procedures for installing the subdivision improvements required herein shall be as follows:
 - (1) *When construction may begin.* Construction and installation of any required public improvement as described herein shall not begin until the Commission has given Preliminary Approval of the new subdivision and a land disturbance permit has been issued by the administrator. The subdivider shall then confer with the administrator to determine the method and estimated cost of the construction and installation of the required improvements.
 - (2) *Plans to be filed with the council.* Four (4) copies of all plans for streets, sanitary sewers, storm sewers, sidewalks, and other required public improvements showing the proposed plan and profile of each shall be submitted to and approved by the Planning Commission prior to beginning construction and installation of the system. The plan shall be prepared from an

actual engineering survey, originating at the existing street, sewer, sidewalk and other required public improvements prepared on standard plan and profile sheets showing cross-sections. Each system for any one (1) new subdivision shall be prepared by a registered professional engineer.

- (3) *Inspections and approval by the council.* During the construction and installation of the required public improvements, the administrator shall from time to time make field inspections and supervise said work as predetermined and agreed upon by the administrator and the subdivider. After completion of all the construction and installation of the required public improvements and if said work has met the specifications as described herein, as determined by the administrator, the administrator shall notify the subdivider in writing of the approval of said work.
- (4) *Official acceptance by the council.* The Council, by resolution, may officially accept the completed work on the construction and installation of required public improvements only on those subdivisions requested and recommended for acceptance by the Public Works Department. Only publicly maintained improvements shall be accepted by the Council.
- (5) *Letter of credit.* If the subdivider does not wish to construct and install any required public improvements as described herein prior to submitting the subdivision plat to the Commission for final approval, the subdivider may post a letter of credit with the City in an amount equal to the estimated costs of completing such unfinished improvements plus twenty (20) percent. The value of the letter of credit shall be established by the administrator.

The duration of the letter of credit will be established by the administrator. Fifteen (15) days prior to the expiration of the letter of credit, the administrator will notify the financial institution of possible default. If unfinished improvements are not completed by the end of the duration period, the letter of credit will be deemed to have been forfeited and the financial institution will be required to immediately pay all amounts due to the City.

(6) *Maintenance of Completed Work.*

- (a) *Letter of credit.* A letter of credit is required for residential plats and other projects for which maintenance of the improvements is to ultimately be taken over by the city.

Prior to the final approval of construction a letter of credit must be posted and maintained by the project owner for a period of two (2) years. The letter of credit shall guarantee the improvements constructed under permit against design defects and/or failures in workmanship, and shall guarantee that the facilities constructed under the permit will be regularly and adequately maintained throughout the maintenance period. At the end of this time, the city will inspect the system and, when the facility is acceptable and sixty (60) percent of the lots in that phase have been issued certificates of occupancy, the city will take over the maintenance and operations of the system. In the event that sixty (60) percent of the lots in a residential development have not been issued certificates of occupancy by the end of the two-year maintenance period, the letter of credit may be extended, subject to the approval of the zoning enforcement officer, for additional years.

The amount of the letter of credit shall be at least ten (10) percent of the estimated construction cost of the subdivision improvements requiring maintenance, or an amount as determined by the public works department after field investigation and observation, whichever is greater. The construction cost of the facilities requiring maintenance shall be estimated by the public works department.

- (b) *New development.* For developments with multiple phases of construction or developments accessing through existing subdivisions, the zoning enforcement officer may require a letter of credit to be posted and maintained by the project owner for a period of two (2) years if the previously approved subdivision is used as access for construction traffic for the development of future phases or new subdivisions. The letter of credit, in an amount determined by the public works department, shall be submitted with

the next phase plans and shall remain in effect until such time as sixty (60) percent of the new subdivision lots are issued certificates of occupancy.

(7) *Cost of improvements.*

(a) *Subdivider's responsibility.* The subdivider shall incur the cost of construction and installation of all required public improvements based on the following:

1. *Streets.* Incur the cost for the construction of streets up to twenty-seven (27) feet in pavement width from back of curb to back of curb or twenty-four (24) feet in pavement width from the edge of pavement to edge of pavement if no curbs and gutters are installed.
2. *Water and Sewer Systems.* Incur the cost for the installation of all water and sewer systems which is required to serve the new subdivision and tie in with existing water and sewer systems, based on the specifications set forth herein.
3. *Monuments.* Entire cost.

(b) *Council's responsibility.* The Council shall partially participate in sharing the cost of construction and installation of required public improvements for the following conditions.

1. *Streets.* Incur cost for any additional required pavement which in excess of twenty-seven (27) feet for street with curbs and gutters and in excess of twenty-four (24) feet for streets without curbs and gutters, and any additional grading and paving related thereto.

(c) *Property owner's responsibility.* Whenever the Council is petitioned by the property owners to upgrade existing substandard street to a standard street, the property owners shall then incur the entire cost for said improvements based on footage along the property line of each lot abutting the street which is being improved and on the requirements in subsection (7)(a) above.

(d) *Estimated costs for construction and installation.* The current unit prices in effect at the time of submission of plans shall be used in determining the total estimated cost for construction and installation of required public improvements in new subdivisions.

(8) *As built plans.* The developer will provide the City of Perry two (2) sets of "as built" plans based upon actual work constructed. Record drawing will show references for valve and manhole locations, distances between manholes and utility service locations.

2-3.13. *Private Development.*

(A) *Standards.* All private developments shall comply to the technical standards in Sec. 6-11.

(B) *Permits Required.* It shall be unlawful for any person to construct, alter or extend any private development within the limits of Perry, Georgia unless the zoning enforcement officer issues a valid permit. Construction must begin within one hundred eighty (180) days after issuance of the permit.

(C) *Applications.* All applications for permits for private developments shall be submitted to the zoning enforcement officer of Perry, Georgia, after submission and approval of the final site plan.

(D) *Site Plan.* A private development site plan layout shall be drawn at a scale no smaller than one hundred (100) feet to one (1) inch and shall show the following information:

- (1) Five (5) black or blue line prints of the final site plan shall be submitted and shall contain the following information:
 - (a) Name and address of applicant.
 - (b) Name and address of the owner of the land.

- (c) Location (vicinity map) and legal description of the private development.
 - (d) North arrow.
 - (e) The area and dimensions of the tract of land.
 - (f) The number, location and size of all lots.
 - (g) The location, width and area of roadways, parkways, streets, driveways and walks.
 - (h) The location of service buildings and any other proposed structures.
 - (i) Location and design of parking spaces.
 - (j) Gross density.
- (2) Approval of the final site plan shall be noted on all five (5) prints and attested to by the signature of the administrator. Three (3) prints shall be returned to the applicant, and two (2) prints retained in the files of the administrator.

Before acting on the site plan layout, the administrator may request a report from any person or agency directly concerned with the proposed development, such as the district highway engineer, superintendent of schools, and public utilities. Such reports shall certify compliance with or note deviations from the requirements of this chapter, and include comments on other factors which bear upon the public interest. The responsibility of securing said reports is that of the administrator.

Any time after approval of the final site plan by the administrator, application may be made for a permit for the construction of the private development. Five (5) complete sets of construction plans shall be submitted to the administrator containing the following:

- (1) The approved final site plan.
- (2) Location of water and sewer lines and user pipes and manholes.
- (3) Plans and specifications of the water supply, sewer lines, storm drainage system, refuse and sewerage disposal facilities.
- (4) Plans and specifications of all buildings to be constructed, altered or extended within the private development.
- (5) The location and details of lighting and electrical systems.

Upon review of the application the administrator shall issue a permit when a review of the application and inspection of the site demonstrates that the proposed or existing private development meets the requirements of this chapter.

(C) *Revocation of Permits.* Any permit for a private development may be revoked when it is found to be in violation of this chapter.

- (1) Should the administrator find that conditions exist which are in violation of any provision of this section, he shall give notice to the permittee or owner that unless such conditions or practices are corrected within thirty (30) days, the permit will be revoked.
- (2) If at the end of thirty (30) days, a further inspection reveals that the conditions or practices have not been corrected, the administrator shall then revoke the permit and give notice of such suspension in writing to the permittee or owner. Upon notice of revocation, the permittee or owner shall cease operation and/or construction of the private development.

(D) *Inspections.*

- (1) The administrator is hereby authorized and directed to make such valid inspections as are necessary to determine satisfactory compliance with this chapter.
- (2) The administrator shall have the power to enter at reasonable times upon any public property for the purpose of inspecting and investigating conditions relating to enforcement of this chapter. The

administrator shall have the power to enter at reasonable times upon any private property provided that the officer has probable cause that a violation or violations of this code section has occurred. For the purposes of this code section, conditions which appear to be in violation of this Code section which are in plain view may form the basis for probable cause.

- (3) The administrator may request inspections by and verifications of compliance from the department of public health or any of the rules and regulations of state and/or local health department. Representatives of the department of health shall have the same powers of entry and inspection as provided for zoning enforcement officer.
- (4) The health officer's representative, upon finding by inspection existing violations of requirements relating to the protection of health and/or safety of residents of the private development, shall notify the administrator of such violations and requirements for corrections. The administrator shall then proceed with enforcement under the provisions of appropriate sections of these regulations.

(E) *Existing Private Developments.*

- (1) Private Development operating permitted prior to passage of this section may continue to operate under the terms of such permit or license except that such developments must comply with the standards required by the following subsections: (C) and (D) above, (F) and (G) below, and section 9-7.
- (2) Expansion of the capacity of an existing private development shall require full compliance with section 2-3.13.

(F) *Appeals.*

- (1) *Petition.* Any person affected by any notice which has been issued in connection with the enforcement of any provision of this section relating to private developments, or of any regulation adopted pursuant thereto, may request and shall be granted a hearing on the matter before the planning commission, provided that such person shall file with the administrator a written statement of the grounds for such request. The filing of the request for a hearing shall operate as a stay of the notice and the suspension except in the case of an order issued under subsection (G) below. Upon receipt of such request, the planning commission shall set a time and place for such hearing and shall give the petitioner written notice thereof.
- (2) *Hearing.* At such hearing, the petitioner shall be given an opportunity to be heard and to show why such notice should be modified or withdrawn.
- (3) *Order of Planning Commission.* After such hearing, the planning commission shall make findings as to compliance with the provisions of this section and regulations issued thereunder and shall issue an order sustaining, modifying or withdrawing the notice. Upon failure to comply with any order sustaining or modifying a notice, the certificate of occupancy affected by the order shall be revoked.

- (G) *Emergencies.* Whenever the administrator finds that an emergency exists which requires immediate action to protect the public health, including violations of any of the applicable rules and regulations of the department of public health or Georgia Department of Public Health, he may without notice or hearing issue an order reciting the existence of such an emergency and requiring that such action be taken as he may deem necessary to meet the emergency including the suspension of the permit or license. Notwithstanding any other provisions of this section, such order shall be effective immediately. Any person to whom such an order is directed shall comply therewith immediately, but upon petition to the planning commission, he shall be afforded a hearing as soon as possible.

The provisions of subsection (F) above shall be applicable to such hearing and the order issued thereafter.

- (H) *Variances.* Where, because of topographical or other conditions peculiar to the site, strict adherence to the provisions of this section would cause an unnecessary hardship, the planning commission may authorize a variance, if such variance can be made without destroying the intent of these regulations. In

granting variances, the planning commission may impose such conditions as will, in its judgment, secure substantially the objective of the standards of requirements so varied.

Sec. 2-3.14. *Mural permit.*

- (A) *Purpose.* Because murals on exterior walls become de facto public art, the purpose of a mural permit is to provide a reasonable process of review that safeguards both the interests of the community and those of the individual building/property owner. The standards for evaluating murals are designed to assure that murals within the City of Perry enhance the community's appearance, promote its history, economic development and agri-tourism, without confusing drivers and pedestrians or causing any other negative impact on public safety or welfare.
- (B) *Authority.*
- (1) *Main street advisory board.* The main street advisory board is authorized to review and decide on an application for a mural permit pursuant to this section when the mural is to be located in the downtown development overlay district.
 - (2) *Administrator.* The administrator is authorized to review and decide on an application for a mural permit pursuant to this section when the mural is to be located outside the downtown development overlay district.
- (C) *Procedures.*
- (1) *Initial submission of application.* Application for mural permit shall be submitted to the administrator in the form established by the administrator.
 - (2) *Review and action by the main street advisory board.* The main street advisory board shall consider an application for mural permit at a regularly-scheduled meeting of the board, or a meeting called for such purpose. The main street advisory board shall consider the application, the relevant support materials, the staff report, and information presented at the meeting. The main street advisory board shall approve, approve with modifications, approve with conditions, or disapprove the application based on the standards in subsection 2-3.14(D), standards.
 - (3) *Review and action by the administrator.* The administrator shall review and take action on the application for mural permit consistent with the procedures and requirements of subsection 2-1.4, duties and powers of the administrator and on the standards in subsection 2-3.14(D), standards. The administrator may solicit advice from individuals, boards, or other organizations as he deems necessary to carry out the provisions of this section.
- (D) *Standards.* A mural permit shall be approved only upon a finding that the applicant has demonstrated all of the following standards are met:
- (1) *Content, design and location.*
 - (a) A mural shall not be a sign which includes words, letters, figures, symbols, or logos which advertise, identify, direct or attract attention to a business, institution, organization, person, idea, product, or service. Directional elements, such as super graphics, signage and color-coding shall not be allowed, except where these elements are an integral part of the work of art. Work that portrays school, team, corporate or organizational mascots, and art that has singularly religious or sectarian purposes shall not be allowed. The mural artist's signature may appear, provided that it is not so prominent as to detract from the mural display.
 - (b) Murals shall have relevance to the building, the neighborhood or to Perry, its values, culture, and people, and contribute to the fabric of the city. Murals should be based on the natural beauty of Perry and its surroundings; Perry's history or historic figures; local agriculture; or other relevant themes.
 - (c) Murals must be of appropriate scale. Mural size shall be determined by the wall surface to be covered. Smaller walls may be completely covered. On large walls, murals should be large enough to dominate the wall surface, but not so large as to overwhelm the local streetscape.

- (d) A mural must be composed of one cohesive design, not disparate elements. Generally, only one mural will be permitted per structure.
- (e) Colors, though vibrant, should be complimentary and harmonious with the exterior colors of the building structure, as well as consistent with the chosen theme. Neon, fluorescent, or reflective-type paints or materials are discouraged. In the Downtown Development Overlay District colors should complement the approved color palette for this district.
- (f) A mural shall be an original work of art. If the artwork is a multiple, it will only be accepted if it is a limited edition. Reproductions; unlimited editions; decorative, ornamental and functional elements of architecture shall not be allowed.
- (g) Relationship to the building on which a mural is proposed. A mural, by its design, construction, and location, shall not obscure or detract from the significant architectural features of the building structure; nor should the building's architecture be altered to accommodate the mural. A mural should not obscure windows or entranceways.
- (h) A mural may be painted on an appropriate substrate and attached to the building. A mural should not be painted on a brick or stone wall that has not been previously painted.
- (i) A mural, by its design, construction, and location, shall not have an adverse impact on adjacent properties or permitted uses. It should not be so large as to overwhelm adjacent architecture or become a visual distraction.
- (j) A mural shall not be located in a residential zoning district.
- (k) A mural should be located in a site where it will enhance and activate the pedestrian and the streetscape experience. The proposed site should be one with high levels of pedestrian traffic and is part of the city's circulation paths or should help to create a place of congregation and activity. A map of appropriate locations for murals may be provided by the City.
- (l) A mural should not cause distraction for pedestrians or drivers, nor should it cause any other negative impact on public safety and welfare.

(2) *Construction and Maintenance.*

- (a) The mural shall be designed and painted by a qualified artist/muralist with a successful track record of construction and installation of murals.
- (b) Murals shall be well designed and incorporate high-quality materials that enhance the overall appearance of the site. Materials may include paint or other media appropriate for exterior use, such as tile or mosaic. Materials shall be long-lasting and graffiti-resistant to the greatest extent possible.
- (c) Consideration of the structural and surface soundness, operational costs, and inherent resistance to nuisance, vandalism, weathering and excessive maintenance of the artwork.
- (d) If a substrate material is proposed, the material shall be appropriately weather resistant, and the method of attachment shall not permanently damage the building.
- (e) An acceptable plan for routine maintenance shall be submitted. Routine maintenance of an artwork becomes the responsibility of the owner of the building on which the artwork is located. The artist should develop a maintenance program in coordination with the building owner for the proper long-term care of the artwork.

- (E) *Conditions of approval.* In approving a mural permit, the decision-making body may impose restrictions and conditions on the approval and the premises to be altered pursuant to such approval as are required to ensure compliance with the general goals and policies of this chapter or with particular standards of this chapter to prevent or minimize adverse effects from the mural on surrounding lands. The restrictions and conditions imposed must be related in both type and scale to the impact that the proposed mural would have on the public, the particular structure and surrounding lands. All conditions imposed shall be expressly set forth in the permit approval.

- (F) *Inspection.* Upon completion of the mural authorized by the permit, the applicant shall contact the administrator to inspect and verify compliance with the provisions of the ordinance and the conditions of the permit.
- (G) *Effect.* Issuance of a mural permit shall authorize only the particular mural that is approved in the permit. The mural permit shall authorize the approved mural for three (3) years from the permit approval date. The decision-making body may extend the permit in increments not exceeding three (3) years based on condition and maintenance of the mural.
- (H) *Expiration.* The decision-making body may prescribe a time limit within which the mural authorized by the permit shall begin or be completed, or both. If a time limit is not prescribed by the decision-making body, the mural authorized by the permit shall be completed within ninety (90) days of the permit approval date.
- (I) *Appeal.* An applicant, or other aggrieved party, may appeal the decision of the decision-making body with respect to the issuance of a mural permit to City Council. A written statement documenting the basis of the appeal shall be submitted to the administrator within 30 calendar days of the date of the decision.
- (J) *Maintenance.* If, for whatever reason, the mural falls into disrepair, including but not limited to, graffiti, peeling paint, or fading, the building owner shall be notified of the violation in writing and required to make necessary repairs within thirty (30) days. If the repairs are not made within the specified time, the city reserves the right to repair or remove the mural at the building owner's expense. The process found in Section 10-6.4 will be followed.
- (K) *Amendment.* A mural permit may be amended, extended or modified only in accordance with the procedures and standards established for its original approval.