

ARTICLE VII  
EXCEPTIONS AND MODIFICATIONS

Section 700. Walls and Fences.

Walls and fences shall be permitted in any zoning district and are not subject to the side and rear setback requirements of this Resolution, except that:

- A. Fences shall be erected only upon application to and with permit issued by the Department of Planning and Development of the City of Dacula. Said permit shall be issued upon application and payment of the required application fee. Said fence shall comply with all existing ordinances of the City of Dacula and shall be constructed in such a manner as to not obstruct a view of adjoining property owners entering or leaving a public right-of-way or street. Adequate provisions shall be made for access of normal utility service, including garbage collection, water and other utility meters and mail delivery. No fence may interfere with required off-street parking. All wooden or structural fences must be constructed in such a manner that the exterior of the fence or the side of the fence visible to the public is the finished side of the fence. Fences or walls shall not be constructed of exposed concrete block, tires, junk or other discarded materials.
- B. Walls or fences in a Residential Zoning District:
  - 1. No wall or fence shall exceed eight feet in height within a side yard or rear yard, and must be constructed in such a manner that the exterior of the fence or the side of the fence visible to the public is the finished side of the fence.
  - 2. Fences located in front yards adjoining street rights-of-way of residential zones shall be ornamental or decorative and constructed of brick, stone, wood, stucco, wrought iron, split rail, and shall not exceed four (4) feet in height. Rear yards of through lots which adjoin a street right-of-way shall not be interpreted to be a front yard.
  - 3. Any subdivision entrance, wall or fence shall not exceed twelve (12) feet in height (monuments or columns) and be only eight (8) feet at wall height: and shall be subject to approval of the City Administrator, after the submission to the City of a landscape plan, site plan and architectural elevations.
  - 4. Electric and barb wire fences shall be prohibited in residential districts.

Section 701. Structures Excluded from Height Limitations.

The height limitations of this Resolution shall not apply to church spires, belfries, flagpoles, monuments, cupolas, domes, ornamental towers, nor to observation towers not intended for human occupancy, water towers, transmission towers, radio or television towers or aerials, chimneys, smokestacks, conveyors, derricks, parapet walls extending not more than four (4) feet above the roof line of the building, or to necessary mechanical roof appurtenances.

Section 702. Substandard Lots of Records.

Any lot of record existing at the time of the adoption or amendment of this Resolution, which has an area or a width that is less than is required by this Resolution, may be used, subject to the following exceptions and modifications:

- A. Adjoining lots. When two (2) or more adjoining lots of record with continuous frontage are in one (1) ownership at any time after the adoption or amendment of this Resolution and such lots, individually, have an area or width that is less than required by this Resolution, such groups of lots shall be considered as a single lot or several lots of the minimum width and area required in the district in which they are located.
- B. Individual lot that does not meet the minimum lot size requirements. Except as set forth in subsection 1. of this section, in any district in which single-family dwellings are permitted, any lot of record existing at the time of adoption or amendment of this Resolution, which has an area, width or depth less than that required by this Resolution, may be used as a building site for single-family dwelling.

In the case of such a lot, when it is not possible to provide the required side yards and at the same time build a minimum width single-family dwelling, the City Administrator is hereby authorized to reduce the side yard requirements for such lot the minimum amount necessary for a reasonable dwelling, but in no case shall each of the side yards be less than five (5) feet in width.

Section 703. Reduction of Front Yard Requirements.

The front yard requirements of this Resolution shall not apply on any lot where the average depth of the front yard of existing buildings located wholly or in part within one hundred (100) feet on each side of such lot within the same block or zoning district and fronting on the same side of the street is less than the minimum required front-yard depth. In such cases, the depth of the front yard on such lot may be less than the required front-yard depth but shall not be less than the average of the front yards of the aforementioned existing buildings. However in no case shall the front yard setbacks be less than fifteen (15) feet.

Section 704. Temporary Buildings.

A temporary building or buildings for use in connection with a construction project or land subdivision development shall be required to acquire a temporary permit for a period of six (6) months. If the temporary building or buildings is needed for a period beyond six (6) months, re-application may be made at the end of the six (6) month period.

Section 705. Permitted Encroachments upon Required Setbacks.

Cornices, eaves, chimneys, landings, porches, bay windows, or other similar architectural features may extend into the required front, side, and rear yard provided such extensions do not exceed three (3) feet. Decks and patios may extend into the side or rear yard but no closer than five (5) feet from any property line. Steps and landings may extend into the required setbacks provided such extensions do not exceed ten (10) feet for the front yard and three (3) feet for side yards. Steps and landings may extend into the rear yard, but, no closer than five (5) feet from the property line. Canopies, covered entrances or walkways for non-residential day care facilities, churches, or other similar uses may extend into the required side or rear yard provided such extension does not exceed three (3) feet and may extend into the required front yard provided such extensions do not extend to a point any closer than fifteen (15) feet from the street right-of-way line or future right-of-way. However, canopies over pump islands or over sidewalks may extend up to the street right-of-way line or future right-of-way line.

Section 706. Variances to the Requirements of this Ordinance are Allowed.

The City Administrator and the Mayor and City Council may approve variances to the minimum or maximum requirements of this Ordinance unless such variance is specifically prohibited within this Ordinance. Variance applications shall be submitted to the City Administrator and be processed as an administrative variance as allowed within Article XIII of this Resolution.

**Section 707. Criteria for Approval of Variances and Waiver.**

**To receive approval for a Variance or Waiver, the Applicant must demonstrate, and the City Council must find that all of the following criteria are present when approving a request for a variance or waiver.**

- A. There are clear and compelling reasons that are not purely financial demonstrating that the required standard cannot be met;**
- B. The variance or waiver is the minimum amount necessary to meet the objectives identified above;**
- C. The requested adjustment will not contravene the public interests or negatively impact adjoining properties; and**
- D. Any additional criteria provided in this Ordinance.**

**Section 708. Appeals.**

**Any person aggrieved by a decision, denial, approval or other quasi-judicial action of the City Council may appeal by Writ of Certiorari to the Superior Court of Gwinnett County. Any such appeal must be filed within thirty (30) days from the date of the decision of the City Council. Upon failure to file an appeal within thirty (30) days, the decision of the City Council will be final.**