

# Comprehensive Land Development Ordinance Table of Contents

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## **ARTICLE I – General Provisions**

### **Section 101. Title.**

This code shall be known as and entitled the "Habersham County Comprehensive Land Development Ordinance" and may be referred to as the "CLDO."

### **Section 102. Authority.**

This CLDO is enacted pursuant to the requirements and authority of Article IX, Section 2, Paragraph 4, of the Georgia Constitution and the amendments thereto.

### **Section 103. Separability.**

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

### **Section 104. Purpose and Intent.**

- A. These regulations are enacted to promote the proper location, height, bulk, number of stories, and size of buildings and other structures, sizes of yards, courts, and the use of other open spaces, density and distribution of population, and the use of buildings, structures, and land for trade, industry, residence, recreation, agriculture, forestry, conservation, sanitation, protection against floods, and public activities.
- B. The purpose of these regulations is to:
  - 1. Lessen congestion in the streets;
  - 2. Secure safety from fire, panic, and other dangers;
  - 3. Promote health and the general welfare;
  - 4. Provide adequate light and air;
  - 5. Prevent the overcrowding of land;
  - 6. Avoid undue concentration of population;
  - 7. Prevent urban sprawl;
  - 8. Assure the provision of required streets, utilities, and other facilities and services;
  - 9. Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian;
  - 10. Assure the provision of space for recreational, educational, and other public purposes;
  - 11. Promote desirable living conditions and the sustained stability of neighborhoods;
  - 12. Protect against blight and depreciation;
  - 13. Secure economy in governmental expenditures;
  - 14. Conserve the value of buildings;
  - 15. Encourage the most appropriate use of land, buildings, and structures;
  - 16. Promote economically sustainable development;
  - 17. Encourage "green building" practices; and
  - 18. Assure that land is developed in conformity with the Habersham County Comprehensive Plan.

### **Section 105. Applicability.**

#### **105.1. Generally.**

- A. This CLDO shall apply only to the unincorporated areas of Habersham County, Georgia, as now or hereafter established.
- B. No buildings, structures, or land shall be used or occupied; and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with the regulations of this CLDO.

- C. A change of use shall conform to the standards, criteria, requirements, and procedures of this CLDO.
- D. Agricultural activities subject to Best Management Practices for Agricultural Businesses shall be regulated by the Georgia Department of Agriculture and USDA, and enforcement shall be the responsibility of said agencies.

### **105.2. Exemptions and Exceptions.**

The following general conditions or circumstances are exempt from the provisions and requirements of the CLDO:

- A. Buildings or structures that are legally under construction on the date of adoption of the CLDO;
- B. Buildings or structures for which a building permit has been issued as of the effective date of this CLDO, provided that construction commences prior to the expiration of the building permit, and continues until completed;
- C. Development pursuant to an approved development plan or subdivision plat approved prior to the effective date of this CLDO, provided that development commences not later than one (1) year after the effective date of this CLDO; or
- D. The proposed use of property lawfully approved as of the effective date of this CLDO.

### **Section 106. Relationship to Comprehensive Plan.**

The Habersham County Comprehensive Plan (Plan) is the official development policy and implementation guide for the County to coordinate and direct physical and economic development, related public investment, and, to provide reasonable regulations for the development of private property in the interest of public health, safety, and welfare. This CLDO is designed to implement all provisions of that Plan for the development and use of land.

### **Section 107. Rules of Interpretation.**

#### **107.1. Generally.**

- A. Specific provisions of this CLDO shall be followed in lieu of general provisions that may be in conflict with the specific provision.
- B. In the interpretation and application of this CLDO all standards, provisions, and requirements shall be liberally construed in favor of the objectives and purposes of the County and shall not be construed to limit nor repeal any other powers granted under State statutes.
- C. Where provisions of this CLDO conflict with other regulations, the more stringent restrictions shall be applied.

#### **107.2. Responsibility for Interpretations.**

- A. In the event that any question arises concerning the application of regulations, standards, definitions, development criteria, or any other provision of this CLDO, the Administrative Officer ~~County Administrator~~ shall be responsible for interpretation. In the interpretation of this CLDO, the Administrative Officer ~~County Administrator~~ shall be guided by the Habersham County Comprehensive Plan and applicable State law.
- B. Responsibility for interpretation by the Administrative Officer ~~County Administrator~~ as set forth in this section shall be limited to standards, regulations, and requirements of this CLDO, and shall not be construed to include interpretation of any technical codes adopted by reference in this CLDO. Interpretation shall not be construed to override the responsibilities assigned by the Habersham County Board of Commissioners to any commission, board, or official named in other sections or chapters of this CLDO.

#### **107.3. Rules for Boundary Interpretations.**

Interpretations regarding boundaries of Land use districts shall be made in accordance with the following:



- A. Boundaries shown as following or approximately following any street or railway shall be construed as following the centerline of the street or railway.
- B. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.
- C. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- D. Boundaries shown as following or approximately following the centerline of a river, stream, lake or other water body shall be construed as following such centerline.
- E. Where boundaries are indicated as approximately following the corporate limit line of a city, such corporate limit line shall be construed to be such boundaries.
- F. In the case where the exact location of a boundary cannot be determined by the foregoing methods, the Planning Commission shall, upon application, determine the location of the boundary.
- G. Where a public road, street, alley or other right-of-way is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, alley or right-of-way.

#### **107.4. Rules of Construction.**

- A. Words used in the present tense include the future tense.
- B. Words used in the singular include the plural, and words used in the plural include the singular.
- C. The masculine gender includes the feminine and the neutral.
- D. The word "person" includes a firm, partnership, company, corporation, or association as well as individuals.
- E. The word "shall" is always mandatory; the word "may" is permissive.
- F. "Or" may be read "and," may be read "or," if the sense requires it.
- G. The term "written" or "in writing" shall include any representation of words, letters, or figures, whether by printing or otherwise.
- H. The term "day" means a calendar day.
- I. The term "month" means a calendar month.
- J. The word "week" shall mean seven (7) days.
- K. The word "year" shall mean a calendar year.

### **Section 108. Documents Adopted by Reference.**

#### **108.1. Official Land Use Map of Habersham County.**

The Official Land Use Map of Habersham County, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this CLDO.

#### **108.2 Habersham County Transportation Plan.**

The Habersham County Transportation Plan, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this CLDO.

#### **108.3. Building and Construction Codes.**

Each building and construction code listed in Sections 108.3 (A) through (J) is hereby adopted by reference as if set forth in its entirety. The following standard building codes as approved by the State of Georgia include any attachments, future editions, appendices, indexes and amendments, including local amendments adopted by Habersham County.

- A. International Building Code.
- B. International Mechanical Code.
- C. International Fuel Gas Code.
- D. International Plumbing Code.
- E. National Electrical Code.

- F. International Fire Code.
- G. International Residential Code for One and Two Family Dwellings.
- H. International Energy Conservation Code.
- I. International Existing Building Code.
- J. National Fire Protection Association Fire Codes.

**108.4. Groundwater Recharge Area District Map.**

The map depicting significant recharge areas as identified by the Georgia Department of Natural Resources in Hydrologic Atlas 18 is hereby adopted by reference and declared to be part of this CLDO.

**108.5. Areas of Special Flood Hazard.**

The areas of special flood hazard identified by the Federal Emergency Management Agency in its current effective Flood Insurance Study (FIS), with accompanying maps and other supporting data, and any revision thereto, are hereby adopted by reference and declared to be part of this CLDO.

**108.6. National Wetlands Inventory Maps.**

The U.S. Fish and Wildlife Service National Wetlands Inventory Maps (NWI Maps), together with all explanatory matter thereon and attached thereto, is hereby adopted by reference and declared to be a part of this CLDO.

**108.7. Manual for On-Site Sewage Management Systems.**

The Georgia Department of Community Health's Manual for On-Site Sewage Management Systems, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this CLDO.



## ARTICLE II – Definitions and Acronyms

### Section 201. Definitions.

When used in this appendix, the following words and phrases shall have the meaning given in this article. Terms not herein defined shall have their customary dictionary definitions where not inconsistent with the context. The term "shall" is mandatory. When not inconsistent with the context, words used in the singular number include the plural and those used in the plural number include the singular. Words used in the present tense include the future.

***Abandoned sign:*** A sign shall be considered abandoned when the sign owner is no longer in operation or does not have a current occupational tax certificate and/or business license in effect.

***Abutting:*** Having property or district lines in common or having property separated by only an alley.

***Access easement:*** An easement, as defined herein, devoted to vehicular access which affords a principal means of access to abutting property or properties but which is not necessarily open to the general public and which is not necessarily improved.

***Accessory building:*** A building which is subordinate to and serves a principal building; is subordinate in area, extent, or purpose to the principal building served; contributes to the comfort, convenience, or necessity of occupants of the principal building; and is located on the same lot as the principal building.

***Accessory equipment:*** Any equipment serving or being used in conjunction with a wireless facility or wireless support structure and includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets, storage sheds, and shelters.

***Accessory use:*** The use of land that is subordinate to, incidental to, and customarily found in connection with the principal use allowed on a lot by the applicable resolution, ordinance, or law.

***Acre:*** 43,560 square feet of area.

***Acre-foot:*** The volume that would cover one acre to a depth of one foot.

***Administrative officer:*** The director of the Planning and Development Department or their designee.

***Administratively granted authorization:*** A review process whereby the Planning Department may authorize/approve an applicable permit and that does not require a public hearing or vote by the Planning Commission or Board of Commissioners.

***Advertising sign/billboards/outdoor advertising:*** Any structure, or portion thereof, on which lettered, figured pictorial matter, illuminated or non-illuminated, is displayed for advertising purposes, identification, description, or illustration to the general public.

***Aggregate sign area:*** The area of all signs on a parcel.

***Agriculture:*** The cultivation or growth of a field or horticultural crop, including dairying, livestock and poultry raising, aquaculture, forestry, and other similar enterprises or uses. The process of producing food, feed, fiber, fuel, and other goods by the systematic raising of plants and animals.

***Airport:*** Any area of land, water, or mechanical structure which is used for the landing and takeoff of aircraft including any appurtenant structures and areas which are used or intended to be used for airport buildings, other airport facilities, rights-of-way, or easements.

***Alley:*** A public way which affords a secondary means of access used primarily for vehicular service access to the back or side of properties otherwise abutting on a street and is not intended for general traffic circulation.

***Alteration:*** Any change in the supporting members of a building, any modification or change in construction, any addition which increases the area or height, any change in use from that of one district classification to another, or movement of a building from one location to another.

***Animal hospital:*** A facility operated by a licensed veterinarian specifically for the practice of veterinary medicine.

***Animated sign:*** A sign or part of a sign that uses movement or change of natural light, artificial light, color effects, or physical position by any means whatsoever to depict action or create a special effect or scene or give the impression of movement. The term "animated sign" does not include signs which indicate time, temperature, or date or signs which rotate less than five times per hour.

***Antenna:*** Communications equipment that transmits and receives electromagnetic radio signals used in the provision of all types of wireless communication services.

***Antique shop:*** A store or shop for the sale of relics, objects of ancient times or of an earlier period, works of art, pieces of furniture, or decorative objects made at a much earlier period than present.

***Apartment house:*** A multi-family dwelling located on a parcel of land under a single ownership designed for use by three or more housekeeping units living independently of each other and doing their own cooking on the premises.

***Applicant:*** Anybody submitting an application for a permit or other approval under this Ordinance.

***Area of a sign or sign area:*** The area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character together with any frame, other material, open space, or color forming an integral part of the display or used to differentiate such writing, representation, emblem, or any figure of similar character from the background against which it is placed. For double-faced signs, only the largest display face shall be measured in computing the sign area.

***Art gallery:*** A facility, structure, or building used for the display of sculptures, paintings, photographs, or other artistic works for public viewing with only incidental sales.

***Awning/canopy sign:*** A sign located on a roof-like cover extending before a place as a shelter and which may be used in lieu of a wall sign.

***Bakery/bake shop:*** The use of a structure or building for the production and retail sale of bakery products, including, but not limited to, breads, cakes, pastries, and doughnuts. Wholesale bakeries are not included in this definition.

***Banner:*** A temporary flag, bunting, pennant, streamer, or other flexible sign characteristically hung on a building or a pole or otherwise suspended down or along the face of a building or across any public street of the county. The banner may or may not include copy or other graphic symbols but is intended to display a message of temporary significance or garner the attention of the passing public. The term "banner" does not include flags of the United States of America or any of its several states' flags which are specifically excluded hereby from regulation by this article so long as said flags are of standard size and height.

***Basement:*** A story of a building located wholly or partly underground but having less than one-half of its height above the average grade.

***Beacon:*** Any light with one or more beams directed into the atmosphere or directed at one or more points not on the same zone as the light source; also, any light with one or more beams that rotate or move.

***Bed and Breakfast Inn:*** A business establishment operated within a dwelling by the owner-occupant, offering one to six units for temporary lodging and one or more meals to the traveling public while away from their normal places or residence. For the purposes of this Ordinance, a bed and breakfast with seven rooms or greater shall be considered a hotel.

***Berm:*** An earthen structure used as a screening device in conjunction with the planting of grass, shrubbery, and trees.

***Billboard sign:*** A stanchion sign with a sign area between 100 square feet and 150 square feet, the maximum square footage for signage within the county.

***Block:*** A piece or parcel of land entirely surrounded by public streets (other than alleys), river, streams, or U.S. government property, regardless of size, shape, or number of lots therein.

***Board:*** The Board of Commissioners of Habersham County, Georgia; also referred to as local governing authority or governing body.

***Board designee:*** Staff member or his designee employed by the County.

***Boarding house:*** A building where, for compensation, both lodging and meals are provided for persons, provided that a single-family dwelling shall not be deemed to be a boarding house by reason of a contribution to or expense sharing arrangement with the owner or tenant occupying the dwelling by a person related by blood or marriage.

***Broadcasting studio:*** A room or suite of rooms operated as a radio or television broadcasting studio or station with local broadcast capability or intended for satellite distribution of programs.

***Buffer, planted:*** A landscaped open space and/or screen located between incompatible land uses for the purpose of visibly separating uses through distance and to shield or block noise, light, glare, visual, or other nuisances; that portion of a given lot not covered by buildings, pavement, parking, access, and service areas

established for the purpose of screening and separating properties with incompatible land uses, the width of which is measured from the common property line and extending the developed portion of the common property line.

**Buffer, natural:** A buffer consisting of trees, shrubs, and other natural vegetation for ground stabilization undisturbed by grading or site development and/or replanted where sparsely vegetated or where disturbed for approved access and utility crossings.

**Buffer yard:** a unit of land together with required landscaping which may be required between land uses to eliminate or minimize conflicts between them.

**Buildable area:** The portion of a lot remaining after required yards, buffers and building setbacks, have been provided.

**Building:** Any structure, either temporary or permanent, above or below ground, having a roof or other covering, and designed, built, or used as a shelter or enclosure for persons, animals, or property of any kind including tents, awnings, or vehicles used for purposes of a building.

**Building addition:** Any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition which is connected by a firewall or is separated by independent perimeter load bearing walls is new construction.

**Building, elevated:** A non-basement building built to have the lowest floor elevated above the ground level by means of fill, solid foundation perimeter walls, pilings, columns (posts and piers), sheer walls, or breakaway walls.

**Building line:** The perimeter of that portion of a building or structure nearest a property line but excluding open steps, terraces, cornices, and other ornamental features projecting from the walls of the building or structure. Porches, decks, roof overhangs greater than 30 inches, and similar features are considered a part of the building or structure for the purpose of determining building line and setbacks.

**Building marker:** Any sign indicating the name of a building, the date, and incidental information about its reconstruction and is cut into masonry surface or made of bronze or other permanent material.

**Building sign:** Any sign attached to any part of a building to identify or indicate the name or address of the building.

**Business/office center or complex sign:** A sign located on a single parcel of land which is planned, developed, and managed as a unit by a single owner or landlord on contiguous lots containing three or more businesses or establishments, including all types of retail, wholesale, industrial, and services which provide parking facilities.

**Building, principal:** A building or structure in which is conducted the main use of the property on which the building or structure is located.

**Building setback line:** A line establishing the minimum allowable distance between a building, including any covered porches, and the street right-of-way, edge of private road, or property line when measured perpendicularly thereto. In cases where no right-of-way has been documented or established, the required

front building setback shall be measured from a point ten feet from the existing construction limits of the road when the road lies within a public street right-of-way or private road.

**Bulk:** A term used to describe the size and shape of a building or structure and its relationship to other buildings, to the lot area for a building, and to open spaces and yards.

**Bus terminal:** An area and building where buses stop to load and unload passengers and luggage or packages and which may include the sale of bus tickets.

**Campground:** Land containing two or more campsites which are located, established or maintained for occupancy by people in temporary lodging units such as camp tents or cabins for recreation, education or vacation purposes. Recreational vehicles may constitute as many as 25 percent of the total temporary lodging within the campground.

**Canopy:** Any permanent roof-like structure, including awnings and marquees, projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

**Canopy sign:** Any sign attached to or made part of the front, side, or top of a canopy, awning, or marquee.

**Car wash:** An establishment engaged in the business of washing domestic vehicles with self-serve, automated, or staffed facilities.

**Carport:** An accessory structure or portion of a principal structure consisting of a roof and supporting members such as columns or beams, unenclosed from the ground to the roof on at least two sides, and designed or used for the storage of motor vehicles.

**Centerline of street or road:** That line surveyed or designated by the governing body as the center of a street or road. If a centerline has not been surveyed or designated, it shall be the line running midway between the outside curbs, ditches, or pavement ends of such street or road.

**Certificate of occupancy:** A legal statement or document issued by the building official or authority having jurisdiction (AHJ) indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations.

***Changeable copy sign:***

1. ***Automatic changeable copy sign (ACCS)*** means a sign on which the copy changes automatically or by remote control. The term "ACCS" includes mechanically-operated devices which change the copy through rotation of any type of panel and also signs which are illuminated partially or entirely by a matrix of electric lamps that are electronically changeable. An ACCS must contain a default design that will freeze the sign in one position if a malfunction occurs.
2. ***Manual changeable copy sign*** means a sign on which copy is changed manually in the field, e.g., reader boards with changeable letters.
3. ***Smartboard*** means a sign, display, or device that changes the message or copy on the sign by means of a liquid crystal display. Smartboards may not incorporate animation or scrolling in the copy or change of copy. Notwithstanding other transition regulations, each message displayed on a smartboard when changed must be accomplished within an interval no greater than one second.



Smartboard signs must contain a default design that will freeze the sign in one position if a malfunction occurs.

***Changing sign/electronic message board:*** A sign that is capable of changing the position or format of word messages or other displays on the sign and that can also change the visible display of words, letters, numbers, symbols, and graphics by the use of a matrix of electric lamps, movable discs, movable panels, light apertures, or other methods when such changes are actuated by a control mechanism rather than manually whether or not the message appears to move across the sign face. A sign that changes no more frequently than once every 24 hours shall not be considered a changing sign. A changing sign shall include electronic message boards and changeable copy signs.

***Circus:*** The temporary use of land offering entertainment and instruction in the form of such things as thrill rides, games of chance and skill, educational exhibits, display of oddities and the like. The term also includes carnivals and fairs.

***Club:*** A building or facility owned or operated by a group for social, educational, or recreational purposes but not customarily for profit or to render a service that is customarily carried on for financial gain.

***Collocation:*** The placement or installation of new wireless facilities on previously approved and constructed wireless support structures in a manner that negates the need to construct a new freestanding wireless support structure. Such term includes the placement of related accessory equipment within an existing equipment compound.

***Compatibility:*** The characteristics of different uses or activities that permit such uses or activities to be located near each other in harmony and without conflict. Some elements affecting compatibility include intensity of occupancy as measured by dwelling units per acre or gross square footage per acre; pedestrian or vehicular traffic generated; volume of goods handled; and such environmental affects as noise, vibration, odor, glare, air pollution, or radiation.

***Commercial use:*** Any non-residential or industrial use not defined as a residential use in this section.

***Comprehensive plan:*** Those coordinated plans or portions thereof which have been prepared by or for the governing body for the physical development of the jurisdiction; or any plans that designate regulations or programs to encourage the most appropriate use of the land in the interest of public health, safety and welfare; or any plan by a regional development center covering the center's region proposed or prepared pursuant to be minimum planning standards and procedures for preparation of Comprehensive plans and for implementation of Comprehensive plans established by the Department of Community Affairs in accordance with O.C.G.A. 50-8-1 through 50-8-12. (**Note:** this is the same definition as used in O.C.G.A. 50-8-2). ~~The Habersham County 2029 Comprehensive Plan Update adopted October 2008, as amended, prepared following the rules of the Georgia Department of Community Affairs, Chapter 1110-12-1-05, and effective May 1, 2005.~~

***Conditions to zoning approval:*** A requirement adopted by the governing body at the time of approval of a rezoning or conditional use which places greater or additional requirements or restrictions on the use and development of the subject property than provided in this zoning ordinance and is designed to ameliorate the negative effects of the rezoning or conditional use on neighboring properties and to protect the public health, safety, or general welfare.

**Conditional use:** A use which would not be appropriate without restriction throughout a land use intensity district and is not automatically permitted by right within a land use intensity district but which may be permitted within a land use intensity district subject to meeting specific conditions (such as controls on number, size, area, location, and activities) contained in this appendix or required by the governing body. Such uses may be permitted only if approved by the governing body in accordance with the regulations established herein.

**Condominium:** A building or complex of multiple-unit dwellings in which a tenant holds full title to his unit and joint ownership in the common grounds.

**Contractor's establishment:** An establishment engaged in the provision of construction activities including, but not limited to, plumbing, electrical work, building, paving, carpentry and other such contracting activities including the storage of materials and the overnight parking of commercial vehicles.

**Convalescent home:** A home for the care of children or the aged or infirmed or a place of rest for those suffering bodily disorders wherein two or more persons are professionally cared for.

**Convenience store:** A small retail store, 10,000 square feet or less, which sells convenience items as its primary sales. A convenience store may include the sale of gasoline and diesel fuel, but such sales shall be accessory to the primary sale of convenience goods.

**Conversion:** Any change in the original use or purpose of a building or lot to a different use.

**Copy:** The wording or graphics on a sign surface in either permanent or removable form.

**Corridor Overlay District:** All that land which is wholly located **within 500 ~~2600~~ feet** of the right-of-way centerline for Highway 365 and Highway 441 within Habersham County and the entirety of each parcel for which **more than 50%** of the property lies within the designated Corridor Overlay District.

**County or Habersham County:** Unincorporated Habersham County, Georgia.

**Crest:** The highest part of a hill or mountain range.

**Cul-de-sac:** A street having one end open to traffic and being permanently terminated by a vehicular turn-around.

**Curb cut:** A provision for vehicular ingress and/or egress between property and an abutting street or road.

**Day care center:** A child care facility, pre-kindergarten, play or other special school for young children (other than at public or private elementary schools) providing, for compensation, care and maintenance to seven or more children under age 17 for a period of 12 hours or less, typically during normal daytime hours. A day care center of six children or less is considered to be a residential business.

**DBH:** Diameter at breast height, a term used in measurement of tree trunk.

**Density:** The number of dwelling units developed or to be developed per gross acre of land or the gross square footage of a building per acre of land.

**Department:** The Habersham County Building and Planning Department.

**Development:** Any manmade change to improved or unimproved real estate including, but not limited to, buildings or other structures, mining, dredging, filling, grading, paving, excavating, drilling operations, or permanent storage of materials or equipment.

**Developmentally-disabled person:** A person with a disability resulting in substantial functional limitations in such person's major life activities which disability is attributable to mental retardation, cerebral palsy, epilepsy, or autism or is attributable to any other condition related to mental retardation because such condition results in impairment of general intellectual functioning or adaptive behavior similar to that of mentally-retarded persons.

**Directional sign:** An unofficial or non-standard traffic control sign intended to direct or regulate the movement of traffic and/or pedestrians. This includes, but is not limited to, "enter," "drive through," and directional arrow signs. These signs may be freestanding or mounted on a building.

**Director:** Director of the Habersham County Planning and Development ~~Services~~ Department or his/her designee.

**District, land use intensity:** A geographical area or areas designated with the use of symbols on the official land use ~~intensity~~ map wherein performance standards regarding type, size, height, and other limitations on structures are established in this appendix. ~~Said district permits the flexibility of mixed land uses (i.e., residential, commercial, and industrial) to exist within the same district.~~

**Divided highway:** Any state or federal route which has four or more travel lanes with a median dividing the directions of travel.

**Double-faced sign:** A sign which has two display areas placed back to back against each other or where the interior angle formed by the display areas is 60 degrees or less where one face is designed to be seen from one direction and the other face from another direction.

**Drive-in:** A retail or service enterprise wherein service is provided to the customer within a motor vehicle on the outside of the principal building.

**Drive-in theater:** A facility designed for the outdoor projection of motion pictures onto a permanent screen to be viewed from the patron's automobile.

**Driveway:** A type of access or easement for local access to one or a small group of structures and is owned and maintained by an individual or group.

**Driveway, shared:** A paved or gravel private road that may serve no more than four dwelling units or lots and does not connect thoroughfares. Shared driveways shall not be maintained by the governing body.

**Dry cleaners:** An establishment engaged in providing laundry, dyeing, and dry cleaning services to individual customers.

**Dry cleaning plant:** An establishment engaged in providing laundry, dyeing, and dry cleaning services on a large scale for institutions, businesses, or other such establishments.

**Dual-faced sign:** A sign containing two or more faces.

***Dwelling:*** A building other than a motor home or travel trailer that contains one or two dwelling units used, intended, or designed to be used, rented, leased, let, or hired out to be occupied for living purposes.

***Dwelling unit:*** A single unit providing complete, independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation but not including units in hotels or other structures designed for transient residence.

***Dwelling, multi-family:*** A building, under single ownership, designed for or occupied exclusively by three or more single housekeeping units with separate kitchen or housekeeping facilities for each family or housekeeping unit, including apartment houses, row houses, town houses, and similar housing types but not including motels, hotels, lodging houses, hospitals, nursing homes, or public institutions such as prisons and mental institutions.

***Dwelling, single-family:*** A building designed or arranged to be occupied by one single housekeeping unit only.

***Dwelling, two-family (duplex):*** A building designed or arranged to be occupied by two single housekeeping units living independently of each other.

***Easement:*** A grant of one or more of the real property rights by the owner to or for the use by the public, a corporation, or another person or entity.

***Easement, ingress/egress:*** An easement devoted to vehicular access which affords a principal means of access to abutting property or properties which are not necessarily open to the general public which is used in specific instances of subdivision of land and to comply with section 1117 of this appendix.

***Easement, prescriptive:*** An implied easement that gives the easement holder a right to use another person's property for the purpose the easement holder has used the property for a certain number of years but does not convey the title to the property in question, only the right to utilize the property for a particular purpose.

***Electric sign:*** A sign containing electrical wiring but excluding signs illuminated by an exterior light source.

***Equipment compound:*** An area surrounding or adjacent to the base of a wireless support structure within which accessory equipment is located.

***Electromagnetic interference:*** The result of electromagnetic radiation which is emitted by electrical circuits carrying rapidly changing signals as a by-product of their normal operation and which causes unwanted signals (interference or noise) to be induced in other circuits. This interrupts, obstructs, or otherwise degrades or limits the effective performance of those other circuits.

***Exemption plat:*** A plat drawn to final specifications mapping the division of land which can be administratively approved by the Administrative Officer without the requirement to be considered by the Habersham County Planning Commission.

***Expressway:*** For the purposes of this Ordinance, refers to the State Hwy 365 from the Hall County line to the Stephens County line and Expressway 441 from the 365/441 split to the Rabun County line.

**Exterminator:** An establishment engaged in the service of killing insects, mice, rats, or other pests.

**FAA:** The Federal Aviation Administration or its duly designated and authorized successor agency.

**Family:** An individual or two or more persons if related by blood, marriage, adoption, or guardianship and not more than four unrelated persons occupying a single-dwelling unit and using the same cooking facilities. A family shall also include a personal care home of not more than six persons receiving personal care and two supervisory residents.

**Farm:** An area of land principally devoted to agriculture.

**Farm supply store:** An establishment engaged in the retail sale of animal feeds, fertilizers, agricultural chemicals, pesticides, seeds, and other such farm supplies.

**FCC:** The Federal Communications Commission or its duly designated and authorized successor agency.

**Fence:** A structural barrier for enclosure, screening, or demarcation presenting a solid face or having openings amongst or between its constituents' members; also, a wall separate from or extending from a building.

**Flag:** Any fabric, banner, or bunting containing distinctive colors, patterns, or symbols used as a symbol of a government, political subdivision, or other entity.

**Flashing sign:** A sign of which the illumination is not kept constant in intensity at all times when in use or which exhibits sudden or marked changes in lighting effects. Changeable copy signs permitted in accordance with Section 1434 shall be exempted from this definition.

**Flood, base:** The flood having a one percent chance of being equaled or exceeded in any given year; also known as the 100-year flood.

**Flood, (flooding):** A general and temporary condition of partial or complete inundation of normally dry land areas from the overflow of inland waters or the unusual and rapid accumulation of runoff of surface waters from any source.

**Flood hazard area, special:** Special flood hazard areas are those lands subject to periodic flooding and shown on the flood insurance rate map and/or flood hazard boundary map as a numbered or unnumbered "A" zone.

**Flood hazard boundary map (FHBM):** An official map of a community issued by the Federal Emergency Management Agency where the boundaries of the areas of special flood hazard have been designated as zone A.

**Flood insurance rate map (FIRM):** An official map of a community on which the Federal Emergency Management Agency has delineated both the areas of special flood hazard and the risk premium zones applicable to the community.

***Flood insurance study:*** The official report provided by the Federal Emergency Management Agency containing flood profiles as well as the flood hazard boundary-floodway map and the water surface elevation of the base flood.

***Flood proofing:*** Any combination of structural and nonstructural additions, changes, or adjustments to structures which reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, structures and their contents.

***Flood plain:*** An area within the flood contour elevations subject to periodic flooding as designated by federal, state, regional, county, or local studies.

***Floodway:*** The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

***Floor:*** The surface on which people walk of an enclosed area in a building (including basement), i.e., top of slab in concrete slab construction or top of wood flooring in wood frame construction. The term does not include the floor of a garage used solely for parking vehicles.

***Floor area:*** The gross heated, finished horizontal area of the floor or floors of a dwelling unit exclusive of basement, attic, carport, or garage.

***Forestry:*** The management of forest lands for wood, forage, water, wildlife, and recreation. The farming of trees to ensure a continuing supply of timber and other forest products.

***Freestanding sign:*** A sign securely affixed to a support structure which is permanently attached to the ground and wholly independent of any building for support, such as monument or stanchion signs.

***Fringe:*** At the outer edge of developed areas and/or property lines.

***Front of building:*** The exterior wall of a structure parallel to the public way.

***Frontage property:*** The length of the property line(s) of any single premise along either a public way or other properties on which it borders.

***Functionally-dependent facility:*** A facility which cannot be used for its intended purpose unless it is located in close proximity to water, such as a docking or port facility necessary for the loading or unloading of cargo or passengers, shipbuilding, or ship repair, but not including long-term storage, manufacture, sales, or service facilities.

***Furniture finishing and repair:*** An establishment engaged in the stripping, cleaning, painting, staining, sealing, varnishing, or other like refinishing of the wood or metal components of furniture or the replacement or repair of broken or missing portions of a piece of furniture.

***Garage:*** An accessory building or portion of a principal building used only for the private storage of motor vehicles and other personal property as an accessory use.

***Governing body:*** The Habersham County Board of Commissioners.

**Greenhouse:** A building designed or used for growing or propagating plants with walls or roof usually designed to transmit light. Greenhouses shall not be construed to include commercial horticultural activities.

**Guesthouse:** A lodging unit for temporary guests in an accessory building. No such lodging unit shall contain independent cooking or kitchen facilities and shall not be rented or otherwise used as a separate dwelling.

**Habitable structure:** A space in a building for living, sleeping, eating, and cooking for humans.

**Hazardous waste:** Any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are in force and effect on February 1, 1988, codified as 40 C.F.R. Section 261.3. (Note: This is same definition as used in the Georgia Hazardous Waste Management Act.)

**Health department:** The County Health Department of Habersham County, Georgia.

**Height, wireless support structure:** The distance measured from the pre-existing grade level to the highest point on the structure, even if said highest point is an antenna.

**Height, building:** The vertical distance measured from the grade to the highest point of the coping of a flat roof; to the deck lines of a mansard roof; or to the mean height level between the eaves and ridge of a gable, hip, or gambrel roof. Grade is defined as the average elevation of the ground on all sides of a building.

**Heliport:** An area, either at ground level or elevated on a structure, licensed or approved for the landing and takeoff of helicopters including auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

**Helistop:** A heliport but without auxiliary facilities such as parking, waiting room, fueling, and maintenance equipment.

**Home occupation:** A detached single-family dwelling where a use, occupation, or activity is conducted entirely within the dwelling by the residents thereof and does not change the residential character thereof.

**Home occupation sign:** A wall sign for a legally existing home occupation, rural business, or residential business.

**Hospital:** An institution providing health services for in-patients and medical or surgical care of the sick or injured including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

**Hotel:** A public commercial lodging facility intended for use as temporary residence including meals, entertainment, and various personal services provided for compensation to persons traveling for business, tourism, or other visitation purposes in which ingress and egress from all rooms is made through an inside lobby or office supervised by a person in charge at all hours.

**Illuminated sign:** A sign that has light cast upon the sign from a source either internal to the sign or from an external light source directed primarily toward such sign.

***Impervious surface:*** A manmade structure or surface which prevents the infiltration of storm water into the ground below the structure or surface including, but not limited to, buildings, roads, driveways, parking lots, decks, swimming pools, and patios.

***Inoperable vehicle:*** Any motorized vehicle, other than those vehicles characterized by temporary disrepair, incapable of immediately being driven. Any motorized vehicle without a current vehicle registration tag shall be considered an inoperable vehicle.

***Intensity:*** A measure of the degree to which land is developed based on density, use, mass, size, impact, and traffic generation.

***Junk/salvage yard:*** Any property involving the abandonment, parking, storage, or disassembly of junked or inoperable vehicles or junked machinery; the abandonment, storage, sale, or resale of used auto parts, tires, scrap iron, metal, used plumbing fixtures, old stoves, refrigerators and other old household appliances, used brick, wood, or other building/structural materials, used paper, rags, or other scrap materials.

***Kennel:*** The housing, breeding, boarding or training of four or more dogs, cats, or other domestic animals for the purpose of providing income or revenue.

***Laboratory:*** A place devoted to experimental study, such as testing and analyzing, but not including the manufacturing of product or products.

***Land-disturbing activity:*** Any grading, scraping, excavating, or filling of land; clearing of vegetation; any other alteration of land which causes land and stream bank erosion, siltation or water pollution; and any construction, rebuilding, or alteration of a structure. Land-disturbing activity shall not include activities such as ordinary timber maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.

***Land uses, existing:*** Any land use or land-disturbing activity including all human endeavors directly associated with such use or activity which, prior to the promulgation of the river corridor protection plan, falls within one of the following categories: is zoned for such use and expenditures in excess of \$2,500.00 have been made in preparation for construction in accordance with such zoning, all materials have been submitted for approval by the governing authority, is fully approved by the governing authority, is under construction, or is completed.

***Landfill:*** An area wherein solid wastes may be placed but specifically excluding hazardous or radioactive wastes.

***Landscape strip:*** That portion of a given lot not covered by buildings, pavement, parking, access and service areas established as landscaped open space, the width of which is measured from a given property line and extending the developed portion of the property line. A landscape strip, as distinguished from a buffer, may be disturbed by grading or side development but shall be maintained as landscaped open space. A landscape strip may consist of grass lawns, decorative planting, berms, walls, fences, or other approved features designed and arranged to produce an aesthetically-pleasing effect within and outside of the development.



**Landscaping:** Changing, rearranging, or adding to the original vegetation or scenery of a piece of land to produce an aesthetic effect appropriate for the use to which the land is put. It may include reshaping the land by moving the earth as well as preserving the original vegetation.

**Landscaping service:** An establishment engaged in performing a variety of lawn and landscaping services such as lawn fertilizing, mowing, spraying and planting, and the planting and maintenance of landscaping.

**Laundromat:** A business that provides home-type washing and drying machines for hire to be used by customers on the premises.

**Library:** A building in which literary, musical, artistic, or reference materials are kept for use but not generally for sale.

**Light emitting diode (LED) sign:** Signs containing changing copy; moving signs involving motion or sound; "trivision" type signs; signs displaying moving pictures or images; LED signs; signs with content that changes more than once daily; signs with moving words; signs with waiving elements, whether motorized or wind powered; or similar moving signs.

**Loading and unloading space:** A space, typically with dimensions of 12 feet by 60 feet, logically and conveniently located for pickups and/or deliveries or for loading and/or unloading, scaled to delivery vehicles to be used, and accessible to such vehicles.

**Local government:** The governing authority of a political subdivision.

**Local governing authority:** A municipality or county that has adopted land use or zoning regulations for all or the majority of land uses within its jurisdiction.

**Lodging house:** A fraternity house, sorority house, dormitory, or other such building designed and occupied with or without separate kitchen or housekeeping facilities for each unit.

**Lot:** A parcel of land in one ownership legally transferable as a single unit of land occupied or capable of being occupied by a use, building, or group of buildings devoted to one or more uses, together with the customary accessory uses, structures, yards, and open spaces belonging to the same, and having principal frontage on a public street, approved private street, or, in the case of nonconforming lots of record not fronting on a public street or approved private road, or an access easement complying with section 1117 of this appendix.

**Lot area:** The total horizontal area within the lot lines of a lot exclusive of public street rights-of-way, private road rights-of-way, and easements.

**Lot, corner:** A lot abutting upon two or more streets or roads at their intersection. In the case of a corner lot, frontage shall be measured along the longer of the two lot frontages.

**Lot coverage:** The part or percent of a lot occupied by impervious surfaces.

**Lot depth:** The mean horizontal distance from the front lot line to the rear lot line.

***Lot, double frontage:*** Any lot other than a corner lot which has frontage on two streets or roads that do not intersect at a point abutting the property. In the case of a double frontage lot, frontage shall be measured along both lot frontages.

***Lot, flag:*** A lot where terrain or geometry makes standard design or access impossible or impractical, in which the portion fronting on a public street or approved private street is less than the required minimum width for construction of a building or structure on a lot as set forth in this appendix.

***Lot frontage:*** The width in linear feet of a lot where it abuts the right-of-way of any public or private street.

***Lot of record:*** A lot created by a division of land or part of a subdivision of which a plat or deed has been recorded in the records of the county Superior Court Clerk or a parcel of land of which the deed has been recorded in the same office as of the date of adoption of this appendix.

***Lot width:*** The horizontal distance between the side lines of a lot measured at right angles to its depth along a straight line parallel to the front line at the minimum required building setback line.

***Mail order office:*** An establishment which engages in the taking of requests for mail order or catalog merchandise by telephone but not including the storage or distribution of such merchandise. The establishment where orders are picked up or taken in person is not considered a mail order office.

***Major arteries:*** The major arteries in the county specifically meaning the following: State Highways 441, 365, 255, 197, 17, and 115.

***Major street between two streets adjacent to a parcel:*** The street with the highest daily traffic count.

***Mansard:*** An inclined decorative roof-like projection that is attached to an exterior building facade.

***Manufactured home:*** A structure transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein; except that such term shall include any structure which meets all the requirements of this paragraph except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the Secretary of Housing and Urban Development and complies with the standards established in the National Mobile Home Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et. seq. A travel trailer is not to be considered as a mobile home/manufactured home. For the purposes of this appendix, any "relocatable home" as defined by "The Uniform Standards Code for Factory Manufactured Moveable Home Act" (Georgia Laws 1968, p. 415) shall be considered to be included in this definition.

***Manufacturing, processing and assembling:*** The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories, or mills and characteristically use power-driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under

this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastic resins, or liquors.

**Marina:** A facility for storing, servicing, fueling, and securing and launching of boats and other private pleasure craft.

**Menu board:** A freestanding sign oriented to the drive-through lane for a restaurant that advertises the menu items available from the drive-through window and which has no more than 20 percent of the total area for such a sign utilized for business identification.

**Metes and bounds:** A system of describing and identifying land by distances or measures (metes) and bearings or direction (bounds) from an identifiable point of reference, such as a monument or other marker or the corner of intersecting streets.

**Mini-warehouse:** A building or group of buildings in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized stalls, or lockers used for storage including accessory office and/or night watchman's residence but not including retail sale on the premises, commercial repair or other services, manufacturing, or any other commercial use.

**Mobile home:** A structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976. OCGA 8-2-131[2].

**Mobile home/manufactured home park:** Premises where more than two mobile homes/manufactured homes are parked for living or sleeping purposes or where spaces or lots are set aside and offered for rent for use by mobile homes/manufactured homes for living or sleeping purposes including any land, building, structure, or facility used by occupants of mobile homes/manufactured homes on such premises. This definition shall not include mobile homes/manufactured homes sales lots.

**Modification or modify:** The improvement, upgrade, expansion, or replacement of existing wireless facilities on an existing wireless support structure or within an existing equipment compound.

**Modular home:** Any structure or component thereof designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on the building site and which is designed and constructed to conform to the local building code rather than a national housing or construction code.

**Monument sign:** A freestanding sign mounted directly upon the ground. Such sign may not be attached to or be a part of or supported by the building in or to which the sign applies. A freestanding sign where the base of the sign structure is on the ground. The width of the sign structure can be no more than 120 percent of the width of the base.

**Motel:** A public commercial lodging facility intended for use as temporary residence including meals, entertainment, and various personal services provided for compensation to persons traveling for business,

tourism, or other visitation purposes, distinguished from a hotel in that ingress and/or egress to and from all rooms is made primarily from an exterior walkway rather than from an interior lobby.

***Museum:*** An establishment engaged in the procurement, care, study, and display of objects of historical, educational, and cultural value and interest.

***Multiple-faced sign:*** A sign containing three or more faces.

***Natural vegetative buffer or buffer area:*** A river corridor containing the flora native to that area. The natural floras for specific areas are described in Georgia Geologic Survey Bulletin 114, "The Natural Environments of Georgia." Habitats for endangered and threatened species may require human management of the river corridor in order to maintain those species.

***Need:*** Anything that is technically required for the wireless service to be provided primarily and essentially within the County of Habersham and creates the least physical and visual impact. This does not necessarily mean the internal design standards of the applicant; rather, need relates to the ability of the user-equipment to function as designed.

***Net acre:*** The area, in square feet, which remains after deducting the area under water and other lands dedicated for specific purposes.

***NIER:*** Non-Ionizing Electromagnetic Radiation.

***Nonconforming lot of record:*** A lot of record as defined herein, the area, width, frontage, or other characteristic of which fails to meet requirements of the land use intensity district in which it is located or fails to meet other provisions of this appendix.

***Nonconforming sign:*** Any sign that does not conform to the provisions of this article.

***Nonconforming structure:*** Any building or structure which does not conform to the regulations governing the bulk, location, height, or size of buildings or structures permitted in the district.

***Nonconforming use:*** Any use of land lawfully existing at the effective date of this Ordinance or as a result of subsequent amendments to this appendix which does not conform to the provisions established herein for the district in which it is located.

***Nonprofit activity:*** An activity, project, operation, or enterprise of a temporary nature carried on by a corporation or an organization qualified as an exempt organization under applicable provisions of the International Revenue Code.

***Nuisance:*** Anything that interferes with the use or enjoyment of property, endangers public health or safety, or is offensive to the senses.

***Nursing home:*** Any building in which aged, chronically ill, or incurable persons are housed and furnished with meals and professional nursing care for compensation but not including hospitals and mental health institutions.

***Occupiable structure:*** A room or enclosed space designed for human occupancy in which individuals currently congregate for amusement, educational, or similar purposes and which is equipped with means of egress and light and ventilation facilities.

***OCCA:*** Official Code of Georgia Annotated.

***Open air business:*** Any commercial establishment that displays products in a non-enclosed area.

***Open space, landscaped:*** That portion or portions of a given lot not covered by buildings, pavement, parking, access and service areas, set aside and maintained as a buffer, landscape strip, or other approved open area.

***Parcel:*** A contiguous area of land described in a single description by a deed or other instrument or as one of a number of lots on a plat or plan separately owned and capable of being separately conveyed. A parcel is a unit of land under unified ownership (with or without buildings).

***Parking lot:*** Any public or private open area used for the express purpose of temporary storage of private motor vehicles. A parking lot may be the principal use on a given lot or an accessory use to the principal use on a given lot.

***Parking space:*** An area having typical dimensions of not less than nine feet by 20 feet and 300 square feet including maneuvering space within a parking lot to be used exclusively as a temporary storage space for a motor vehicle.

***Pavement:*** Any finish road/street surfacing treatment.

***Permit, sign:*** A permit issued by the building department prior to the erection of a sign.

***Permit, sign completion:*** A permit issued by the building department after the applicant has finished the erection of a sign in conformance with approved application and standards as set forth herein.

***Permitted use:*** A use by right which is specifically authorized in a particular land use intensity district.

***Perennial stream:*** A stream which flows throughout the whole year as indicated on a United States Geological Survey Quadrangle Map.

***Perennial river:*** A river or section of a river that flows continuously throughout the year.

***Person:*** Any individual, corporation, estate, trust, partnership, joint stock company, and association of two (2) or more persons having a joint common interest, or any other entity.

***Personal care home:*** Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one or more personal services for two or more adults who are not related to the owner or administrator by blood or marriage. O.C.G.A. 31-7-12(a) (1).

***Personal service establishment:*** A business that primarily provides services generally involving non-medical care of a person or a person's apparel including, but not limited to, barber shops, beauty salons,

seamstress shops, shoe repair and shining shops, dry cleaning facilities, and laundromat. Eating and drinking places are not considered personal service establishments.

***Personal wireless facility:*** See definition for “Wireless Telecommunications Facilities.”

***Personal wireless services or PWS or Personal telecommunications service or PTS:*** Shall have the same meaning as defined and used in the 1996 Telecommunications Act 47 USC 332(c) (7)(C)

***Pit privy (outhouse):*** A building or structure completely enclosed containing a bench with holes through which bodily waste is expelled.

***Planning Coordinator:*** Planning Director.

***Planning Commission:*** The Habersham County Planning Commission as established in this appendix and hereafter referred to as HCPC.

***Planning and Development Department:*** The staff members employed by the County and positions created by the Board of Commissioners to administer applicable local, state, and federal laws relating to the development of Habersham County.

***Planning Director:*** The person employed by the County to operate and manage the Community Planning and Development Department and interpret and apply the applicable laws relating to development of the County.

***Plat, final:*** A drawing of a subdivision showing completely and accurately all legal and engineering information and certification necessary for recording.

***Plat, preliminary:*** A drawing showing proposed layout of a subdivision in adequate detail to convey to the Planning Commission, the Board of Commissioners, or others the concept and workability of a subdivision but not complete in form or detail required for recording.

***Platting authority:*** The Planning Commission, Planning Department, and/or Board of Commissioners as dictated by this appendix.

***Portable sign:*** Any sign supported by its own frame or trailer, with or without wheels, which can be transported from one place to another. Portable signs include signs on vehicles.

***Porta-potty:*** A temporary restroom facility which is brought onto building sites to serve workers and removed once construction ceases.

***Premises:*** A lot as otherwise used in this appendix.

***Principle building:*** A building in which is conducted the primary use permissible on the lot.

***Projecting wall sign:*** Any sign affixed or attached to a wall of a building, horizontally extending no more than 18 inches beyond the wall, and which displays only one sign surface. Wall signs shall not extend further than 18 inches from the top of the wall into the roof area.

**Protected river:** Any perennial river or watercourse with an average annual flow of at least 400 cubic feet per second as determined by appropriate U.S. Geological Survey documents. However, those segments of river covered by the Metropolitan River Protection Act or the Coastal Marshlands Protection Act are specifically excluded from the definition of a protected river. In coastal areas, the seaward limit of any protected river shall be the inland limits of the jurisdiction of the Coastal Marshlands Protection Act.

**Public officer:** As used in O.C.G.A. 41-2-7 through 41-2-17, shall mean the Director of the Habersham County ~~Building and Planning~~ and Development Department.

**Public service signs:** A sign erected by or on behalf of a governmental body, public officials, or public agencies to post legal notices, identify public property, convey public information, or direct/regulate pedestrian or vehicular traffic.

**Public utility or utilities:** A service or services provided by a public utility company or a private entity which provides such service or services and all equipment and structures necessary to provide such services.

**Public use:** Any building, structure, or use owned and/or operated by the Federal Government, State of Georgia, Habersham County or other county, municipality, or any authority, agency, board or commission of the above governments, which is necessary to serve a public purpose such as, but not limited to, the following: government administrative buildings, police and fire stations, public health facilities and hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage storage, intake, collection and treatment and pumping facilities, public housing facilities, jails and correctional centers.

**Radial spacing:** A measurement with the sign forming the center of a circle and measurements taken in all directions from the sign.

**Real estate sign:** A temporary sign erected by the owner or his agent advertising the real property upon which the sign is located for rent, lease, or sale.

**Recognized historic area:** Districts or locations identified as having historic and/or architectural significance through an ordinance, guideline, map, listing, or designated by a local, state, or federal government.

**Recreation facility, commercial:** A use of land involving some form of recreational activity or activities operated as a business and open to the public for a fee.

**Recreational vehicle:** A vehicle which is built on a single chassis; is 400 square feet or less when measured at the largest horizontal projection; is designed to be self-propelled or permanently towable by a light duty truck; and is designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**Recreational vehicle park:** Except as provided within campgrounds, as defined by this article, any lot of land upon which more than two recreational vehicle sites are located, established, or maintained for occupancy by recreational vehicles of the general public as temporary living quarters for recreation or vacation purposes.

**Rehabilitation center:** Facilities authorized or licensed by appropriate agencies for the primary purpose of rehabilitation of offenders against the law, persons with drug or alcohol abuse problems, mentally handicapped, and/or physically handicapped persons.

**Repairs and maintenance:** The replacement or repair of any components of a wireless facility without the addition, removal, or change of any of the physical or visually discernable components or aspects of a wireless facility that will alter the visible appearance of the facility as originally permitted.

**Reservoir boundary:** The edge of a water supply reservoir defined by its normal pool level.

**Residence for caretaker or night watchman:** An accessory residence, which may be a mobile home, located inside or in addition to the principal structure or use of a parcel of land designed or occupied by security personnel for security reasons only.

**Residential use:** A structure designed and used as a one-, two-, or three-family dwelling intended or built to be, rented, leased, let, or hired out to be occupied for living purposes.

**Residential business:** A retail or service establishment carried on for gain by at least one person residing on the property on which such establishment is located, not employing more than five persons conducted entirely within the principal or accessory building(s) on the property except for product display and except for outside storage which meets the requirements of these regulations, and which does not generate more than 20 total vehicle trips per day to/from the property, nor generates noise, smoke, odor, dust, glare, vibration, or flies/insects detectable at any property line.

**Restaurant:** Any place or premises used for sale, dispensing, or service of food, refreshment, or beverages.

**Restaurant, drive-in:** Any place or premises used for sale, dispensing, or service of food, refreshment, or beverage to person(s) in automobiles including those establishments where customers may eat or drink on the premises.

**Retail sales establishment, enclosed:** A business which sells merchandise to the consumer of the merchandise where storage, display, and sales transactions are conducted entirely within an enclosed building including, but not limited to, the sale of convenience goods, antiques, produce, and apparel.

**Review committee:** The Habersham County Planning Commission.

**Revolving or rotating sign:** A sign that revolves partially or fully about an axis.

**Ridge:** An elongated crest or a linear series of crests or the long narrow horizontal line formed by two sloping surfaces with slopes of 15% or more.

**Right-of-way, private:** That area, distinguished from an access easement or public right-of-way, which is fee simple ownership by property owners of the subdivision involved or other individuals and which affords permanent access to abutting property or properties. A private right-of-way is distinguishable from a public street in that maintenance and ownership of the road and accessory improvements is by private individuals or an association rather than the governing body or another government.



**Right-of-way, public:** That area, distinguished from an access easement or private right-of-way, which is owned in fee-simple title by the governing body or other government for the present or future use of roads, streets, and highways, together with its drainage facilities and other accessory or supporting uses and structures.

**River bank:** The rising ground bordering a river which serves to confine the water to the natural channel during the normal course of flow.

**River corridor:** All the land inclusive of islands not regulated under the Metropolitan River Protection Act (O.C.G.A. 12-5-440 through 12-5-457) or the Coastal Marshlands Protection Act (O.C.G.A. 12-5-280 through 12-5-293) in areas of a protected river and being within 100 feet horizontally on both sides of the river as measured from the river banks.

**River corridor protection plan:** That part of the local Comprehensive plan which deals with the river corridor protection requirements specified in this appendix.

**Road:** A public or private thoroughfare which is open to the general public and which affords a principal means of access to abutting property or properties.

**Roadbed:** The graded portion of a road/street within top and side slopes prepared as a foundation for the pavement structure and shoulder.

**Road, private:** An improved street, road, or driveway within a private right-of-way of 30 feet or more dedicated by deed or other legal instrument which affords a principal means of access to abutting property or properties.

**Road classification:** The Georgia Department of Transportation and Federal Highway Administration classification based on the Highway Functional Classification Concepts, 2013 Edition. All roadways in Habersham County shall be classified as:

1. *Interstates: Interstates are the highest classification of Arterials and were designed and constructed with mobility and long-distance travel in mind. Since their inception in the 1950's, the Interstate System has provided a superior network of limited access, divided highways offering high levels of mobility while linking the major urban areas of the United States.*
2. *Other Freeways and Expressways: Roadways in this functional classification category look very similar to Interstates. While there can be regional differences in the use of the terms 'freeway' and 'expressway', for the purpose of functional classification the roads in this classification have directional travel lanes are usually separated by some type of physical barrier, and their access and egress points are limited to on- and off-ramp locations or a very limited number of at-grade*
3. *Other Principal Arterials: These roadways serve major centers of metropolitan areas, provide a high degree of mobility and can also provide mobility through rural areas. Unlike their access-controlled counterparts, abutting land uses can be served directly. Forms of access for Other Principal Arterial roadways include driveways to specific parcels and at-grade intersections with other roadways. For the most part, roadways that fall into the top three functional classification categories (Interstate, Other Freeways & Expressways and Other Principal Arterials) provide similar service in both urban and rural areas. The primary difference is that there are usually multiple Arterial routes serving a particular urban area, radiating out from the urban center to serve the surrounding region. In contrast, an expanse of a rural area of equal size would be served by a single Arterial.*

4. Minor Arterials *provide service for trips of moderate length, serve geographic areas that are smaller than their higher Arterial counterparts and offer connectivity to the higher Arterial system. In an urban context, they interconnect and augment the higher Arterial system, provide intra-community continuity and may carry local bus routes. In rural settings, Minor Arterials should be identified and spaced at intervals consistent with population density, so that all developed areas are within a reasonable distance of a higher level Arterial. Additionally, Minor Arterials in rural areas are typically designed to provide relatively high overall travel speeds, with minimum interference to through movement. The spacing of Minor Arterial streets may typically vary from 1/8- to 1/2-mile in the central business district (CBD) and 2 to 3 miles in the suburban fringes. Normally, the spacing should not exceed 1 mile in fully developed areas.*
5. Major and Minor Collectors: *Collectors serve a critical role in the roadway network by gathering traffic from Local Roads and funneling them to the Arterial network. Within the context of functional classification, Collectors are broken down into two categories: Major Collectors and Minor Collectors. Until recently, this division was considered only in the rural environment. Currently, all Collectors, regardless of whether they are within a rural area or an urban area, may be sub-stratified into major and minor categories. The determination of whether a given Collector is a Major or a Minor Collector is frequently one of the biggest challenges in functionally classifying a roadway network. In the rural environment, Collectors generally serve primarily intra-county travel (rather than statewide) and constitute those routes on which (independent of traffic volume) predominant travel distances are shorter than on Arterial routes. Consequently, more moderate speeds may be posted.*
6. *Local Roads: Locally classified roads account for the largest percentage of all roadways in terms of mileage. They are not intended for use in long distance travel, except at the origin or destination end of the trip, due to their provision of direct access to abutting land. Bus routes generally do not run on Local Roads. They are often designed to discourage through traffic.*

**Road, rural arterial system minor:** Forms a network with the following service characteristics:

- a. Linkage to cities, towns, and other traffic generators (such as major resort areas) that is capable of attracting travel over similarly long distances
- b. Integrated interstate and inter-county service
- c. Corridor movements consistent with the above items with trip lengths and travel densities greater than those predominantly served by rural collector and local road systems
- d. Minor arterials, therefore, constitute routes expected to provide for relatively high speeds and minimum interference to through movement.

**Roadside stand:** A structure or portion thereof for the shelter, display, and sale of agricultural products produced on the premises with no space for customers within the structure itself.

**Roof line:** The top edge of a peaked roof; or in case of an extended facade or parapet, the uppermost.

**Roof sign:** A sign attached to, painted on, or supported by the roof of a building that extends above the immediately adjacent eave line of the building.

**Rooming house:** A building where, for compensation, lodging only is provided.

~~**Rural business:** A processing, assembling, packaging, or storage industry carried on for gain by at least one person residing on the property on which such establishment is located, not employing more than 15 persons, conducted entirely within the principal and accessory buildings on the property except for outside storage which meets the requirements of these regulations, and which does not generate more than 60 total~~

~~vehicle trips per day, nor generates noise, smoke, odor, dust, glare, vibration, or flies/insects detectable at any property line.~~

**Screening:** A method of shielding or buffering one use from another by fencing, walls, berms, densely planted vegetation, natural vegetation, or other means; a visual and acoustical barrier which is of such nature and density that provides year-round maximum opacity from the ground to a height of at least six feet or that screens structures and activities from view from the normal level of a first story window on an abutting lot.

**Semi-public use:** Any building, structure, or use owned and/or operated by private utilities or private companies for a public purpose or which is reasonably necessary for the furnishing of adequate service by such utilities, such as, but not limited to, the following: underground or overhead gas, electrical, steam or water distribution or transmission lines or systems; and electric power substations, wires, towers, cables, and poles.

**Sensitive environments maps:** A set of maps as established by this appendix which provides the location and boundaries of significant groundwater recharge areas, wetlands, and water supply watersheds.

**Sensitive natural areas:** Any area as identified now or hereafter by the Department of Natural Resources which contains habitat, including nesting sites occupied by rare or endangered species, rare or exemplary natural communities, significant landforms, hydro forms, or geological features; or other areas so designated by the Department of Natural Resources; and which are sensitive or vulnerable to physical or biological alteration.

**Septic tank:** An approved watertight tank designed or used to receive sewage from a building sewer and to effect separation and organic decomposition of sewage solids and discharging sewage effluent to an absorption field or other management system.

**Service drive:** A public way used primarily for vehicular service access to the back or side of properties otherwise abutting on a street and is not intended for general traffic circulation.

**Service station:** Any building, structure, or land used for the retail sale of motor vehicle fuel, oil, accessories, and motor vehicle servicing. Major repairs, body repairs, and painting of motor vehicles shall not be considered motor vehicle servicing.

**Setback:** The minimum horizontal distance between a street, alley, or the property boundary lines of a lot and the front, rear, or side lines of a building located on that lot.

**Shopping center:** A group of commercial establishments planned, developed, owned, and managed as a unit with off-street parking on the property.

**Shoulder:** The portion of the roadway contiguous with the traveled way for accommodation of stopped vehicles, for emergency use, and lateral support of base and surface courses.

**Sight triangle:** The area of visibility required on a corner to allow for the safe operation of vehicles, pedestrians, trains, and cyclists in the proximity of intersecting streets, roads, rail lines, sidewalks, and bicycle paths.

**Sign:** A device or representation for visual communication that is used for the purpose of bringing the subject thereof to the attention of others.

**Sign, animated:** Any sign of which all or any part thereof visibly moves in any fashion whatsoever; and any sign which contains or uses for illumination any light, lights or lighting device, or devices which change color, flash or alternate, show movement or motion, or automatically change the appearance of said sign or any part thereof.

**Sign, bench:** A sign located on any part of the surface of a bench or seat placed on or adjacent to a public right-of-way.

**Signs, community:** Temporary signs, generally made of a woven material or durable synthetic materials, primarily attached to or hung from light poles or on buildings. These signs are solely of a decorative, festive, and/or informative nature announcing activities, promotional events, seasonal or traditional themes having broad community interest and which are sponsored by Habersham County or a nonprofit organization located in Habersham County.

**Sign, construction:** Any sign giving the name or names and location of principal contractors, architects, and lending institutions responsible for construction on the site where the sign is placed.

**Sign, directional:** A sign temporarily or permanently erected on a site other than that to which persons are directed (off-site) which denotes the route to a particular destination.

**Sign face:** The surface upon, against, or through which the sign copy is displayed or illustrated. Size restrictions or dimensions as to square feet are applicable only to the sign face.

**Sign, flashing:** A sign designed to attract attention through the use of a flashing, changing, revolving, or flickering light source or a change in light intensity.

**Sign, ground:** Any sign which is supported by structures or supports in or upon the ground and independent of support from any building.

**Sign height:** The distance in vertical feet from the elevation of the adjacent dedicated public street at the edge of the pavement to the highest point of the sign structure. Measurements and dimensions include the sign face, above ground foundations, supports, and braces. For property with an elevation higher than the adjacent public street, the height shall be measured from the ground level at base of sign to highest point of the sign structure. The ground shall not be altered for the sole purpose of providing additional sign height.

**Sign, identification:** A sign which depicts the name and/or address of a building, subdivision, or establishment on the premises where the sign is located as a means of identifying said building, subdivision, or establishment.

**Sign, internally illuminated:** A sign illuminated with a light source which is enclosed within the sign and viewed through a translucent panel.

**Sign, mansard:** A sign attached to or erected against a mansard or marquee of a building with the face parallel to the building wall. Since said sign is mounted parallel to and within the limitations of the building wall on which same is mounted, such sign is deemed to be a wall sign and not a roof sign.

**Sign number:** For the purposes of determining the number of signs, a sign shall be construed to be a single display surface or device containing elements organized, related, and composed to form a single unit. A ground sign with sign surface on both sides of such sign shall be construed as a single sign, and the total area of such sign shall be the area computed on a single side.

**Sign, political:** A sign which announces, promotes, or advertises the name, program, or political party of any candidate for public office or an opinion regarding a public referendum.

**Sign, portable:** A sign, whether on its own trailer, wheels, or otherwise, which is designed to be transported from one place to another. It is characteristic of a portable sign that the space provided for advertising messages may be changed at will by the replacement of lettering or symbols. Even though the wheels or supports of such sign should be removed and the sign converted and attached, temporarily or permanently, to the ground or other structure, such sign shall retain its character as a portable sign based on its original design unless modified to change its original design through incorporation into a permanent ground sign.

**Sign projecting:** A sign other than a wall sign affixed and perpendicular to any building or wall and having a leading edge that extends more than one foot beyond such building or wall.

**Sign, real estate:** A temporary sign erected by the owner or his agent advertising the real property upon which the sign is located for rent, lease, or sale.

**Sign, roof:** Any sign erected, constructed, and maintained wholly upon or over the roof of any building with the principal support on the roof structure.

**Sign, sandwich:** Any sign, double or single-faced, which is portable and may readily be moved from place to place.

**Sign structure:** Any construction used or designed to support a sign.

**Sign, wall:** A sign attached to or erected against the wall of a building with the face in a parallel plane to the plane of the building wall.

**Significant groundwater recharge areas:** Those areas as indicated by the sensitive environments maps found by technical studies to contain thick soils, slopes lower than eight percent, rocks with little porosity, and other characteristics where most groundwater is stored in the overlying soils.

**Slaughterhouse:** An establishment where animals are killed, butchered, and prepared for further processing.

**Slope:** The degree of deviation of a horizontal, usually expressed in percentage or degrees. The ratio of the difference in elevation between two points on the ground and the horizontal distance between the two points.

**Snipe sign:** A sign of any material whatsoever that is attached in any way to a utility pole, tree, fence, rock, or any other similar object located on public or private property. Snipe signs shall not include "keep out," "posted," or "no trespassing" signs.

***Stanchion sign:*** A freestanding sign mounted on one or more steel poles set in the ground and of sufficient strength and size to support the advertisement portion of such structure which rests upon or is supported by such poles.

***Stealth or camouflage technique:*** Mechanisms to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and in generally the same area as the requested location of a wireless telecommunications facility, which shall mean using the least visually and physically intrusive facility that is not technologically or commercially impracticable under the facts and circumstances.

***Story:*** That portion of a building comprised between a floor and the floor or roof next above.

***Stream corridor:*** All land within the buffer area and impervious surface setback area specified for perennial streams within water supply watersheds.

***Stream natural buffer:*** A natural, vegetated area with a specified required width adjacent to a perennial stream which allows no land disturbance; limited minor land disturbances, such as trails and picnic areas, may be allowed by the governing body.

***Street:*** A public or private thoroughfare which is open to the general public and which affords a principal means of access to abutting property.

***Street, public:*** An improved street or road within a dedicated and accepted public right-of-way which affords a principal means of access to abutting property or properties.

***Street, rural minor and urban residential:*** Typically serve to provide access to single and multiple residencies. Motorists using such streets generally include only residents and their visitors. Use of such streets by large trucks and other heavy vehicles is rare, except for occasional use by delivery and maintenance vehicles.

***Street, rural major and collector:*** Those streets that serve a dual function of providing access to abutting properties as well as providing through or connecting service between other local roads or higher type facilities. In rural areas, major access streets and collectors may have a significant local continuity and may operate at relatively high speeds.

***Street, rural minor arterial system:*** The rural minor arterial road system forms a network with the following service characteristics:

- a. Linkage to cities, towns, and other traffic generators (such as major resort areas) that are capable of attracting travel over similarly long distances
- b. Integrated interstate and inter-county service
- c. Corridor movements consistent with the above items with trip lengths and travel densities greater than those predominantly served by rural collector and local road systems
- d. Minor arterials, therefore, constitute routes expected to provide for relatively high speeds and minimum interference to through movement.

***Structure:*** That which is built or constructed.

***Subdivider:*** One who divides land into two or more separate, usable lots for immediate or future sale or development.

***Subdivision:*** The division of a lot, tract, or parcel of land into two or more lots, plats, sites or other divisions of land for the purpose, whether immediate or future, of sale or of building development where new roads, streets (public or private), and supporting infrastructure is required by this appendix.

***Subdivision of land:*** The dividing of a parcel or tract of land into two or more lots, all of which have the required frontage on an existing public road or private street and complies with the dimensions and minimum acreage requirements of the Comprehensive Land Development Ordinance. Such divisions may be accomplished on existing lots of record not fronting on a public street or private road and may be divided into a maximum of four lots by use of an easement as defined in this section for the purpose of access.

~~***Subdivision, family:***~~ The subdivision of land for legacy or inheritance with principal means of ingress/egress as described in section 1117 of this appendix.

***Subdivision entrance signs:*** Any sign designed to identify the entrance of a subdivision, neighborhood, residential complex, apartment, or townhouse.

***Substantial damage:*** Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

***Substantial evidence:*** Such relevant evidence as a reasonable mind might accept as adequate to support a conclusion.

***Substantial improvement:*** Any combination of repairs, reconstruction, alteration, or improvements to a building taking place in which the cumulative cost equals or exceeds 50 percent of the market value of said building.

***Taxi cab station:*** An establishment engaged in furnishing passenger transportation by automobile or van, not operating on regular schedules or between fixed terminals, and containing space for taxi cab fleets and related office facilities.

***Telecommunications:*** The transmission and/or reception of audio, video, data, and other information by wire, radio frequency, light, and other electronic or electromagnetic systems.

***Telecommunications structure:*** A structure used in the provision of services described in the definition of ‘wireless telecommunications facilities’.

***Temporary:*** Temporary in relation to all aspects and components of this article, something intended to or that does exist for fewer than ninety (90) days.

***Tower:*** Any structure designed primarily to support an antenna for receiving and/or transmitting a wireless signal.

***Townhouse:*** A single-family dwelling unit constructed in a group of three or more attached units in which each unit extends from the foundation to the roof and with open space on at least two sides and under fee simple ownership.

***Traditional neighborhood:*** As defined and identified in the ~~2029~~ Comprehensive Plan.

***Travel trailer:*** A vehicular, portable structure built on a chassis designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight feet.

***Tree:*** Any self-supporting, woody perennial plant having a single trunk diameter, measured at DBH, of two inches or more which normally grows at maturity to an overall height of a minimum of 15 feet.

***Truck stop:*** An area principally devoted to the service re-fueling, temporary storage, or parking of trucks including accessory buildings, structures and uses such as restaurants.

***Truck terminal:*** An area where cargo is loaded, unloaded, and stored on a regular basis.

***Under canopy sign:*** A sign that is suspended from the underside of a canopy (including awnings/marquees), is perpendicular to the wall surface of a building, and whose canopy is not clearly visible from a public right-of-way.

***Unlawful sign (illegal sign):*** Any sign erected without a permit when a permit for the sign was otherwise required by this appendix or previously adopted resolution or code; or a permitted sign which has not been properly erected in accordance with its permit application and approved sign permit; or an otherwise lawful and permitted sign which has become hazardous or a nuisance to the public due to poor maintenance, dilapidation, or abandonment, and so declared by the Administrative Officer.

***Use:*** Any purpose for which a building or structure or a tract of land may be designed, arranged, intended, maintained, or occupied; or any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or structure or on a tract of land.

***Utility:*** Public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, river/lake access facilities, storm water systems and railroads.

***Variance:*** A minimal relaxation or modification of the strict terms of the height, area, placement, setback, yard buffer, landscape strip, parking, and loading regulations consistent with the criteria established within these regulations as applied to specific property when, because of particular physical surroundings, shape, or topographical condition of the property, compliance would result in a particular hardship upon the owner.

***View shed:*** An area of land, water, or other environmental element with aesthetic value to be protected from adverse effects of development that is visible to the human eye from a fixed vantage point. These areas include, but are not limited to, ridges, mountains, hills, rural and natural lands, and streams designated through ordinance, guideline, map listing, or designation by a local, state, or federal government.

***Visual impact assessment:*** A computer-aided photographic analysis of the visual impact on and around a proposed development site.



**Visual quality:** The appropriate design, arrangement, and location of tower structures in relation to the built or natural environment to avoid abrupt or severe differences.

**Wall:** All of the vertical face of a building including any parapet but excluding the roof.

**Wall sign:** A sign fastened, placed, or painted upon or parallel to the exterior wall of the structure whether front, rear, or side of the structure.

**Warehouse:** A building or group of buildings for the storage of goods or wares with access to contents only through management personnel.

**Water supply reservoir:** A governmentally-owned impoundment of water for the primary purpose of providing water to one or more governmentally-owned public drinking water systems, excluding multi-purpose reservoirs owned by the United States Army Corps of Engineers.

**Water supply watershed:** The area of land upstream of a governmentally-owned public drinking water intake or water supply reservoir.

**Wetlands:** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support and that, under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions.

**Wholesale distribution:** An establishment engaged in selling merchandise to retailers, to industrial, commercial, institutional or professional business users, or to other wholesalers.

**Width, “wireless facility”:** The lateral measurement of any wireless facility array on a wireless support structure at the widest spot. The measurement of width shall not be limited by the array immediately above or below the wireless array being applied for.

**Width, “wireless support structure”:** The dimensions of the structure as noted on the design documents submitted at the time of application and used as a basis for approval by the Board.

**Window sign:** A sign installed flush with or on a window and intended to be viewed from the outside.

**Wireless facility:** The set of equipment and network components, exclusive of the underlying wireless support structure, including antennas, transmitters, receivers, base stations, power supplies, cabling, and accessory equipment used to provide wireless data and telecommunication services.

**Wireless support structure:** A freestanding structure, such as a monopole tower, either guyed or self-supporting, or suitable existing or alternative structure designed to support or capable of supporting wireless facilities. Such term shall not include any electrical utility pole or tower used for the distribution or transmission of electrical service.

**Wireless telecommunications facilities:** Includes a “telecommunications site” and “personal wireless facility.” It means a structure, facility, or location designed, or intended to be used as, or used to support antennas or other transmitting or receiving devices. This includes, without limit, wireless support structures of all types, kinds and structures including, but not limited to, buildings, church steeples, silos, water towers,

signs, or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters, and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services, and any commercial wireless telecommunication service not licensed by the FCC.

***Wrecked motor vehicle compound:*** An area used to store disabled motor vehicles until such time as their disposition (either by junk, salvage, or repair) has been determined by the insurance company, the owner of the vehicle, or his legal representative.

***Yard:*** A space on the same lot with a principal building which is open, unoccupied, and unobstructed by buildings or structures. A yard may contain a parking and/or loading area unless otherwise specified by this appendix.

***Yard, front:*** The area extending across the full width of the lot located between the front lot line or planned street line and the front building line. On corner lots the front yard shall be considered as parallel to the street upon which the lot has its least dimension.

***Yard, rear:*** An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the building projected to the side lines of the lot. On all corner lots the rear yard shall be at the opposite end of the lot from the front yard.

***Yard, side:*** A space on the same lot with a principal building, situated between the building and the side lot line and extending from the rear line of the front yard to the front line of the rear yard.

***Zero lot line:*** The location of a building on a lot in such a manner that one or more building sides have no side building setback and rest directly on a side lot line.

## **Section 202. Acronyms.**

AG – Agricultural District

ADA – Americans with Disabilities Act

AASHTO – American Association of State Highway and Transportation Officials

ADT – Average Daily Trips

BFE – Base Flood Elevation

BMP – Best Management Practices

CABO – Council of American Building Officials

CLOMR – Conditional Letter of Map Revision

CLOMA – Conditional Letter of Map Amendment

CPESC – Certified Professional in Erosion and Sediment Control

CS – Conservation Subdivision

DBH – Diameter at Breast Height

DCH – Georgia Department of Community Health

DNR – Georgia Department of Natural Resources

DOT – Georgia Department of Transportation

DRI – Development of Regional Impact

DUA – Dwelling Units per Acre

EMA – Habersham County Emergency Management Agency  
EPD – Georgia Environmental Protection Division  
FAA – Federal Aviation Administration  
FCC – Federal Communications Commission  
FEMA – Federal Emergency Management Agency  
FHBM – Flood Hazard Boundary Map  
FIRM – Flood Insurance Rate Map  
FIS – Flood Insurance Study  
GIS – Geographic Information System  
GDOT – Georgia Department of Transportation  
GPAD – Gallons Per Acre Per Day  
GSMM – Georgia Stormwater Management Manual  
HI – Commercial & Industrial District  
HVAC – Heating, Ventilation, and Air Conditioning  
IBC – International Building Code  
ICC – Interstate Commerce Commission  
IFC – International Fire Code  
IFGC – International Fuel Gas Code  
IMC – International Mechanical Code  
ITE – Institute of Transportation Engineers  
LI-C – Limited Commercial District  
LI-R – Residential Single Family District  
LSC – Life Safety Code  
LOMR – Letter of Map Revision  
MI-C – General Commercial District  
MI-R – Residential Multi-Family District  
MRPA – Metropolitan River Protection Act  
MSL – Mean Sea Level  
MU – Mixed Use District  
NFPA – National Fire Protection Association  
NPDES – National Pollution Discharge Elimination System  
NOI – Notice of Intent  
NOT – Notice of Termination  
NRCS – Natural Resources Conservation Service  
NTU – Nephelometric Turbidity Units  
NWI – National Wetlands Inventory  
OCGA – Official Code of Georgia Annotated  
PD – Planned Development  
PI – Public Institutional District  
RV – Recreational Vehicle  
SBCCI – Southern Building Code Congress International (International Building Code)  
TRC – Technical Review Committee  
ULDC – Unified Land Development Code  
USACE – United States Army Corps of Engineers  
USGS – United States Geological Survey



## **ARTICLE III – Land Use Districts and Uses**

### **Section 301. Generally.**

The use of buildings, structures, and land in accordance with the Habersham County Comprehensive Plan shall comply with the use requirements for Land use districts set forth in Article III. Buildings, structures, or land shall be occupied or used only in conformity with all of the regulations set forth herein for the district in which it is located.

### **Section 302. Land Use Districts.**

For the purpose of this CLDO, Habersham County is hereby divided into land use districts as set out below:

#### **Regular Districts**

AG, Agricultural District

LI-R, Residential Single Family

LI-C, Limited Commercial District

MI-R, Residential Multi-Family District

MI-C, General Commercial District

PI, Public Institutional District

HI, Commercial & Industrial District

PD, Planned Development District

#### **Overlay Districts**

COD, Corridor Overlay District

AH, Airport Hazard Overlay District

### **Section 303. Official Habersham County Land Use Map.**

**303.1.** The location and boundaries of the above listed districts are hereby established as shown on the Official Land Use District Map of Habersham County, Georgia. Said map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this CLDO.

**303.2.** The Official Land Use District Map shall be stored in an electronic database maintained by the Habersham County Planning and Development Department. So stored and maintained, the Official Land Use District Map shall be the final authority as to the current land use status of all land, water, buildings, and structures within the county.

**303.3.** On a quarterly basis, when changes are made in the boundaries or other matter portrayed on the Official Land Use District Map, the Official Land Use District Map shall be printed. The Official Land use District Map shall be identified by the signature of the County Commission Chairman, attested by the County Clerk, and bear the seal of the county under the following words: "This is to certify that this is the Official Land Use District Map referred to in Article IV of the Comprehensive Land Development Ordinance, Habersham County, Georgia."

**303.4.** If, in accordance with the provisions of this CLDO and the applicable laws of the State of Georgia, changes are made in boundaries or other matter portrayed on the Official Land Use District Map, such changes shall be entered on the Official Land Use District Map promptly after the amendment has been approved by the County Commission with appropriate entry or indication of such amendment on the Official Land Use District Map.

**303.5.** No changes of any nature shall be made in the Official Land Use District Map or matter shown thereon except in conformity with the procedures set forth in this CLDO. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this CLDO.

## **Section 304. Establishment and Purpose of Land use Districts.**

### **304.1. Regular Districts.**

#### **304.1.1. AG, Agricultural District.**

This district will be composed primarily of agricultural areas where some development of single-family residential is occurring. The regulations for this district will be designed to encourage a compatible relationship between agricultural and residential in the district. The regulations are intended to allow low rural residential densities and compatible agricultural activities without encouraging commercial development.

#### **304.1.2. LI-R, Single Family Residential District.**

This district will provide and protect an environment suitable for single-family detached residential uses on individual lots, conventional subdivisions, and master planned developments, together with such other accessory uses as may be necessary to and compatible with low density residential surroundings.

#### **304.1.3. LI-C, Limited Commercial District.**

This district will accommodate modestly sized professional offices and retail services in close proximity to and in harmony with nearby residential properties. These regulations are intended to reduce traffic congestion, provide adequate off-street parking, and discourage encroachment by other uses capable of adversely affecting the limited neighborhood commercial character of the district. New single story buildings shall not exceed 3,500 gross square feet and new two-story buildings shall not exceed 5,000 gross square feet. Pre-existing residential structures that exceed this building maximum may be considered for land use to LI-C. Uses that create issues with noise, traffic, or odors are not permitted in this district.

#### **304.1.4. MI-R, Residential Multi-Family District.**

This district will provide suitable areas for the development of variety of multi-family dwelling types. This district is intended to locate in areas of close proximity to where public water and public sanitary sewer treatment services are available or where alternate systems are approved by the Board of Health.

#### **304.1.5. MI-C, General Commercial District.**

This district will a commercial district designed to serve the automobile and to provide community shopping facilities consisting of a wide variety of sales and service facilities and locations that will be accessible to all shoppers. More intensive land development uses will be properly screened and shielded from adjacent properties so as to reduce any adverse impacts. Uses, processes or equipment employed shall be limited to those which are not objectionable by reason of odor, dust, bright lights, smoke, noise, or vibration.

#### **304.1.6. PI, Public Institutional District.**

This district will accommodate mid- and large-sized public and institutional uses of a governmental, educational, cultural, recreational, public service, and healthcare nature which have a substantial land use impact or traffic generation potential. It is not intended for public and institutional uses customarily found within residential areas.

#### **304.1.7. HI, Commercial & Industrial District.**

This district is established for the purpose of reserving certain areas for industrial operations. This district is not to be placed in close proximity to residential and other districts that may be damaged by the objectionable circumstances such as: the emission of noise, vibration, smoke, dust, gas, fumes, odors, large

vehicles, heavy traffic, or have other objectionable conditions. Certain industries having an open storage characteristic where goods or materials are stored in an open or transportable container, or which are most appropriately located within an industrial area, are also included within this district.

#### **304.1.8. PD, Planned Development District.**

This district will provide a district for addressing specific site and building design issues for and needs created by large scale residential, commercial, office, institutional or industrial uses. In addition, it allows for more flexible placement, mixture, arrangement and orientation of residential, office institutional, commercial and/or industrial uses. This provides for accompanying flexibility in the subdivision of land and the grouping of open space and accessory facilities.

#### **304.2.Overlay Districts.**

##### **304.2.1. CO, Corridor Overlay District.**

This overlay district will provide for mixtures of commercial, light industrial, and higher density residential uses in areas where public water, sanitary sewer, public sewer, private sewage disposal system approved by environmental health, and access to an arterial street is available. More intensive land development uses will be properly screened and shielded from adjacent properties so as to reduce any adverse impacts. See Section XV for specific requirements.

##### **304.2.2. AH, Airport Hazard Overlay District.**

The intent of this overlay district is to protect general safety, public welfare and economic viability of the Habersham County Airport by prohibiting obstructions to air navigation within the approach areas. See Article XV for specific requirements.

#### **Section 305. Conversion of Previous Land use Districts.**

**305.1.** Land use districts as were established under the previous land use ordinance of Habersham County are hereby renamed to the following land use district names and designations under this CLDO, as shown in Table 305 (A). All regulations, requirements and provisions of this CLDO applicable to a land use district established under this section shall apply to the previously named land use district as now named, as shown in Table 305 (A).

**305.2.** All special conditions and special stipulations imposed as conditions of rezoning of property prior to adoption of this CLDO are hereby retained and reaffirmed, and shall continue in full force and effect until such time as the property is rezoned or the prior land use action of the Board of Commissioners is amended through the rezoning process established by this CLDO.

Table 305 (A): Conversion of Previous Land use Districts

Previous Land Use District Designation	Land Use District Designation under this CLDO
AG	AG
LI	LI-R
	LI-C
MI	MI-R
	MI-C
N/A	PI
HI	HI
N/A	PD

**Section 306. Uses Permitted in Each Land Use District.**

**306.1.** In P-D Planned Development District uses that are permitted are specified as part of the zoning approval for each development.

**306.2.** Principal and accessory uses that are permitted by right, permitted by right but with limitations, and uses permitted as conditional uses herein identified and listed are not intended to be exhaustive, but only representative of those uses permitted in each Land Use District. It shall be the responsibility of the Planning and Development Director to determine any additional uses not herein specifically identified as permitted uses.



PRINCIPAL USES	LAND USE DISTRICTS							
	AG	LI-R	LI-C	MI-R	MI-C	PI	HI	Comments
<b>Agricultural and Related Uses</b>								
Agricultural Production – Crops	X	X	X	X	X		X	
Agricultural Production – Livestock	X	X	X	X	X		X	
Agricultural Production – Hogs	X	X						
Agricultural Production – Poultry	X	X	X	X	X		X	
Aquaculture Production	X	X	X	X	X		X	
Forestry	X	X	X	X	X		X	
Portable Sawmill – Temporary	X	X	X	X	X		X	
Riding Stable	X	X	X	X	X		X	
Farm Winery as defined in OCGA 3-6-21.1	X	X	X	X	X		X	
On Farm Sales of Agricultural Products	X	X	X	X	X		X	
Farmer’s Market or Livestock Pavilion	X	X	X	X	X		X	
<b>Residential Uses</b>								
Single Family Dwellings – Detached	X	X	X	X	X		X	
Townhouse (Single Family - Attached)				X	X		X	
Two Family Dwellings (i.e. Duplexes)	X	X	X	X	X		X	
Multi-Family Dwellings				X	X		X	
Manufactured Home Dwelling on Individual Lot	X	X	X	X	X		X	
Manufactured Home Park				X				
Convalescent Home		CU		X				
Personal Care Home	X	X		X				
Nursing Home		CU		X	X			
Rooming or Boarding House		CU		X	X			
Dormitory						X		
<b>Office Uses</b>								
Accounting or Bookkeeping Office			X		X			
Attorney or Law Office			X		X			
Employment or Personnel Agency			X		X			
Engineering or Architectural Office			X		X			

	AG	LI-R	LI-C	MI-R	MI-C	PI	HI	Comments	
General Business Office			X		X				
Home Health Care Office			X		X				
Insurance Office			X		X				
Investment or Security Broker			X		X				
Medical or Dental Office			X		X				
Medical or Dental Laboratory			X		X				
Real Estate Office			X		X				
Temporary Subdivision Sales Office	X	X	X	X	X				
Utility Company Office			X		X				
Veterinary Office	CU		X		X				
<b>Service Uses</b>									
Adult Entertainment							CU		
Ambulance Service -Private					X				
Amusement Attraction-Indoor					X				
Amusement Attraction-Outdoor					X				
Amusement Game Room					X				
Amusement Park					X				
Appliance Repair					X				
Automotive Repair Shop					X				
Automotive Rental Agency					X				
Bank or Credit Union					X				
Barber Shop			X		X				
Beauty Shop			X		X				
Bed and Breakfast Inn	CU	CU	X	X					
Bowling Center					X				
Business Service, Miscellaneous					X				
Campground	CU				X				
Carwash									
Catering Service					X				
Computer Repair					X				
Crematory					CU		CU		
Dance Studio or School			X		X				
Day Care Center (13 or more persons)			X		X				

	AG	LI-R	LI-C	MI-R	MI-C	PI	HI	Comments	
Dry Cleaning or Laundry Establishment			X		X				
Dry Cleaning Plant							X		
Electrical, TV, or Radio Repair Shop			X		X				
Freight Shipping Company							X		
Funeral Home not to include Crematory					X				
Golf or Baseball Driving Range			X		X				
Golf Course or Tennis Club (part of residential development)	CU	X	X		X				
Golf Course, Tennis Club, or Country Club		CU		X	X				
Health or Fitness Club			X		X				
Health Services Facility or Clinic			X		X				
Hospital						X			
Hotel or Motel			CU		X				
Jewelry Repair			X		X				
Kennel			CU						
Lawn or Garden Services	X				X				
Pawn Business					X				
Pest Control Business			X		X				
Pet Grooming			CU		X		X		
Printing and Duplicating Service			X		X				
Photography Studio			X		X				
Radio or TV Station					X				
Recreational Vehicle (RV) Park	CU			CU	X				
Theater – Movie or Performing Arts					X				
Title Pawn Business with no auto sales on site					X				
Welding Repair Shop					CU		X		
<b>Retail Uses</b>									
Adult Entertainment									
Agricultural Equipment Sales	X				X				
Agricultural or Produce Stand	X	X		X					
Auto, Boat, RV, or Motorcycle Sales					X				

	AG	LI-R	LI-C	MI-R	MI-C	PI	HI	Comments	
Bakery, Retail			X						
Book Store			X		X				
Building Materials					X				
Convenience Store with Gas Sales					X				
Electronics, Computer or Software Sales			X		X				
Equipment Rental Business					X				
Feed and Seed Store	CU				X				
Flea Market with Outside Vendors					X				
Furniture Store					X				
General Merchandise Sales			X		X				
Gift, Novelty, and Souvenir Shop					X				
Grocery Store					X				
Hardware Store			X		X				
Jewelry Store					X				
Lawn and Garden Supplies	CU		X		X				
LP Gas or Fuel Oil Dealer	CU				X				
Manufactured Home Sales					X				
Medical Supply Sales & Service			X		X				
Paint or Glass Store			X		X				
Pharmacy			X		X				
Plant Nursery	X				X				
Plumbing, Electrical, and HVAC Dealers					X				
Restaurant without Drive Thru			X		X				
Restaurant with Drive Thru					X				
Retail Stores, Miscellaneous			X		X				
Sporting Goods Store			X		X				
Thrift or Used Merchandise Store			X		X				
Tire Sales and Service					X				
<b>Industrial, Transportation and Storage Uses</b>									
Airport	CU	CU				X	X		

	AG	LI-R	LI-C	MI-R	MI-C	PI	HI	Comments	
Concrete Mixing Plant							X		
Contractor Yard with Equipment Storage							X		
Gravel Pit							X		
Junkyard							CU		
Mini-Warehouses			CU		X		X		
Petroleum Storage							CU		
Quarrying or Mining							CU		
Recycling or Scrap Center, Private							CU		
Sawmill							X		
Solid Waste Landfill, Private							CU		
Solid Waste Transfer Station							CU		
Truck Terminal							X		
Warehousing or Indoor Storage Facility (Not including Mini-Warehouses)							X		
Wholesale Trade Operations including Storage							X		
<b>Manufacturing Uses</b>									
Apparel or other Fabrics							X		
Artisan or Crafts			X		X				
Bakery, Industrial							X		
Bottling Works							X		
Chemicals and Allied Products							X		
Cleaning Products							X		
Distillery or Brewery							X		
Electrical Equipment and Components							X		
Fabricated Metal Products							X		
Furniture and Fixtures							X		
Industrial or Commercial Machinery							X		
Leather Products (Not including tanning and finishing)							X		
Lumber and Wood Products							X		

	AG	LI-R	LI-C	MI-R	MI-C	PI	HI	Comments	
Miscellaneous Manufacturing Industries							X		
Paper and Allied Products							CU		
Petroleum Related Industries (Not Refinery)							X		
Precision Instruments							X		
Printing and Publishing							X		
Research or Testing Laboratory					X		X		
Rubber or Plastic Products							X		
Stone, Clay, Glass, or Concrete Products							X		
Textile Mill Products							X		
Transportation Equipment							X		
<b>Semi-Public Uses and Utilities</b>									
Athletic Playfields		CU		CU	X	X			
Cemetery									
Churches or Places of Worship	X	X	X	X	X	X	X		
Civic, Social, or Fraternal Organizations		X	X	X	X				
College or Technical College						X			
Communications Tower									
Community Recreation Facility						X			
Fairgrounds						X			
Governmental Buildings and Facilities						X			
Neighborhood Center or Swimming Pool (part of residential development)	X	X		X					
Neighborhood Recreation Center or Swimming Pool (not part of residential development)				X	X	X			
Museum or Art Gallery									
Outdoor Special Events Venue			X	X	X				
Park, Passive			CU	CU	X	X			
School, Elementary and Secondary							X		
Solar Farm	CU	CU					X		

	<b>AG</b>	<b>LI-R</b>	<b>LI-C</b>	<b>MI-R</b>	<b>MI-C</b>	<b>PI</b>	<b>HI</b>	<b>Comments</b>	
Wedding Chapel and Special Events Venue	CU	CU	CU	CU	X	X	X		

<b>ACCESSORY USES</b>	<b>LAND USE DISTRICTS</b>								
	<b>AG</b>	<b>LI-R</b>	<b>LI-C</b>	<b>MI-R</b>	<b>MI-C</b>	<b>PI</b>	<b>HI</b>	<b>Comments</b>	
Accessory Dwelling	CU	CU		CU					
Accessory Uses Normally Incidental to Principal Use	X	X	X	X	X	X	X		
Accessory Retail Uses in connection with an office, institution, hotel or motel, apartments, etc.				CU	X	X			
Accessory Uses to a Dwelling	X	X		X					
Day Care, Home (12 or fewer persons)	X	X		X					
Home Office	X	X		X					
Night Watchman Residence							X		
Residential Business	CU	CU		CU					

## Article IV – Off Street Parking, Loading, and Access Requirements

### Section 401. Off-street Parking and Loading Spaces Required.

**401.1.** Off-street automobile parking and loading spaces shall be provided as specified in this article for uses and structures hereafter established in any map district at the time of initial construction of any principal building unless otherwise exempted from this article. For developments phased in, timing, parking, and loading requirements may also be phased in accordance with the requirements applying for each particular time phase of development.

**401.2.** Any building or use that is subsequently enlarged or converted to another use shall meet the off-street parking and loading space requirements of this article for the enlarged or new use.

**401.3.** Required parking and loading spaces shall be maintained and shall not be encroached upon by refuse containers, signs, or other structures unless an equal number of spaces are provided elsewhere in conformance with this CLDO.

**401.4.** Required parking and loading spaces shall be provided with vehicular access to a public street or alley unless such access is prohibited by this CLDO.

**401.5.** Off-street parking and loading facilities required shall be located on the same lot as the principal building or use. Fifty percent of the required number of parking spaces may be located off site but within 400 feet of the principal building or use. Proof of ownership or a valid lease agreement for use of such premises shall be provided to the Planning and Development Director. Such distance shall be measured between the nearest point of the parking facility and the nearest point of entry to the principal building or use.

### Section 402. Minimum Number of Off-Street Parking Spaces Required.

**402.1.** The minimum number of required off-street parking spaces for each type of permitted use shall be as indicated below:

USE CLASSIFICATION	PARKING SPACE REQUIREMENTS
Apartment or other multiple-family residential use	Two spaces per dwelling unit plus four spaces per leasing office and ten spaces per clubhouse or recreation center
Art gallery	One space for each 300 square feet of gross floor area
Automobile sales, service and repair	One space for each 150 square feet of gross floor area
Auditorium, stadium, assembly hall, gymnasium, or community center	One space per four fixed seats in largest assembly room or area
Bank or financial institution	One space for each 200 square feet of gross floor area
Barber or beauty shop	Three spaces for each operator or chair
Billiard hall, amusement arcade	One space for each 200 feet of gross floor area
Boarding or rooming house	One space for each two guests plus one additional space for each resident manager or owner
Bowling alley	Three spaces for each alley
Church or place of worship	One space per four fixed seats in largest assembly room



Convenience retail store	One space for each 200 square feet of gross floor area
Dance studio or school	One space for each employee plus one space per 150 square feet of gross floor area
Day care center	One space for each eight children, plus one space per employee
Duplex	Two spaces per dwelling unit
Food store	One space per 200 square feet of gross floor area
Funeral home or mortuary	One space for each four seats in largest assembly room
Furniture or appliance store	One space per 600 square feet of gross floor area
Gasoline service station	Two spaces per gasoline pump plus three spaces per service bay
Golf course	Three spaces for each hole plus one space for each two employees
Health club, spa	One space for each 150 square feet of gross floor area
Hospital, clinic, nursing home	One space for each two beds plus one space for each staff or visiting doctor plus one space for each three employees
Hotel, motel	One space for each guest room plus one space for each two employees on largest shift
Industrial or manufacturing	Two spaces for each three employees on largest shift
Laundry, self service	One space for each washer-dryer combination
Library, museum	One space for each 200 square feet of gross floor area
Lodge, club	One space for each three seats in largest assembly room
Miniature golf course	Three spaces per hole
Mobile home, mobile home park	Two spaces per dwelling unit plus one space for each resident manager and additional spaces for public park or use areas
Office, general or professional	One space for each 250 square feet of gross floor area
Office, medical or dental	Six spaces per practitioner
Personal service establishment	One space for each 200 square feet of gross floor area
Restaurant or lounge	One space for each 100 square feet of gross floor area
Retail business	One space for each 200 square feet of gross floor area
Sanitarium, rest and convalescent home, personal care home	One space for each four patient beds plus one space for each doctor and staff member
School, elementary or middle	Two spaces per classroom and administrative or staff person
School, high	Ten spaces per classroom plus one space for each administrative or staff person
School, college, trade, vocational	Ten spaces per classroom plus one space for each administrative or staff person

Self-service storage facility, mini-warehouse	One space for each twenty storage stalls plus two spaces for resident manager's office
Shopping center	One space for each 200 square feet of gross floor area
Single-family residence	Two spaces per dwelling unit
Theater, cinema	One space for each three seats
Wholesale	One space for each 750 square feet of gross floor area

**402.2.** For uses not specifically listed, the off-street parking requirements shall be those of the most similar use as determined by the Planning and Development Director. When the application of these parking requirements results in a fractional space requirement, the fractional space requirement shall be construed to mean one additional space.

**402.3.** For uses not specifically mentioned in this section, such as open air gatherings and temporary structures, the parking requirement shall be the same as for the use which most closely approximates the proposed use as determined by the Planning and Development Director.

**402.4.** Parking for structures or uses in AG (agricultural) and LI-R (~~low intensity~~) districts shall have a driveway or other area that provides for off-street parking for at least two vehicles.

**402.5.** Automobiles, trucks, and agricultural equipment shall not be parked on county rights-of-way.

### **Section 403. Handicapped Parking Requirements.**

In all land use intensity districts each parking area devoted to uses other than one-, two-, or three-family residential structures shall provide handicapped parking spaces complying with the accessibility requirements of the State of Georgia adopted accessibility code. Required accessible spaces shall be counted as a part of the total parking required in accordance with the following scale:

<b>TOTAL PARKING REQUIREMENTS</b>	<b>HANDICAPPED SPACES REQUIRED</b>
1-25	1
26-50	2
51-75	3
76-100	4
101-150	5
151-200	6
201-300	7
301-400	8
401-500	9
501-1,000	2 percent of total required
1,001 and over	20 plus one for each 100 over 1,000

### **Section 404. Minimum Number of Off-Street Loading Spaces Required.**

On the same lot with every building, structure, or part thereof erected or occupied for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, retail business, or other uses similarly involving the receipt or distribution of

vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for the standing, loading, and unloading services to avoid undue interference with public use of streets and alleys.

Such loading and unloading space, unless otherwise adequately provided for, shall be an area 12 feet by 60 feet with 14-foot height clearance and shall be provided according to the following schedule.

For the above described uses, one loading space shall be provided for the first 25,000 square feet of gross floor area or fractional part thereof. Uses in excess of 25,000 square feet shall provide loading spaces according to the following schedule:

SQUARE FEET	NUMBER OF SPACES
25,001-99,999	2
100,000-159,999	3
160,000-239,999	4
240,000-349,999	5
For each additional 100,000 or fraction thereof	1 additional

All plans for off-street loading areas shall be subject to the approval of the Planning and Development Director.

## **Section 405. Parking and Loading Area Design Requirements.**

### **405.1 Improvement of parking lots**

All parking areas containing more than five spaces shall meet the following requirements:

- They shall be graded to insure proper drainage, surfaced with concrete or asphalt, and maintained in good condition free of obstructions.
- Parking areas shall not be used for the sale, repair, dismantling, or servicing of any vehicle, equipment, materials or supplies.
- Each parking space shall be clearly marked, and directional arrows or signs shall be provided wherever necessary. Markers, directional arrows, and signs shall be properly maintained at all times.
- A parking lot pavement setback of ten feet from any public street right-of-way and five feet from any exterior property line shall be provided, except where access points and interconnections to other parcels have been approved. Concrete or other suitable curb stops shall be installed so as to prevent vehicle encroachment onto setback areas.
- Not less than ten percent of the total area devoted to parking shall be landscaped open space.
- Any lighting facilities installed shall be so arranged to prevent the direct illumination of adjacent residential properties or public streets.
- A site plan indicating property lines, parking areas, location of parking spaces, pavement setbacks, drainage facilities, paving materials, access, and other features required to ensure compliance with this article shall be submitted to the Planning and Development Director. A permit shall be required prior to the construction of new parking areas or for the expansion or alteration of existing parking areas.

## **Section 406. Curb Cut and Access Specifications.**

Access from public streets to all parking areas for any permanent or temporary uses, buildings, and/or structures, regardless of the number of parking spaces provided, shall meet the following requirements:

- Curb cuts or access breaks for service drives, entrances, and exits on public streets shall not be located within 50 feet of the intersections of two curb lines, street pavement lines or such lines extended, or any street intersection, nor within 40 feet of another curb cut or access break.

- b. Curb cuts shall be no greater than 40 feet in width and no closer than 20 feet to any property line unless common use of driveways for an abutting lot is required or approved by the Planning and Development Director.
- c. No more than two curb cuts or access breaks shall be permitted for any lot or parcel with a frontage of 200 feet or less on any one street.
- d. All commercial driveways, as defined by the Georgia Department of Transportation, onto public streets shall require a permit from the Planning and Development Director. If a driveway permit is required by the Georgia Department of Transportation, then proof of said approval by the Department of Transportation shall be submitted to the Planning and Development Director prior to the issuance of such local permit. When a building permit is required, said driveway permit may be issued as a part of the building permit.
- e. Curb cuts for driveways that serve high intensity use districts shall not be permitted to pass through low intensity use districts or to access alleys that abut a low intensity use-district.
- f. All driveways shall comply with Chapter 20 – Driveway Construction of the Habersham County Code. If there is a conflict between Chapter 20 – Driveway Construction and this section, the more restrictive shall apply.

Where the side of an accessed public street or alley does not contain curbing, such curbing or other method of approved access control shall be provided.



## **ARTICLE V – Environmental Regulations**

### **Section 501. Purpose and Intent.**

The purpose and intent of these regulations are intended to protect the natural features and natural resources within Habersham County, and to implement policies in the Habersham County Comprehensive Plan. The natural features and natural resources included in Article V are the water supply watersheds, groundwater recharge areas, river corridors, wetlands, mountains, floodplains, and erosion and sediment control. ~~is to safeguard particularly sensitive or fragile natural environments where the potential exists for water table decline, pollution of groundwater and surface waters, damage to wetlands, and other hazards and threats to the natural environment. This article specifies regulatory specifications governing the development of land within water supply watersheds, significant groundwater recharge areas, and wetlands.~~

### **Section 502. Establishment of Sensitive Environments Maps.**

The location and boundaries of the sensitive environments regulated in this article are hereby established as shown on a set of maps entitled "Sensitive Environment Maps of Habersham County, Georgia." Said set of maps, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this CLDO. The sensitive environment maps shall be identified by the signature of the County Commission Chairman. Said maps shall be located in the office of the Planning Department and shall be public records available for public inspection during normal business hours. The governing body is hereby authorized to amend said maps in accordance with the procedures for land use intensity district map amendments as provided in this CLDO.

### **Section 503. Regulations Governing Land Development Within Significant Groundwater Recharge Areas.**

Within a significant groundwater recharge area, as defined by this CLDO and as indicated on the sensitive environments maps, the following regulations shall apply:

- A. No new sanitary landfills shall be permitted unless such landfills are installed with synthetic liners and leachate collection systems as approved by the Georgia Department of Natural Resources.
- B. The land disposal of hazardous wastes shall be prohibited, and any facilities permitted by the Georgia Department of Natural Resources which involve the treating, storing, or disposing of hazardous waste shall perform such operations on an impermeable pad having a spill and leak collection system as approved by the Georgia Department of Natural Resources.
- C. Any new above-ground chemical or petroleum storage tanks having a minimum volume of 660 gallons shall have secondary containment for 110 percent of the volume of such tanks or 110 percent of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt provided they comply with all federal requirements.
- D. New agricultural waste impoundment sites which exceed 15 acre-feet shall be required to contain a liner constructed of compacted clay having a minimum thickness of one foot and vertical hydraulic conductivity consistent with criteria established by the United States Soil Conservation Service. The Administrative Officer may consult with state and federal government officials and may require appropriate studies and/or plans to ensure conformance with this provision.
- E. The minimum lot size shall be one and one-half acre, provided, however, that nonconforming lot of record as defined by this CLDO is exempt from this provision.
- F. Each lot space within a mobile/manufactured home park shall be a minimum area of 13,500 square feet.
- G. Each space within a recreational vehicle park shall be a minimum area of 3,500 square feet.

### **Section 504. Wetlands Protection Regulations.**

Prior to the issuance of any land-disturbing activity permit or building permit, the Administrative Officer shall review the sensitive environments map to determine whether or not the land involved in an application for land-

disturbing activity permit or building permit contains wetlands. The Administrative Officer shall not issue any land-disturbing activity or building permit involving properties identified as containing wetlands until and unless one of the following conditions have been met by the applicant for said permit:

- A. Documentation by the United States Army Corps of Engineers is provided to the Administrative Officer that said property does not contain a jurisdictional wetland and that the subject proposed development does not require a permit pursuant to section 404 of the United States Clean Water Act
- B. Documentation by the United States Army Corps of Engineers is provided to the Administrative Officer that said property involving a jurisdictional wetland and the proposed development has received a permit from the United States Army Corps of Engineers in accordance with section 404 of the United States Clean Water Act
- C. Documentation from a competent professional qualified to determine the location of wetlands is provided to the Administrative Officer that said property does not contain a jurisdictional wetland or that the subject development proposal will not disturb wetlands found to exist on the site. Said documentation shall specifically include the reference that wetlands identification (or finding of no wetlands) is based on a field study of the subject property and application of the Federal Manual for Identifying and Delineating Jurisdictional Wetlands, dated January, 1989, or as may be revised from time to time.

## **Section 505. Water Supply Watershed Protection Regulations.**

### **505.1 General**

All properties and development thereof within the corridor of a perennial stream located within a water supply watershed, as defined by this CLDO and as indicated on the sensitive environments maps, shall be subject to the following regulations:

- A. All properties and development thereof within the corridor of a perennial stream located within the Hazel Creek, Camp Creek, and Soque River water supply watersheds, within a seven-mile radius upstream of a governmentally-owned public drinking water intake or water supply reservoir, shall conform to the following:
  - 1. A stream natural buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
  - 2. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks, and septic tanks and septic tank drain fields shall be prohibited within the impervious surface setback area.
- B. All properties and development thereof within the corridor of a perennial stream located within the Hazel Creek, Camp Creek, and Soque River water supply watersheds, outside a seven-mile radius upstream of a governmentally-owned public drinking water supply intake or water supply reservoir, shall conform to the following:
  - 1. A stream natural buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.
  - 2. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks, and septic tanks and septic tank drain fields shall be prohibited within the impervious surface setback area.
- C. All properties and development thereof within the Hazel Creek, Camp Creek, and Soque River water supply watersheds, regardless of distance from a governmentally-owned public drinking water supply intake or water supply reservoir, shall conform to the following:
  - 1. New sanitary landfills are permitted only if they have synthetic liners and leachate collection systems.
  - 2. New hazardous waste treatment or disposal facilities are prohibited.
  - 3. New facilities which handle hazardous materials of the types and amounts determined by the Georgia Department of Natural Resources shall perform their operations on impermeable

surfaces having spill and leak collection systems as prescribed by the Georgia Department of Natural Resources.

4. The impervious surface area of any given property shall not exceed 25 percent of the total land area within such property.
- D. All properties and development thereof within the corridor of a perennial stream located within the Chattahoochee River water supply watershed, within a seven-mile radius upstream of a governmentally-owned public drinking water supply intake or water supply reservoir, shall conform to the following:
  1. A stream natural buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
  2. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks, and septic tanks and septic tank drain fields shall be prohibited within the impervious surface setback area.
  3. New facilities which handle hazardous materials of the types and amounts determined by the Georgia Department of Natural Resources shall perform their operations on impermeable surfaces having spill and leak collections systems as prescribed by the Georgia Department of Natural Resources.

#### **505.2. Exceptions to Water Supply Watershed Protection Regulations.**

The Administrative Officer is authorized to exempt water lines, telephone, electric power, cable television, and other utilities from the provisions of section 1505 above, provided said activities and/or utilities cannot be feasibly located outside the buffer and/or impervious surface setback area, that said activities and/or utilities are located as far from the stream bank as possible, and that said activities and/or installation and maintenance of utilities is performed in a manner acceptable to the Administrative Officer which preserves the integrity of the affected stream corridor.

- A. Specific forestry and agricultural activities may be exempt from the stream corridor buffer and setback area provisions of water supply watershed protection plans in accordance with the following conditions:
  1. The activity shall be consistent with best management practices established by the Georgia Forestry Commission or the Georgia Department of Agriculture.
  2. The activity shall not impair the quality of the drinking water stream.
- B. Existing lots of record, as defined by sections 301 and 1102, shall be exempt from the provisions of section 1505, provided, however, that such lots of record shall be required to conform to the following:
  1. Maintain a minimum 25-foot wide stream natural buffer
  2. Maintain a minimum 50-foot wide impervious surface setback area
  3. A minimum 50-foot setback for septic tanks and septic tank drain fields

### **Section 506. Chattahoochee River Corridor Protection.**

#### **506.1 Applicability:**

1. The Chattahoochee River Corridor Protection Ordinance is hereby designated and shall comprise all land, inclusive of islands, in the area in the eastern half of the Chattahoochee River within the County of Habersham and being within 100 feet horizontally on the eastern side of the river as measured from the eastern river bank. Also included is the area between the top of the eastern bank and the eastern edge of the river although this strip of land is not included as part of the 100-foot buffer requirement contained in the minimum standards. The 100-foot buffer shall be measured horizontally from the uppermost part of the river banks, usually marked by a break in slope. Although not within the measured 100-foot wide buffer, the area between the top of the bank and the edge of the river shall be treated by the local governments in the same manner as the river corridor and shall be included within the River Corridor Protection District. Because stream channels move due to natural processes such as meandering, river bank erosion, and jumping of channels, the river corridor may shift with time. For the purposes of these standards, the river corridor shall be considered to be fixed



at its position at the beginning of each review period for the Habersham County Comprehensive Plan. Any shift in the location of the protected river after the review period will be shown by revision of the boundaries of the river corridor at the time of the next Comprehensive plan review by the Department of Community Affairs.

2. These minimum planning standards and procedures shall apply to all state-owned or administered land that contains a protected river within its boundaries. All state agencies shall comply with these minimum standards. Failure by a state agency to comply with such standards shall be considered an indicia of a governmental action which may significantly adversely affect the quality of the environment under the Environmental Policy Act (O.C.G.A. 12-6-1 et seq.).
3. Standards and requirements established in the Metropolitan Rivers Protection Act and the Erosion and Sedimentation Act are not superseded by river corridor standards.

#### **506.2. Prohibited Uses:**

1. Hazardous waste disposal and handling facilities
2. Solid waste landfills
3. Septic tanks and septic tank drain fields, except that septic tanks only are permitted within the river corridor for single-family dwellings on two acre or larger lots

#### **506.3. Uses Exempt from Natural Buffer Maintenance Requirements:** The following uses are permitted subject to certain conditions within the 100-foot river corridor without having to maintain a 100-foot natural vegetative buffer:

1. Agriculture: Agricultural production and management is permitted within the river corridor, subject to the following conditions:
  - a. Agricultural activity shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission.
  - b. Agricultural activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
  - c. Agricultural activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.
2. Forestry: Timber production and harvesting are permitted within the river corridor, subject to the following conditions:
  - a. Forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission.
  - b. Forestry activity shall not impair the drinking quality of the river water as designed by the federal Clean Water Act, as amended.
3. Single-family dwellings: The river corridor protection plan shall not prohibit the building of single-family dwellings including the usual appurtenances within the buffer area, subject to the following conditions:
  - a. The dwelling shall be in compliance with all local zoning regulations.
  - b. The dwelling shall be located on a tract of land containing at least two acres.
  - c. For the purpose of these standards, the size of the tract of the land shall not include any area that lies within the protected river, (that is, for tracts of the lands that include portions of a protected river, the area between the river banks cannot be counted towards the two area minimum size).
  - d. There shall be only one such dwelling on each two acre or large tract of land.
  - e. A septic tank or tanks serving such a dwelling may be located within the buffer area.
  - f. Septic tank drain fields shall not be located within the buffer area.

4. Existing land uses: Any commercial, industrial, institutional, residential, or other land uses existing within the river corridor prior to the adoption of regulations by Habersham County implementing this river corridor protection plan, provided that:
  - a. They shall not impair the drinking quality of the river water.
  - b. They shall meet all applicable state and federal environmental rules and regulations.
5. Mining: Mining activities are allowed if permitted by the Georgia Department of Natural Resources pursuant to the Georgia Surface Mining Act of 1968, as amended.
6. Wildlife and fisheries management: These activities are allowed if consistent with the purposes of O.C.G.A. 12-2-8, Wastewater Treatment and Natural Water Quality Treatment or Purification.
7. Recreational uses: Paths, walkways, boat ramps, and other recreational uses consistent with maintenance of a natural vegetative buffer or with river dependent recreation, but specifically excluding parking lots and hard-surface tennis courts.
8. Road crossings and utilities: Roads and utilities must meet all requirements of the Erosion and Sedimentation Control Act of 1975, as amended, and any local ordinances on soil erosion and sedimentation control. If utilities cannot feasibly be located outside the river corridor/buffer area as decided conservatively by Habersham County, then utilities are allowed subject to the following:
  - a. The utilities shall be located as far from the river bank as reasonably possible.
  - b. Installation and maintenance of the utilities shall be such as to protect the integrity of the buffer area as well as is reasonably possible.
  - c. Utilities shall not impair the drinking quality of the river water.
9. Other uses: Other uses permitted by the Department of Natural Resources or under Section 404 of the Clean Water Act shall be permitted within the river corridor.

**506.4. Establishment and Maintenance of Natural Buffer:** Except for land uses specifically exempted by section 4 of this plan, all construction of buildings or structures is prohibited within the river corridor; and the existing natural vegetative buffer within 100 feet of the stream bank shall remain undisturbed.

**506.5. Assessment of Potential Development on Protected River Corridor:** Land development, if consistent with this plan, is not expected to adversely affect:

1. Unique/significant flora and fauna (non-identified in the corridor)
2. The uses, activities, and quality of Chattahoochee River water
3. Fishing or recreational uses (this segment is not a trout stream)
4. Historical and archeological sites (not identified in the corridor)
5. Adjacent sensitive natural areas (none identified except flood plains). Since flood plains are protected by Habersham County's flood damage prevention ordinance, no adverse effects on flood plains are anticipated either.

## **Section 507. Mountain Protection Plan.**

**507.1. Applicability:** The Habersham County Mountain Protection Plan shall apply to any "protected mountain" areas in Habersham County (Map 6-3) which is defined as:

1. All land area 2,200 feet or more above mean sea level that has a percentage slope of 25 percent or greater for at least 500 feet horizontally and shall include the crests, summits, and ridge tops which lie at elevations higher than any such area.
2. The crests, summits, and ridge tops of mountains whose flanks meet the criteria for a protected mountain shall also be included within the protected area, even though the slopes of such crests, summits, and ridge tops have slopes of less than 25 percent.
3. On an otherwise protected mountain, areas that are at an elevation of 2,200 feet or more and have a slope of less than 25 percent, exclusive of valley floors, shall be included within the protected

mountain area. For the purposes of this plan, a valley floor is defined as a depression of the earth's surface where the slopes of mountains meet at a lower limit to become nearly level and including such associated areas at the base or toe of a mountain with a 10:1 (ten percent) slope or less. Illustration 1 located in CLDO D provides a graphic of "protected mountains" according to the definition above. Protected mountains in Habersham County are generally indicated on Map 6-3 of CLDO C and indicates the angles of various slopes as a basis of comparison.

#### **507.2. Definitions:**

1. Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the U.S. Environmental Protection Agency pursuant to the federal act, which are in force and effect on February 1, 1988, codified as 40 C.F.R. Section 261.3 (Note: This is same definition as used in the Georgia Hazardous Waste Management Act.)
2. Land-disturbing activity means any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land-disturbing activity shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and ground upkeep, repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.
3. Reforestation plan means a plan prepared by a registered forester for replacing of harvested timber by replanting (as described in the Recommended Best Management Practices for Forestry in Georgia, published by the Georgia Forestry Commission) or by natural regenerative processes (such as coppicing, seed trees, etc.).

**507.3. Applicability to State Agencies:** These minimum planning standards and procedures shall apply to all state-owned or administered land that contains a protected mountain within its boundaries. All state agencies shall comply with these minimum standards. Failure by a state agency to comply with such standards shall be considered an indicia of a governmental action which may significantly adversely affect the quality of the environment under the Environmental Policy Act (O.C.G.A. 12-61-1 et seq.).

#### **507.4. References to Existing State and Local Regulations; Soil Erosion and Sedimentation Control:**

1. Proposed land-disturbing activity shall meet all applicable requirements of the "Erosion and Sedimentation Act of 1975," as amended, and of any applicable local ordinances on soil erosion and sedimentation control.
2. Standards and requirements established in the Erosion and Sedimentation Act are not superseded by Mountain Protection Standards.

**507.5. Water Supply:** Where one or more wells are to be used for individual water supply, the proposed land-disturbing activity shall meet all applicable requirements of the "Water Well Standards Act of 1985," the requirements of the rules and regulations of the Department Of Human Resources regarding individual or non-public wells and any more stringent requirements imposed by the local governing authority. If a public water supply system is to be provided, the water supply system shall meet all applicable requirements of the "Georgia Safe Drinking Water Act of 1977".

#### **507.6. Sewage Treatment.**

Where one or more septic tanks are to be used for individual sewage disposal, the proposed land-disturbing activity shall meet all applicable requirements imposed by the local governing authority (Habersham County). If sewage treatment is to be provided by any means other than one or more individual septic tanks, the sewage treatment shall meet all applicable requirements of the "Georgia Water Quality Control Act."

#### **507.7. Standards for Specific Land Uses.**

1. Hazardous waste disposal and handling: Hazardous waste or solid waste disposal facilities are prohibited from protected mountains. Disposal facilities permitted by the Environmental Protection Division of the Georgia Department of Natural Resources prior to the adoption of implementing regulations by Habersham County shall be exempt from this criterion. Handling areas for the receiving and storage of hazardous waste are prohibited from protected mountains.
2. Agriculture and forestry: Agriculture and forestry are permitted on protected mountains, provided that such agriculture and forestry must be consistent with the best management practices established by the Georgia Forestry Commission or the Georgia Soil and Water Conservation Commission; and agricultural and forestry activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.
3. Mining: Mining activity on protected mountains is allowed if such activity is permitted by the Georgia Department of Natural Resources.
4. Single-family dwellings: Single-family dwellings shall not be constructed at a density of more than one per acre; however, no such lot shall be less than the width prescribed in section 1107 at the building site. This density restriction shall not apply to:
  - a. Any lot of less than one acre if such a lot was, as of the date of adoption of this CLDO, owned and described as a discrete parcel of real property according to the instrument of title if the person or persons owning the lot on the date of adoption of this CLDO; or such a lot was, as of the date of adoption of this CLDO, shown as a discrete parcel or real property on a plat of survey properly recorded in the real property records of the Clerk of Superior Court by the person or persons owning the lot on the date of adoption of this CLDO.
  - b. Any land or part of any land which was contained in or subject to any master plan, planned unit development, special approved development plan, or any other development plan if such plan was filed with and approved by the local governing authority prior to the effective date of implementing regulations, pursuant to a duly enacted planning and zoning ordinance, provided further that any such planning and zoning ordinance must have provided for rules and procedures and governed lot sizes, density, types of buildings, and other limitations usually associated with the implementation of local zoning ordinances.
5. Multi-family dwellings: Multi-family dwellings shall not be constructed at a gross density of more than four dwelling units per acre (Illustration 3.) No such acre shall be the width prescribed in section 1107 at the building line.
6. Commercial structures: Any proposal to construct a commercial structure on a protected mountain in Habersham County shall submit an application to the Administrative Officer, which shall include:
  - a. A detailed landscaping plan which shall identify all trees which are to be removed that exceed eight inches in diameter as measured at a point on the tree four and one-half feet above the surface of the ground; shall contain a plan for replacement of any such trees that are removed (See Illustration 4).
  - b. Such application shall also include a topographical survey of the projected site and an assessment of the effect that the project will have on the environment of the protected mountain after the project has been completed and is in operation. Nothing in this paragraph shall be construed to require commercial structures to comply with the density limitations for single- or multiple-family dwellings in subsections (G)(4) and (G)(5) of this section.
7. General development standards:
  - a. Tree removal limit without reforestation plan: No person engaging in land-disturbing activity on a protected mountain shall remove more than 50 percent of the existing trees four and one-half feet above the surface of the ground unless such person has filed with the application a plan of reforestation developed by a registered forester. (See Illustration 5).
  - b. Heights limitations: Structure shall not extend more than 40 feet as measured from the highest point at which the foundation of such structure intersects the ground, above the uppermost point of the crest, summit, or ridge top of the protected mountain on which the structure is constructed. This height limitation

- shall apply to water, radio and television towers, and electric transmission towers and lines. This height restriction shall not apply to minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires, or to windmills. (See Illustration 6).
- c. Road construction: All roads on protected mountains shall be designed and constructed to minimize the potential for landslides, erosion, and run-off. (See Illustration 7).
8. Assessment of impact of potential development on protected mountains:
- a. Public purposes and private property rights: Land development and the commencement of other activities, if they are consistent with this mountain protection plan, will not have a negative effort on public health, safety, or welfare. The application of mountain protection standards to land development and activities will not pose an undue burden on property owners or result in the diminishing of private property rights.
  - b. Conservation of unique/significant flora and fauna: The most significant areas of unique flora and fauna are located on lands owned and managed by the U.S. Forest Service. Rare and endangered species may be located within areas of protected mountains, although specific sites are not known. Land development and the commencement of other activities, if they are consistent with this mountain protection plan, should not have a negative impact on wildlife and plant and animal habitats.
  - c. Groundwater and surface water quality: To a significant extent, ground and surface waters are protected by existing state and federal regulations. Furthermore, most of Habersham County's ground and surface water is protected through ownership and management by the U.S. Forest Service through implementation of its land and resource management plan. Therefore, development and other activities consistent with this mountain protection plan will not have an adverse impact on protected mountains.
  - d. Aesthetics: The visual impact of development and activities consistent with this mountain protection plan should be insignificant.
  - e. Historical and archeological resources: Historic and archaeological resources in Habersham County are inventoried and assessed in chapter 5 of the Habersham County Comprehensive Plan. An analysis of the location of such resources indicates that historic and archaeological resources are predominantly located outside of protected mountain areas. Those resources located within protected mountain areas are largely located on land owned and managed by the U.S. Forest Service in accordance with its land and resources management plan. Therefore, development consistent with this mountain protection plan is not expected to have any adverse impacts on existing historic and archaeological resources.
  - f. Adjacent sensitive natural areas: Sensitive natural areas include wildlife habitats, rare natural communities, significant land forms and geological features, flood plains, wetlands, and other such areas sensitive or vulnerable to physical and biological alteration. Habersham County's goals, policies, and objectives relative to protection of such sensitive natural areas are provided in chapter 10 of the Habersham County Comprehensive Plan. Development on protected mountains should be consistent with applicable policies of Habersham County to minimize any negative impacts on adjacent sensitive natural areas. Regardless, however, development consistent with this mountain protection plan is not expected to have adverse effects on protected mountains.
  - g. Duration of impacts: No significant impacts of an adverse nature are anticipated if development conforms to the mountain protection plan. Any minimal impacts that might occur on protected mountains would be temporary.

#### **Section 508. Appeals and Variances.**

The Planning Commission is hereby authorized to hear appeals and to grant variances to the provisions of this article in accordance with the procedures established in Article XIII.

## **Section 509. Flood Hazard Protection**

### **509.1. Purpose and Intent.**

The purpose of this article is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by the application of regulations designed to restrict or prohibit uses which are dangerous due to water or erosion hazards, or which will result in damaging increases in erosion or in flood heights or velocities; require that uses vulnerable to floods be protected against flood damage at the time of initial construction; control the alteration of natural flood plains, stream channels, and natural protective barriers which are involved in the accommodation of flood waters; control filling, grading, dredging and other development which may increase erosion or flood damage; and to prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards for other lands.

The objectives of this article, among others, are to protect human life and health, to minimize public expenditures for costly flood control projects, to minimize the need for rescue and relief efforts associated with flooding, to minimize prolonged business interruptions, to minimize damage to public facilities and utilities, to provide for the sound development of flood-prone areas, and to insure potential home buyers are notified that property is in a flood area.

### **509.2. Applicability.**

The provisions of this article shall apply to all areas of special flood hazard within unincorporated Habersham County.

### **509.3. Establishment of Special Flood Hazard Areas.**

The areas of special flood hazard identified by the Federal Emergency Management Agency through a scientific and engineering report entitled "Flood Insurance Study," with accompanying flood insurance rate maps and flood boundary and floodway maps and any revisions thereto are hereby adopted by reference for the purposes of this article and declared to be a part of this article.

### **509.4. Establishment of Base Flood Elevations.**

Where the flood insurance study and accompanying flood insurance rate maps and flood boundary and floodway maps establish base flood elevations, such elevations shall govern. However, in the event base flood elevations are not provided by said study and maps or in the event a study by the U.S. Army Corps of Engineers or other reputable engineering studies prepared by a current state-registered professional engineer establishes base flood elevations for a more specific land area, then said specific elevations prepared by the Corps or registered engineer shall govern subject to approval by the Federal Emergency Management Agency. When base flood elevations cannot be established by these means, the base flood elevations may be determined by data submitted by a registered land surveyor based on the best information available, subject to the approval of the Administrative Officer. Where interpretation is needed as to the exact location of boundaries of the areas of special flood hazard, the Administrative Officer shall make the necessary interpretation.

### **509.5. Encroachment Within Floodway Prohibited.**

Within any floodway as defined by this CLDO, no encroachments, including fill, new construction, or other development shall be permitted unless certification by a state registered professional engineer is provided demonstrating that such encroachments shall not result in any increase in flood levels during occurrence of the base flood. All such construction must be in conformance with the provisions of this CLDO.

#### **509.6. Permitted Uses Within Special Flood Hazard Areas.**

Notwithstanding the uses permitted by the land use ~~intensity~~ district applying to the property, only the following uses shall be permitted within a special flood hazard area:

1. Agriculture, including forestry and livestock raising, requiring no structure.
2. Dams, provided they are constructed in accordance with the requirements of this article and with all applicable state and federal regulations.
3. Fences having sufficient open area to permit the free flow of water and/or debris.
4. Grading and other construction necessary to raise a building site above the flood plain, provided that said activities are accomplished in conformance with the development standards of this CLDO and all applicable state and federal regulations.
5. Identification, regulatory and warning signs.
6. Public, private, and commercial parks and recreational areas including boat ramps and docks but not including any temporary or permanent buildings, provided such use is approved by the county engineer and the U.S. Army Corps of Engineers.
7. Parking lots.
8. Public utility poles, towers, pipelines, sewers, streets, and similar facilities, provided they are constructed in such a manner as to permit the free flow of flood waters.
9. Other uses may be permitted upon approval of a conditional use permit in accordance with the procedures and provisions established in this CLDO.

#### **509.7. Permit Requirements and Procedures.**

In all developments that involve change, modification, or alteration of land within a special flood hazard area, except such agricultural activities as plowing, tilling, seeding and planting, such development shall require a land disturbing activity permit from the Administrative Officer prior to the commencement of activities.

Where necessary to determine that a proposed use conforms to the requirements of this article, the Administrative Officer may require the applicant to furnish sufficient plans, specifications, hydrologic and engineering studies, or data including, but not limited to, the following:

1. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures
2. Elevation in relation to mean sea level to which any nonresidential structure has been flood-proofed
3. Certificate from a registered professional engineer or architect that the nonresidential flood-proofed building will meet the flood-proofing criteria established in this article
4. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development
5. Floor elevation or flood-proofing certification after the lowest floor is completed. Said certification shall be prepared and provided by a registered land surveyor or professional engineer and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder's risk. Failure to make such submission, or failure to make any corrections required, shall be cause to issue a stop-work order for the project.

#### **509.8. General Development Provisions.**

Development within special flood hazard areas shall conform to the following regulations:

1. Relocation or realignment of river or stream channels shall be prohibited if such action would reduce the floodway capacity with respect to the base flood elevation, or significantly alter water flow characteristics so as to create a hazard.
2. Existing nonconforming uses and structures shall not be expanded in any way but may be repaired or modified to incorporate flood-proofing measures or to comply with state or local code requirements.
3. Any new dwelling or substantial improvement of any dwelling located within a special flood hazard area shall have its lowest floor, including basement, elevated at least three feet above the base flood elevation.

Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided.

4. Lands may be removed from a special flood hazard area by raising the elevation of such land above the base flood elevation, provided the raising of such land is accomplished in accordance with the requirements of this article and any state and federal regulations.
5. In districts which permit residential use, at least 50 percent of the required minimum lot area established by the district shall be above the base flood elevation. Base elevation data shall be provided for all subdivision proposals and other developments which are greater than the lesser of 50 lots/spaces or five acres.
6. No construction, including grading and filling, shall be permitted which would raise the base flood elevation beyond the boundaries of the property being developed, reduce the flood storage capacity of the floodway, impede the movement of flood waters, or increase the velocity of flood waters.
7. New construction and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure. Manufactured homes shall be anchored to prevent flotation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
8. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
9. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
10. Electrical, heating, ventilation, plumbing, air conditioning equipment, and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
11. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
12. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
13. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
14. Any alteration, repair, reconstruction, or improvements to a building which is in compliance with the provisions of this CLDO shall meet the requirements of this article.
15. Any alteration, repair, reconstruction, or improvements to a building which is not in compliance with the provisions of this CLDO shall be undertaken only if said nonconformity is not furthered, extended, or replaced.
16. New construction or substantial improvement of any commercial, industrial, or nonresidential building or mobile/manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the level of the base flood elevation. Buildings located in all A-zones may be flood-proofed in lieu of being elevated, provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that these standards are satisfied.
17. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
  - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:



- i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
  - ii. The bottom of all openings shall be no higher than one foot above grade.
  - iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
- b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
- c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

#### **509.9. Regulations for Mobile/Manufactured Homes and Recreational Vehicles.**

1. All mobile/manufactured homes and recreational vehicles placed or substantially improved on individual lots or parcels in expansions to existing manufactured home parks or subdivisions or in substantially improved manufactured home parks or subdivisions must meet all the requirements of section 1708, including elevation and anchoring.
2. All mobile/manufactured homes and recreational vehicles placed or substantially improved in an existing park or subdivision must be elevated so that:
  - a. The lowest floor of the mobile/manufactured home is elevated no lower than three feet above the level of the base flood elevation.
  - b. The mobile/manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade.
  - c. The mobile/manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement.
  - d. In an existing manufactured home park or subdivision on which a mobile/manufactured home has incurred "substantial damage" as the result of a flood, any manufactured home placed or substantially improved must meet the standards of section 510.8 and section 510.9 of this article.
3. All recreational vehicles placed on sites must either:
  - a. Be fully licensed and ready for highway use; or
  - b. The recreational vehicle must meet all the requirements for new construction, including anchoring and elevation requirements of section 510.8. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures.

#### **509.10. Development Within Floodways.**

Since the floodway is an extremely hazardous area due to the velocity of flood waters which carry debris, potential projectiles and has erosion potential, the following provisions shall apply within floodways:

1. Encroachments, including fill, new construction, substantial improvements and other developments are prohibited unless certification (with supporting technical data) by a registered professional engineer is provided demonstrating that encroachments shall not result in any increase in flood levels during occurrence of the base flood discharge.
2. All new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this article.
3. The placement of manufactured homes (mobile homes) is prohibited except in an existing mobile/manufactured home park or subdivision. A replacement manufactured home may be placed on a lot in an existing manufactured home park or subdivision provided all applicable standards established in this article are met.

#### **509.11. Regulations for Streams Without Established Base Flood Elevation and/or Floodways.**

Located within the areas of special flood hazard established in this article, where streams exist but where no base flood data has been provided or water base flood data has been provided without floodways, the following provisions apply:

1. No encroachments, including fill material, or structures shall be located within areas of special flood hazard, unless certification by a registered professional engineer is provided demonstrating that the cumulative effect of the proposed development when combined with all other existing and anticipated development will not increase the water surface elevation of the base flood more than one foot at any point within the community. The engineering certification should be supported by technical data that conforms to standard hydraulic engineering principles.
2. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with this article.

#### **509.12. Regulations for Areas of Shallow Flooding (A-O Zones).**

Within the areas of special flood hazard established in this article are areas designated as shallow flooding areas. These areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate, the following provisions apply:

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.
2. All new construction and substantial improvements of nonresidential buildings shall meet the following:
  - a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade; or
  - b. Together with attendant utility and sanitary facilities, be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

#### **509.13. Warning and Disclaimer of Liability.**

The degree of flood protection provided by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and do occur on rare occasions. Flood heights may be increased by manmade or natural causes. This article does not imply that land outside of the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages.

This article shall not create liability on the part of Habersham County or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made thereunder.

#### **509.14. Appeals.**

In the case of an alleged error in determination or act of an official in the administration or enforcement of this article, such aggrieved person may appeal said determination or action to the County Commission in accordance with this CLDO.

#### **509.15. Variances.**

All variances to the provisions of this article shall be filed and decided in accordance with all applicable provisions of Article XIII of this CLDO.

#### **509.16. Criteria to Consider for Variances.**

In passing upon applications for a variance from the provisions of this article, the governing body shall consider all technical evaluations, all relevant factors, and the following:

1. The danger that materials may be swept onto other lands to the injury of others
2. The danger to life and property due to flooding or erosion damage
3. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner
4. The importance of the services provided by the proposed facility to the community
5. The necessity of the facility to a waterfront location in the case of a functionally-dependent facility
6. The availability of alternative locations not subject to flooding or erosion damage for the proposed use
7. The compatibility of the proposed use with existing and anticipated development
8. The relationship of the proposed use to the Comprehensive plan and floodplain management program for that area
9. The safety of access to the property in times of flood for ordinary and emergency vehicles
10. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters and the effects of wave action, if applicable, expected at the site
11. The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, and streets and bridges
12. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.

#### **509.17. Conditions for Variances.**

1. Variances shall only be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief; and in the instance of a historical building, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
2. Variances shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship, and a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisance, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
3. Any applicant to whom a variance is granted shall be given written notice specifying the difference between the base flood elevation and the elevation to which the building is to be built and stating that the cost of flood insurance will be commensurate with the increase risk resulting from the reduced lowest floor elevation.

The Administrative Officer shall report any variances to the Federal Emergency Management Agency upon request.



## ARTICLE VI – Design Standards

### Section 601. Applicability.

- A. This CLDO shall apply to all land and water areas within the unincorporated areas of Habersham County, Georgia.
- B. No building, structure, land, open space, or water shall hereafter be used or occupied; and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, structurally altered, or maintained; and no new use or change shall be made or maintained of any building, structure, land, open space, or water unless in conformity with all the regulations of this CLDO.
- C. Within each district, the regulations set forth shall be minimum requirements and shall apply uniformly to each class or kind of building, structure or land.
- D. Within the districts established by this CLDO, there exist certain incompatible lots, buildings, structures, signs, and uses of land which were lawful before this CLDO was adopted but which would be prohibited, regulated, or restricted under the terms of this CLDO or future amendments. It is the intention of this CLDO to permit these nonconformities to continue in accordance with this CLDO. It is further the intent of this CLDO that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for variances or for adding other structures or uses prohibited elsewhere in the same district.

### Section 602. Nonconforming Lots of Record.

A single-family dwelling and customary accessory buildings or any other permitted building, structure, or use may be erected or established and shall be permitted on a nonconforming lot of record, as defined herein, subject to the following requirements:

- A. The nonconforming lot of record shall comply with Habersham County Health Department requirements for service by a private well or on-site septic tank, or both, for the use existing or to be established on such lot.
- B. The nonconforming lot of record shall have public access via a public street or it shall abut and have public access to an approved and improved private road as specified in Section 1722 that connects to a public street. If no access exists and cannot be obtained in accordance with the requirements of this paragraph, a building permit may be issued if the property owner can demonstrate that private access exists via a minimum 30 foot-wide access easement which affords access to and connects with a public street or an approved and improved private road that connects to a public street. An existing recorded easement shall not be extended.
- C. The placement of buildings or structures or the establishment of uses shall observe the yard dimensions and building setback lines specified for the building or use by the regulations of the district in which the lot is located unless a variance has been granted pursuant to Article XIII of this CLDO.
- D. Section 602 shall not apply if there are two or more nonconforming lots of record which abut one another and are under single ownership except that nonconforming lots shall be combined to create a single lot regardless of resulting size to allow for closer compliance with the requirements of this CLDO without losing their nonconforming status. The resulting lot regardless of size may then utilize the allowances of section 602 for which it qualifies. No building permit shall be issued unless the nonconforming lots of record are replatted or a variance has been granted pursuant to section 1902 of this CLDO.
- E. It shall be the burden of the applicant for a building permit to show proof that the property for which a building permit is requested is a "nonconforming lot of record." Proof shall be by a copy of a plat containing book and page reference to recorded deed or a deed recorded in the office of the Clerk of the Superior Court of Habersham County and certified by same as recorded document and showing the date recorded, which shall be submitted with the application for a building permit.

### Section 603. Continuance of Nonconforming Use.

The lawful use of any building, structure, sign or land existing at the time of enactment of this CLDO may be continued, subject to the limitations of section 604, even though such use does not conform with the provisions of this CLDO, except that the use of a principal building, structure or land containing a nonconforming use shall not be:

- A. Changed to another nonconforming use
- B. Expanded, enlarged, or extended unless such use is changed to a use permitted in the district in which such use is located
- C. Moved in whole or in part to any other portion of the lot occupied by such use, except in conformity with this CLDO

Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition any building, structure, or portion thereof declared to be unsafe by an official charged with protecting the public safety or health, upon order of such official.

Changes in ownership or tenancy of a nonconforming building or structure are permitted.

Any nonconforming use or structure existing at the time of adoption of this CLDO which is abandoned, discontinued, vacated, demolished, or otherwise not used for a period of 12 consecutive calendar months shall not be reestablished unless it is brought into compliance with the requirements of this CLDO.

#### **Section 604. Reconstruction of Damaged Nonconforming Structures Permitted.**

With the exception of a nonconforming single-family dwelling or duplex, a nonconforming building, structure, or improvement which is hereafter damaged or destroyed to an extent exceeding fifty (50) percent of the reasonable estimated replacement cost of the structure, building or improvement may not be reconstructed or restored to the same nonconforming use except by approval as a conditional use, in accordance with the procedures of Article XIII.

If any mobile home/manufactured home is damaged or destroyed by fire or other natural disaster, and if said damage or destruction to said mobile home/manufactured home results in destruction of 50 percent or greater of the square footage of the mobile home/manufactured home as it existed prior to the destruction, then any reconstruction of the damaged mobile/manufactured home must comply with the minimum construction standards required by the U.S. Housing and Urban Development Department.

#### **Section 605. Expansion of Nonconforming Buildings.**

A nonconforming building which contains a conforming use may be expanded, enlarged, or extended, provided that any such additions meet the applicable yard and building setbacks, buffer and landscape strip requirements, and all other regulations for the district in which it is located. A single exception is any building which does not conform to the building setback adjacent to an AG, agricultural district. In such cases, said building may be expanded in a manner that encroaches on the setback from any AG district, provided that the existing setback distance of the building from the AG district boundary is maintained and the building addition is constructed no closer to the AG district boundary than the existing building. This section shall not, however, be construed as to authorize the expansion of a nonconforming building for a use which is not permitted by the regulations for the district within which such building is located.

#### **Section 606. Buildings Under Construction.**

Nothing in this article shall be deemed to require a change in the plans, construction, or designated use of any building on which actual construction was lawfully begun prior to the adoption of this CLDO.

#### **Section 607. Minimum Area, Width, Lot Coverage and Setback Requirements for Lots.**

- A. For the purpose of this CLDO, the minimum lot size shall be acreage exclusive of all areas under ponds, creeks, lakes, streams, and other waterways.

- B. No existing parcel/tract of land shall hereafter be subdivided and no building shall be erected or use established on any lot which does not meet the minimum lot areas, minimum lot widths, minimum lot depths, minimum lot frontage, natural ground surface, and side yard requirements specified in this CLDO.
- C. No lot shall be reduced, divided, or changed in size so that lot width, size of yards, lot area per dwelling unit, or any other requirement of this CLDO is not maintained unless said reduction or division is necessary to provide land which is acquired for a public purpose. Prior to approval of building permits, the Planning Director may require the applicant for such permit to submit a slope map and/or topographic survey of the property on which such building is to be located to ensure compliance with this section.
- D. The maximum lot depth shall not be less than 120 feet. Minimum lot area and width shall be determined by the water and sanitary sewer system available as required in the table below.

District	Minimum Lot Area <sup>1</sup>			Minimum Lot Width (feet)		Setbacks (feet)				Max. Lot Coverage <sup>6</sup>
	Public Water & Sewer	Public Water & Septic <sup>2</sup>	Private Well & Septic <sup>2</sup>	Public Water	Private Well	Arterial Streets	Other Streets	Rear <sup>4</sup>	Side <sup>4</sup>	
AG	3 acres	3 acres	3 acres	100	125	60	35	15	15	25%
LI-R	1 acre	1 acre	1 acre	100	125	60	35	15	15	25%
MI-R	Single-Family Detached 0.5 acre	1 acre	1 acre	100	125	60	35	15	15	50%
	Townhouse 5,000 sf	N/A	N/A	25 <sup>3</sup>	N/A	60	35	15	15 <sup>5</sup>	50%
	Duplex 0.5 acre	1 acre	1 acre	100	125	60	35	15	15	50%
LI-C	0.5 acre	1 acre	1 acre	100	125	60	35	15	15	50%
MI-C	0.5 acre	1 acre	1 acre	100	125	60	35	15	10	75%
PI	0.5 acre	1 acre	1 acre	100	125	60	35	15	10	75%
HI	0.5 acre	1 acre	1 acre	100	125	60	35	15	10	75%
PD	Plan Specific									

<sup>1</sup> For lots having a slope of 15 percent or greater, a buffer is required as specified in subsection 1107(H).

<sup>2</sup> Installation of septic systems are subject to approval of the Board of Health.

<sup>3</sup> Minimum lot width for townhouse development is 100 feet.

<sup>4</sup> An additional setback and buffer may be required in accordance with section 902.

<sup>5</sup> Side setback for end units only.

<sup>6</sup> Additional requirements may be required in accordance with Articles V and X

*Exception:* The single exception to the minimum setback requirements, maximum lot coverage, and minimum lot area provision based upon slope is public and semi-public buildings and uses to house communication equipment, pumps, security, or similar such uses, as determined by the Administrative Officer, located on small parcels that could not normally meet the performance standards in Section 607, Section 608, and Section 609.

*Note:* In cases where no right-of-way has been documented or established, the right-of-way shall be considered to be and the front building setback line shall be measured from a point ten feet from the existing construction limits of the road.

- E. Any lot having a slope, as defined in section 201, of 15 percent or greater shall have a natural buffer of undisturbed soil and vegetation maintained or created along all property lines down slope starting from the rear and/or side property line and moving toward the house and/or installed septic system. The buffer shall be no less than 25 feet wide at any point. The purpose of the buffer is to minimize erosion onto adjacent properties or into streams, rivers, and other waterways.
- F. Lots utilizing a private septic system and having areas of undisturbed soil and vegetation at the time of final plat approval are subject to the percent of the lot down slope on the building site that is required to be buffered for erosion control (see table in subsection 607(H)). However, no lot shall be less than one acre.
- G. For lots that require a private septic system and have been cleared of vegetation prior to the preliminary plat application or during development, a 25-foot wide buffer for erosion control must be re-established along all property lines down slope from the building site. The minimum lot area shall be as specified in subsection 607(H).
- H. For lots requiring a septic system, the minimum lot area will be based upon the following table which shall determine the minimum lot size permitted, regardless of land use intensity district.

	<b>UNDISTURBED LAND</b>	<b>DISTURBED LAND</b>	
<b>AVERAGE SLOPE</b>	<b>% OF LOT BUFFERED</b>	<b>MINIMUM AREA IN SQUARE FEET</b>	<b>MINIMUM AREA IN ACRES</b>
0-14%	None	43,560	1.0
15-19%	15%	54,450	1.25
20-24%	20%	65,340	1.5
25-39%	25%	87,120	2.0
40-49%	40%	108,900	2.5
50-69%	50%	130,680	3.0
Over 70%	60%	217,800	5.0

## **Section 608. Standards for Building Location.**

### **A. Measures of setbacks.**

- 1. Front setbacks shall be measured from the edge of the public right-of-way to the wall of the building or structure.
- 2. Side and rear setbacks shall be measured from the property line to the wall of the building or structure.

### **B. Encroachments into required setbacks.**

- 1. Building features, such as steps, fire escapes, cornices, eaves, gutters, sills and chimneys may project not more than three (3) feet beyond a required setback line, except where such projections would obstruct driveways which are used or may be used for access of service and/or emergency vehicles. An unenclosed front or side porch, portico or stoop in a residential land use district shall be allowed not more than three (3) feet beyond the required front yard setback.
- 2. In the case of automobile service stations and similar uses which serve the motoring public, canopies shall be allowed over a driveway or walkway within the front yard not to extend from the principal



building to a point any closer than fifteen (15) feet from the street right-of-way line. Such canopies shall provide a minimum twelve (12) feet vertical clearance.

**C. Lots with multiple frontages.**

1. Buildings constructed on lots abutting the right-of-way of more than one (1) street or road, regardless of whether said street or road is public or private, shall comply with the front yard setback requirements of the district on each frontage.

**D. Maintenance of setbacks.**

1. No open space or yard established through standards for setbacks shall be encroached upon or reduced in any manner except as allowed herein this CLDO. Shrubbery, driveways, retaining walls, fences, curbs, and planted buffer strips shall not be construed to be an encroachment of yards.
2. No part of any required yard, open space, or off-street parking or loading space shall be considered to be part of a required yard, open space, or off-street parking or loading space for any other building or structure or use.

**Section 609. Height Limitations.**

No building or structure shall hereafter be erected, constructed, reconstructed, or altered, except as otherwise specifically exempted in this CLDO, to exceed the height allowed by the adopted building codes of the state and Habersham County, provided, however, that the Planning Commission may permit buildings and structures to exceed these height limitations upon approval of a variance as specified in this CLDO. The measurement of the height of a building shall be consistent with the method used in the International Building Code as adopted by the governing body of Habersham County.

The height limitations established herein shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, public monuments, observation towers, water towers, non-commercial radio and television towers, electricity transmission towers, utility poles, and similar structures.

**Section 610. Separation Between Buildings.**

Unless expressly permitted by this CLDO, there shall be a minimum separation requirement of ten feet between all buildings. Where one or both of the buildings is two stories, said separation shall be at least 20 feet. When one or both of the buildings is three or more stories, said separation shall be at least 30 feet.

**Section 611. Principal Buildings on a Lot Limited.**

Only one principal building and its customary accessory buildings may hereafter be erected on any one lot, regardless of the land use intensity district.

- A. The limitation on the number of principal buildings specified above shall not apply to multiple-family, office, institutional, commercial and industrial buildings within projects planned and constructed on a single tract, subject to all other provisions of this CLDO.
- B. More than one principal building may be allowed as follows:
  1. Bona fide commercial agricultural operations where another dwelling is necessary for the occupancy of employed personnel to that commercial agricultural operation.
  2. Where a second home is needed for the health care of an immediate family member as defined in section 201

**Section 612. Site Plan Required.**

All proposed divisions of land and development of existing lots shall require a site plan containing the following information:

1. Title of the proposed development
2. The name, address, and telephone number of the property owner

3. The name, address, and telephone number of the architect, engineer, surveyor, or other designer of the proposed development
4. Scale, date, and north arrow
5. Boundaries of the subject property, all existing road rights-of-way, and buildings (existing or proposed)
6. Building setbacks and buffers

### **Section 613. Street or Road Frontage Requirements.**

No lot shall be subdivided, platted or established unless each resulting lot has a minimum of 60 feet of frontage on a public street or a private road which is constructed to meet the applicable county standards for private streets as specified in section 1722 of this CLDO. A 15 percent reduction in minimum lot frontage may be allowed on a cul-de-sac. Each lot created shall have frontage which affords a permanent and principal means of vehicular access to and from the lot. Furthermore, any lot created and described by plat and filed in the Habersham County Clerk of Court's Office prior to the adoption of this CLDO shall be deemed a lot of record and exempt from section 617.

- A. Easements: Access easements for ingress/egress purposes are only allowed in conjunction with subdivision of land as defined in section 201 as follows:
  1. Access easements, as defined in section 201, shall be a minimum width of 60 feet.
  2. Must be cleared, graded, and graveled an adequate width with shoulders to allow passing and provide easy access for emergency vehicles. Provisions for vehicle turn-around must be placed at intervals not to exceed 1,000 feet.
  3. Any structure off of an easement shall be set back a minimum of 35 feet from the edge of the easement.
  4. The access easement shall be inspected by the appropriate county department to determine if the access easement is adequately designed for drainage and suitable for travel by emergency vehicles prior to the issuance of a building permit.
  5. All deeds and plats of surveys created with an access easement shall include the following language: "The grantee and grantor herein acknowledges and agrees that any and all means of ingress/egress to the property conveyed hereby that is provided by the grantor or their successors or assigns are considered by the governing body of Habersham County to be an easement and is not transferable to and/or maintainable by said governing body. The grantee and the grantor and their assigns, heirs and successors hereby agree to be responsible for their proportionate share of the upkeep and maintenance of this easement and completely hold the governing body of Habersham County harmless from any necessity for such use, upkeep, and maintenance."
- B. An easement in existence prior to the adoption of this CLDO which does not meet the requirements of section 617 shall be considered a nonconforming easement and may remain as a nonconforming easement provided such easement shall not be extended.
- C. A shared driveway as defined in section 201 may be used for convenience as access to lots which have met all requirements for lot size, dimensions, and frontage as prescribed in Chapter 12 of the Habersham County Code of Ordinances. When a shared driveway is used to access existing or new lots, the following statement shall be placed on the recordable plat: "SOME ROADS WITHIN THIS SUBDIVISION ARE DESIGNED TO BE PRIVATE AND WILL NOT BE ACCEPTED FOR MAINTENANCE BY HABERSHAM COUNTY"

### **Section 614. Visibility at Intersections.**

No object such as a fence, wall, sign, hedge, or plantings which obstructs the sight lines at elevations between two and 12 feet above any roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines or such lines extended, and a line connecting such right-of-way lines at points 25 feet from the intersection of the right-of-way line.



## **ARTICLE VII – Supplemental Standards for Specific Uses**

### **Section 701. Written Waiver Required for Dwelling Construction Adjacent to Poultry Houses.**

Prior to the issuance of any building permit for a dwelling proposed for location within 300 feet of an existing or approved building or structure used to house poultry or livestock for commercial purposes, the applicant, therefore, shall be required to sign a waiver on a form prepared by the Administrative Officer which will indicate that the applicant understands that a use is ongoing adjacent to his proposed dwelling which will produce odors, noise, dust, and other effects which may not be compatible with the applicant's dwelling.

By executing the form, the applicant agrees to waive any objection to those effects and understands that his permit is issued and processed in reliance on his agreement not to bring any action (asserting that the adjacent use(s) constitute a nuisance) against local governments and landowners on which said adjacent poultry house or other such structure is located. All such waiver forms required by this section shall be public record.

### **Section 702. Outdoor Lighting.**

Within any land use district, exterior illumination of any particular site shall not exceed 1.2 foot-candles of illumination at any property line and shall not shine directly into yards associated with a residential use nor into the windows of a residential structure. Outdoor lighting associated with outdoor recreation shall not shine directly into yards associated with a residential use or into the windows of a residential structure.

Every person holding title to or possessing a mobile home/manufactured home which is placed or located within the limits of unincorporated Habersham County, in addition to the requirements herein, shall report the location to and obtain a location decal for said mobile home or manufactured home from the Tax Commissioner of Habersham County annually, no later than May 1 of each year.

### **Section 703. Manufactured Home Location.**

#### **703.1. Minimum Construction Standards**

Each manufactured home newly installed in Habersham County shall conform to the minimum construction standards required by the U.S. Housing and Urban Development, as required by the National Mobile Home and Safety Standards Act of 1974, 42 USC, Section 5401, et seq., before that manufactured home is entitled to be connected to any utility service.

#### **703.2. Location Permit Required**

No mover, hauler, or person shall move a manufactured home into or within unincorporated Habersham County without first obtaining a location permit from the Tax Commissioner of Habersham County authorizing such location. No location permit shall be issued until:

1. The person, firm, corporation, or other entity moving it specifies the new map and parcel and address of the proposed location to which it is to be moved.
2. The owner of said manufactured home submits to the aforesaid Tax Commissioner proof that all state and county taxes, interest, and penalties theretofore accruing and payable with respect to such manufactured home have in fact been paid.
3. The person, firm, corporation, or other entity moving it acquires a building permit, a sanitary/septic permit for waste water hookup, and suitable proof of a potable water source for that site. In the event that a municipality provides water and/or sewer hookup, a letter must be provided by a duly authorized representative of the municipality verifying that such hook-up is available and obtainable.

#### **703.3. Location Permit Issuance**

Any owner of a manufactured home who has made application for the location of a manufactured home and whose application meets the requirements of this article shall be issued a location permit and decal. The location decal authorizing location of a manufactured home within unincorporated Habersham County shall be the same

color as prescribed by state law and shall be affixed to the manufactured home in such a manner as to cause it to be easily visible for inspection at all times.

#### **703.4.Penalty**

1. Failure to remove a pre-owned manufactured home from the jurisdiction upon failure to receive a certificate of occupancy shall be punishable by a fine in the amount specified in the current Habersham County fee schedule. This subsection shall not prohibit or limit the county authorities from providing other methods of prosecution of an owner.
2. Failure to attach and display current decal shall be a misdemeanor and punishable by fine of not less than \$25.00 nor more than \$200.00; except that upon receipt of proof of purchase of a decal prior to the date of issuance of a summons, the fine shall be \$25.00. Each day any violation under this ordinance continues shall be considered a separate offense.
3. Moving or transporting a manufactured home within the jurisdiction without a current decal attached and displayed shall be guilty of a misdemeanor and punishable by a fine of not less than \$200.00 nor more than \$1000.00 or by imprisonment of not more than 12 months, or both.
4. Violations of subsection (B) and (C) may be prosecuted in the Magistrate Court of Habersham County in accordance with O.C.G.A. §15-10-60 et seq. Each day any violation under this ordinance continues shall be considered a separate offense. The Tax Commissioner may issue executions for nonpayment in the manner prescribed in O.C.G.A. § 48-3-3, and the collection shall follow procedures prescribed in Title 48. Executions shall bear interest at the rate set forth in O.C.G.A. § 48-2-40 once issued.

### **Section 704. Manufactured Home Relocation.**

#### **704.1.Issuance of Relocation Permit and Affixation of Decal**

Any owner of a manufactured home who makes application for the relocation of a manufactured home and whose application meets the requirements of this article must obtain in addition to approval, a relocation permit and decal. The relocation permit, as set forth in Section 700, issued authorizing relocation of a manufactured home shall be orange in color and shall be affixed to the manufactured home at all times such manufactured home is being transported. Such location decal shall be designed in such manner and affixed to the manufactured home in such a manner as to cause it to be easily visible for inspection at all times.

#### **704.2.Manufactured Homes Brought into the County**

Manufactured homes may be brought into the county and located on a sales lot of a State of Georgia approved dealer as listed in the office of the State Safety Fire Commissioner for resale without a building, sanitary, or relocation permit. Installation must comply with the Rules and Regulations for Manufactured Homes made and promulgated by the Georgia Safety Fire Commissioner pursuant to the authority set forth in O.C.G.A. Section 8-2-132, 8-2-135, 8-2-137 (b), 8-2-161, 8-2-162, 8-2-165, 8-2-168 and 25-2.

### **Section 705. Site Built/Stick-built Houses Moving.**

Site/stick-built houses moved within the county to another point within the county or from a point outside the county to a point within the county shall conform to all minimum construction standards required by the State of Georgia building, plumbing, mechanical, fuel gas, and electrical codes enforced by Habersham County.

#### **705.1. Moving Permit Required**

Any person owning a site/stick-built house shall not move nor authorize the moving of any house or other similar structure or any portion thereof from within the county to a point outside the county, or from within the county to another point within the county, or from a point outside the county to a point within the county, or from a point outside the county through the county to another point outside the county without first having obtained all permits required by this Ordinance.

1. A county moving permit shall not be required if the route of travel is located entirely on roads under the jurisdiction of the State Department of Transportation which requires the appropriate state permit.

2. A person shall not be issued a permit to move any house or other similar structure or any portion thereof in the county, or into the county, or from the county to a point outside the county, or through the county until he or she has paid a moving permit fee as established by the governing body.
3. Upon filing of complete application for a permit to move a site/stick-built house, and upon compliance with all other applicable ordinances of the county and all permit fees paid, the Administrative Officer ~~Director of the Department of Planning and Building, or the Director's duly authorized representative,~~ shall be authorized to issue a moving permit to the applicant. Said permit shall be displayed at all times during transportation and erection.
4. A permit to move a site/stick-built house from inside the county to a point inside or outside the county shall not be issued until the applicant has posted performance surety in the amount listed in the county fee schedule as adopted and amended with the Planning Department. The performance surety may be in the form of cash deposited with the county or a bond, irrevocable letter of escrow, or letter of credit from a bank or other financial institution in a form acceptable to the Director of the Department of Planning and Building or county attorney. The performance surety shall be released to the applicant after the structure has been moved, the applicant has placed the premises or location in the condition as set forth in this article, and any damages to county property caused by the move have been repaired by the applicant. In the event the permit holder should fail to comply with these requirements, all or any portion of the performance surety shall be applied by the county to the cost of the county performing the work to the premises or location from where the structure was moved or performing the repairs to county property damaged as a result of the move. In the application for the moving permit, the applicant shall grant in writing unto the county, its agent or employees, the right to enter upon the premises to perform the work.
5. The application for a moving permit shall include information as to the route, date, and time of the move which shall be subject to the approval of the Department of Transportation and county road department or engineer.
6. The mover shall, in writing, indemnify the county and hold the county employees and staff harmless from any and all damages which the county may suffer and from any and all liability claims including interest thereon, demands, attorney's fees, and costs of defense, or judgment against it arising from damages caused by the move of the structure.
7. Structures regulated in this article shall only be moved on Mondays through Thursdays between the hours of 9:00 a.m. and 3:00 p.m. unless otherwise approved in writing by the Department of Transportation or county road department or engineer.
8. Any individual, firm, or corporation transporting any house or other structure formerly used for human habitation across or along the public roads or highways of the county shall be required to furnish proof that it has, in effect, public liability insurance in the amount of at least \$300,000.00 combined single limit to protect the property and persons who may be damaged as a result of the moving of the structure.
9. All mail boxes, highway signs, and other movable obstacles involved in the move of the structure and located in the street right-of-way shall be removed as the structure approaches such an obstacle and re-erected immediately after the structure passes such obstacles in equal or better condition than prior to removal.
10. Trees located in the street right-of-way shall not be removed or trimmed without the written permission of the Department of Transportation or county road department.
11. During the move, the mover shall obtain an escort by a county law enforcement officer at the mover's expense.
12. For moving a structure or any portion of a structure for which a moving permit has been issued, the mover shall provide at least two calendar days' notice to the sheriff's department prior to the date of moving.

## **705.2. Building Permit Required**

1. All site/stick-built houses moved into or within the county must be located at an approved site. This approval is obtained by the issuance of a building permit for that site. The location of a moved site/stick-built house within the unincorporated areas of Habersham County shall not occur unless all permits required have been obtained. A building permit application is available at the Office of Planning and Development, and the private sewerage disposal permit application is available at the County Health Department. Upon the issuance of the above building permit, a site/stick-built house may be moved into the county or within the county.
2. In order to obtain approval for permanent electrical service and before any person or persons are authorized to occupy any newly-installed moved site/stick-built house, a certificate of occupancy shall be issued indicating compliance with all applicable codes.

## **Section 706. Manufactured Home Sales Location/Installation.**

Manufactured homes may be brought into the county and located on a sales lot of a state-approved dealer as listed in the office of the State Safety Fire Commissioner for resale without a building, sanitary, or relocation permit. Installation must comply with the Rules and Regulations for Manufactured Homes made and promulgated by the Georgia Safety Fire Commissioner pursuant to the authority set forth in O.C.G.A. Section 8-2-132, 8-2-135, 8-2-137 (b), 8-2-161, 8-2-162, 8-2-165, 8-2-168 and 25-2.

### **706.1.Manufactured Home Minimum Construction Standards**

Each newly installed manufactured home in Habersham County shall conform to the minimum construction standards required by the U.S. Housing and Urban Development, as required by the National Mobile Home and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq., before that mobile home or manufactured home is entitled to receive any utility service.

### **706.2.Nonresidential Uses**

Mobile homes shall not be occupied as a permanent office or for any other non-residential use in any district, provided, however, that such mobile homes may be used for a temporary office, storage, or other permitted non-residential use subject to the following conditions:

1. Approval by the Administrative Officer and issuance of a permit.
2. Said permit shall be temporary but renewable after a period of six (6) months.
3. Said permit shall only be issued if plans and permit(s) have been approved for one or more permanent buildings on the subject property.
4. Adequate water and sewage disposal for the structure(s) is approved by the Habersham County Health Department.
5. Said mobile home(s) are removed upon the establishment of the appropriate permanent building(s) or structure(s) intended for such use.

## **Section 707. Moving Existing Site/Stick-built Home and Mobile/Manufactured Home into County.**

It is the intent of this section of this Ordinance to prohibit moving mobile or manufactured homes and site built or stick-built houses into Habersham County that do not conform to the applicable codes and ordinances. To that end, no mobile or manufactured home or site/stick-built house shall be allowed to locate for permanent or temporary occupancy in unincorporated Habersham County unless that mobile or manufactured home or site/stick-built house complies with the applicable minimum construction standards required by this Ordinance and has been inspected by the Habersham County Building Inspection Department to insure that all windows, doors, smoke detectors, plumbing systems, electric systems, heating system, and ventilation system are in working order. The general appearance of the mobile or manufactured home or site/stick-built house requires all siding and paneling affixed in its proper place.

### **707.1.Minimum Construction Standards**

Any mobile/manufactured home or site/stick-built home moved into unincorporated Habersham County shall as a minimum meet the following requirements:

1. Mobile/manufactured homes shall meet the requirements of the U.S. Housing and Urban Development Department's construction standards, as expressed in 42 U.S.C. Section 5401, et seq., and regulations established pursuant to that Act.
2. Site/stick-built houses shall meet the mandated building codes adopted by the State of Georgia.
3. Site/stick-built houses moved within the county to another point within the county shall conform to the minimum construction standards required by the State of Georgia building, plumbing, mechanical, fuel gas, and electrical codes enforced by Habersham County.

#### **707.2. Restrictions on Moved Mobile/Manufactured Home or Site/Stick-built Home**

1. No used mobile or manufactured home more than seven (7) years old being moved into Habersham County shall be allowed to locate for permanent or temporary occupancy unless such mobile or manufactured home has been occupied by the applicant/owner as his or her principal residence for the previous consecutive 12 months immediately prior to its being moved into Habersham County.
2. No mobile or manufactured home shall be moved into Habersham County to be used for a purpose other than occupancy by its owner as his or her principal residence.
3. Any mobile or manufactured home that is located in unincorporated Habersham County at the time of the passage of this Ordinance shall be freely transferable and relocated in Habersham County.
4. No used mobile or manufactured home being moved into Habersham County shall be allowed to locate for permanent or temporary occupancy in this county if said mobile or manufactured home is more than seven (7) years old except as provided in the following paragraphs of this section:
  - a. No mobile home or manufactured home permit or site/stick house will be issued unless proof of payment of current year real or personal property taxes is provided to the Administrative Officer.
  - b. No person may occupy a home described in this section after the effective date of this Ordinance without a certificate of occupancy being issued by the Habersham County Building Department. A certificate of occupancy shall be issued within five (5) working days after satisfactory final inspection by the Habersham County Building Department. Final connection of utilities shall not be performed by any public provider to such a home until approved by the authority having jurisdiction or a certificate of occupancy has been issued.
5. A mobile or manufactured home that is more than seven (7) years old and does not meet the requirements of this Ordinance and a mobile or manufactured home that is located in Habersham County and was manufactured prior to U.S. Housing and Urban Development construction standards may be transferred without purchasing a moving permit to a Habersham County licensed dealer authorized to buy and sell mobile or manufactured homes for location at said dealer's place of business for sale or transfer outside of Habersham County. In no event shall this exception allow any person to live in said mobile or manufactured home or allow said home to receive any utility service.

#### **707.3. Permitting Process for Moved Site/Stick-built Houses**

Notwithstanding anything to the contrary, a mobile/manufactured home or site/stick-built house may be moved into Habersham County that is more than seven (7) years old provided the following conditions are met:

1. Said mobile/manufactured home or site/stick-built house is inspected by the Habersham County Building and Planning Department prior to being brought into Habersham County and must conform to the applicable U.S. Housing and Urban Development construction standards, as expressed in 42 U.S.C. Section 5401., et seq., and regulations established pursuant to that Act. The inspection shall insure all windows, doors, smoke detectors, plumbing systems, electric systems, heating system, and ventilation system are in working order. The general appearance of the manufactured home or site/stick-built house shall have all siding and paneling affixed properly.



2. In addition to the fees to be paid at the time of filing for a moving and building permit, there will be ~~\$0.50 per mile~~ a charge, in an amount determined by the governing body, for travel outside Habersham County for the purpose of an inspection to determine if the manufactured home or site/stick-built house meets the minimum construction standards outlined in the section. The maximum radius of travel from Habersham County to the location of the manufactured home shall not exceed ~~75~~ 50 miles. This inspection is to be made by the duly authorized representative of the Habersham County ~~Building and Planning and Development~~ Department. The mileage fee must be paid before the application is considered.
3. Said manufactured home or site/stick-built house is compatible with existing housing in the surrounding area in terms of type, style, and condition.
4. The Administrative Officer, or their designee, may approve a completed application for movement of a manufactured home or site/stick-built house into the county only after a complete application is filed and a field inspection is performed by the Building Official or designee to determine if said structure complies with all applicable codes. The Building Official, or designee, may permit appropriate corrections be performed for code compliance after being brought into the county.
5. If a mobile/manufactured home or site/stick-built home is being replaced, it must be legally moved or otherwise properly disposed of within one hundred eighty (180) days of utilities being disconnected or occupancy of the replacement unit, whichever is the lesser time.

## **Section 708. Mobile Home/Manufactured Home Installation Guidelines.**

**708.1.** All newly-installed mobile/manufactured homes must be permanently connected to water, sewerage, and electrical service in compliance with applicable health codes and Chapter 120-3-7 Rules and Regulations for Manufactured Homes made and promulgated by the Georgia Safety Fire Commissioner which include Appendix A.

1. All mobile/manufactured homes must be installed on an approved pier system and secured with approved tie-down devices, an approved plumbing system, an approved electrical system, and an approved landing at each exit as required by the aforementioned rules and regulations.
2. Each mobile/manufactured home shall be installed such that the finished floor level of the mobile/manufactured home shall not exceed an average height higher than five (5) feet in elevation from finished grades.
3. Within thirty (30) days of the issuance of a temporary certificate of occupancy, the space beneath each mobile/manufactured home shall be enclosed with the exception of ventilation and access openings.
  - a. A minimum of four ventilation openings shall be provided from the under floor space to the exterior.
  - b. The standards are more specifically explained in the Rules and Regulations for Manufactured Homes. The enclosing materials shall extend from the lower edge of the exterior walls of the mobile/manufactured home to the ground surface level of the pad on which it is located.
    - i. All such enclosures shall be permanently installed and consist of opaque, rust and rot resistant materials.
    - ii. All ventilation and access openings shall be covered with wire mesh screen or its equivalent.
4. The Administrative Officer is authorized to permit the applicable power company to provide temporary power not to exceed 120 volts for the express purpose of completing necessary construction and installation of the mobile/manufactured home.
5. This provision specifically does not authorize permanent power hookup or occupancy of the mobile/manufactured home. It shall be unlawful for temporary power to be utilized on a permanent basis or for occupancy of said home.

### **708.2.Process of Inspection for Mobile/Manufactured Homes**

Until the following inspections have been made and the mobile/manufactured home is found to be in compliance with all applicable codes, no permanent power may be installed and no occupancy shall be permitted. A certificate of occupancy, with written documentation provided to the applicant and a sticker attached to the electrical meter base, will be issued upon compliance. Occupancy is permitted only upon issuance of the certificate of occupancy:

1. Foundation: The Administrative Officer shall require the foundation to be inspected to ensure compliance with the Rules and Regulations for Manufactured Homes, as may be subsequently revised. These Rules and Regulations for Manufactured Homes are incorporated as a part of this Ordinance by reference. Until the foundation is inspected and approved by the Habersham County Building Department, no additional work will be approved.
2. Plumbing: The Administrative Officer shall require the external plumbing system to be inspected, including water and sewage hookups, to ensure compliance with the Rules and Regulations for Manufactured Homes and the currently adopted edition of the International Plumbing Code. Until the plumbing system is inspected and approved by the Habersham County Building Department, no additional work will be approved.
3. Stairs and landings: The Administrative Officer shall require stairs and landings to comply with the specifications for stairs and landings contained in the current edition of the International Building Code and must as a minimum requirement adhere to the Rules and Regulations for Manufactured Homes, as may be subsequently revised
4. Electrical: The Administrative Officer shall require inspection of the electrical system to ensure compliance with the Rules and Regulations for Manufactured Homes and the currently adopted edition of the National Electrical Code.
5. Gas: The Administrative Officer shall require inspection of the gas system to ensure compliance with the current adopted edition of the International Fuel Gas Code.

### **708.3.Inspection of Moved Site Built and Stick-built Homes**

A moved site built or stick-built house shall be inspected as specified in the State of Georgia building codes governing new construction, additions, alterations, and remodeling. Application of the codes will depend on the repairs necessary to bring the home into compliance with the building codes and local ordinances.

## **Section 709. Mobile Home/Manufactured Home Park Regulations.**

### **709.1.Mobile Home/Manufactured Home Parks**

All mobile home/manufactured home parks hereafter developed shall conform to the following regulations:

1. Site plan approval required: All mobile home/manufactured home park developments shall require site plan approval by the governing body in accordance with the procedures and requirements established in Article XIII. The site plan shall show all proposed lots, numbered sequentially, that will be the maximum number of lots allowed in the park upon approval by the governing body.
2. Location and frontage: A mobile home/manufactured home park district development shall be located on property with a minimum frontage of 200 feet on a public street.
3. Street requirement: Interior roads serving the development are required and shall be suitably drained and have a minimum pavement width of 24 feet. If dedicated to the public, the roads within the development shall have a minimum right-of-way width of forty (40) feet.
4. Lot area and width: A mobile home/manufactured home park development shall have a minimum area of five (5) contiguous acres and a lot width of at least 200 feet. Each lot space within the park shall have a minimum area of 9,000 square feet and shall have not less than thirty (30) feet of frontage on the interior road.
5. Recreation and other community facilities: Not less than ten (10%) percent of the total area of the development shall be devoted to recreation and other community use facilities for those mobile home/manufactured home parks containing twenty (20) acres or twenty-five (25) units.

6. Setbacks required: No mobile home/manufactured home or other building or structure shall be located closer than sixty (60) feet to any mobile home/manufactured home park perimeter property boundary. Each mobile home/manufactured home shall be set back from the front lot line and any other mobile home/manufactured home by at least twenty-five (25) feet.
7. Perimeter buffer required: A buffer at least fifty (50) feet in width shall be provided and maintained around the entire exterior perimeter of the mobile home park.
8. Lighting: All mobile home parks shall have lighting or appropriate height, spacing, and intensity so that each mobile home/manufactured home site's access and parking is appropriately illuminated. Mercury vapor or high- or low-pressure sodium lights at not less than 500 feet intervals with a minimum height of 18 feet is recommended.
9. Utilities: All mobile home parks shall be served by water and sanitary sewer systems and shall be subject to approval by the Habersham County Health Department.
10. Service buildings: Accessory structures and community service facilities are hereby permitted for the convenience and well-being of park residents. Such structures may include, but are not limited to, the following uses:
  - a. Park management offices, repair shops, and storage
  - b. Community sanitary facilities
  - c. Community laundry facilities
  - d. Community postal facilities
  - e. Indoor community recreation areas
  - f. Commercial uses supplying essential goods or services
11. Listing of mobile homes/manufactured homes required: Every person or other entity owning or operating a mobile home/manufactured home park and each such entity engaged in the sale or rental of mobile homes/manufactured homes or lots upon which to place them shall furnish the Tax Commissioner of Habersham County on January 1 and July 1 of each year with a complete list of all mobile homes/manufactured homes parked, rented, or otherwise located upon the property of the entity or in a mobile home/manufactured home park operated by the entity.
12. Registration of park residents required: Park management must maintain a register of all park residents. The register must be available to any authorized person inspecting the park.

#### **709.2. Uninhabitable Mobile/Manufactured Homes**

Any home alleged by the owner to be or determined by the Building Official, Fire Chief and/or the Health Official of Habersham County to be no longer safe for habitation for reasons of structural safety, sanitation, fire safety, or environmental concerns which impose a threat to the health, safety, or general welfare of the public shall be made safe by removal, replacement, or repair within 180 calendar days of official notification by the county. The vacant lot may remain vacant for a period not to exceed one year while improvements are made and a suitable replacement home can be found. This period of time is an exception to the six (6) month restriction contained in Section 604 of this Ordinance. Any replacement home must be installed in compliance with the requirements of this Ordinance.

#### **Section 710. - Permanent occupancy of recreational vehicles prohibited; movement of recreational vehicles.**

1. No recreational vehicle shall be permanently occupied. For the purposes of this section, any recreational vehicle shall be deemed permanently occupied if:
  - (a) the recreational vehicle is occupied for 30 or more consecutive days;
  - (b) the recreational vehicle is occupied for 30 or more non-consecutive days during a 90 day period; or
  - (c) the recreational vehicle is connected to metered water or electrical power at unique mailing address.The prohibition on permanent occupancy shall apply to all recreational vehicles regardless of location, excluding locations within approved recreational vehicle parks.

2. No recreational vehicle shall be permanently connected to water or electrical power. For the purposes of this section, any recreational vehicle shall be deemed permanently connected if:
  - (a) the recreational vehicle is directly connected to metered water or metered electrical power, unless so connected pursuant to Section 714;
  - (b) the recreational vehicle is directly connected to any water or any electrical power for 30 or more consecutive days;
  - (c) the recreational vehicle is connected to water or electrical power for 30 or more non-consecutive days during a 90 day period;
3. All recreational vehicles must display a current license before being moved.
4. Recreational vehicles occupied on a temporary basis in accordance with Section 615 shall be permitted.

### **Section 711. Recreational Vehicle Park Regulations.**

All recreational vehicle parks shall conform to the following regulations:

1. Site plan approval required: All recreational vehicle parks shall require site plan approval by the governing body in accordance with the procedures and requirements established in Article XII.
2. Location and frontage: All recreational vehicle parks shall be located on property with a minimum frontage of 200 feet on a public street.
3. Street requirement: An interior road(s) serving the development is required and shall be suitably graded, stabilized and covered with a dust-free material which shall be durable and well drained under normal use and weather conditions. Said interior road(s) shall have unobstructed access to a public street or highway.
4. Lot area and width: The minimum land area of any recreational vehicle park shall be five (5) contiguous acres. Each space within the park shall have a minimum area of not less than 2,000 square feet, and lot lines shall be clearly delineated. Lots may be set at an angle, set parallel to the street, or varied in other ways provided that the arrangement is approved as a part of site plan approval. Each lot within the park shall have a minimum of 25 feet of street frontage and a minimum depth of 50 feet.
5. Utilities and improvements: Each vehicle/camping space shall be equipped with a suitable and approved electrical outlet, a threaded potable water standpipe and faucet, an approved connection to the community sewer system except at tent-only sites, a fire pit with permanent masonry or stone enclosure, a picnic-type table, and a covered trash and garbage container. Garbage shall be removed daily from campsites. A separate dump station shall be available and monitored for those campers using chemicals in holding tanks which would be harmful to the community sewer system.
6. All recreational vehicle parks must be equipped with men's and ladies' restrooms with toilet, shower and lavatories at a ratio of two fixtures for each sex per 20 vehicle spaces, and a central sanitary dump station. Each recreational park must provide on-site public telephone access.
7. Recreation facilities required: Parks designed to accommodate 15 or more recreational vehicles, campers, etc. shall provide one or more recreation areas. The size of the recreation area(s) shall be based on a minimum of 200 square feet for each travel trailer space. No recreation area shall be smaller than 3,000 square feet, and each shall be equipped for family activity.
8. Service buildings permitted: Community service facilities and accessory structures are hereby permitted, subject to site plan approval, for the convenience of park patrons. Such structures may include, but are not limited to, the following uses:
  - a. Park management offices.
  - b. Community laundry facilities.
  - c. Indoor community recreation areas.
  - d. Commercial uses supplying goods or services for the use of park patrons.

## **Section 712. Enforcement.**

1. In cases where a violation of this article has been found by the Administrative Officer they shall notify the owner of the property on which such violation is found by certified mail sent to the address of the property owner as it appears in tax information. If the owner of the mobile/manufactured home is different from the property owner, the violation notice shall also be sent by certified mail to the owner of the mobile/manufactured home. In the case no valid mailing address can be obtained or if the certified mail is returned to the Administrative Officer, the notice of violation may be hand delivered to the person deemed responsible for said violation. The notice of violation shall clearly state the nature of the violation, including specific provision(s) of this article which have not been complied with, and the date upon which said violation(s) will be remedied. Said date will be determined by the Administrative Officer based on the nature and extent of the violation but in no case shall exceed seven (7) business days from the date the certified mail was received. In cases where the notice of violation is hand delivered, the date upon which said violation(s) will be remedied shall not exceed seven (7) business days from the date of delivery.
2. Issuance of stop work orders: The Administrative Officer is authorized to issue stop work orders in any instance where a violation of this ordinance is found. The procedure for issuance of stop work orders shall be the same as the notification procedure for violations as specified above.
3. Procedure for non-compliance: In cases where a violation has occurred and the violator has not remedied the violation within the specified time period or in cases where stop work orders have not been fully complied with, the Code Enforcement Officer, upon written notification from the Administrative Officer of such violation or non-compliance, shall issue a citation requiring appearance in Habersham County Magistrate Court. Said citation shall include any and all violations found by the Administrative Officer.

The Tax Commissioner pursuant to state law has the authority to enforce the provisions of this Ordinance in cases that involve a violation regarding location decals, relocation permits, or failure to provide a complete list of all mobile/manufactured homes parked, rented, or otherwise located upon the property of the entity or in a mobile/manufactured home park operated by the entity.



## Article VIII – Standards for Accessory and Temporary Uses

### Section 801. Home Occupation and Residential Business.

Home occupation, residential business, and rural business as defined in Section 201, shall be subject to the following:

**801.1. Home Occupation.** Failure to meet one or more of these regulations at any time shall be unlawful and grounds for immediate revocation of a business registration.

1. General provisions:
  - a. Home occupations may be established in a dwelling.
  - b. No use or activity shall commence as a home occupation within unincorporated Habersham County without first securing approval from the county.
  - c. No use or activity shall commence as a home occupation without first registering said home occupation with the Business License division of Community Planning and Development.
  - d. Only occupants of the dwelling shall be authorized to work on the premises in connection with a home occupation.
  - e. There shall be no signs identifying the home business use.
  - f. There shall be no employees on the premises.
2. Uses and activities prohibited: The following businesses, uses, and activities shall be prohibited as a home occupation:
  - a. Kennels
  - b. Stables
  - c. Veterinarian clinics
  - d. Medical and dental clinics
  - e. Restaurants
  - f. Clubs and drinking establishments
  - g. Motor vehicle repair
  - h. Small engine repair
  - i. Barber shops and beauty shops
  - j. Funeral parlors
  - k. Retail sales of goods not made on the premises
  - l. Adult uses

This section shall not be considered inclusive of all the types of businesses, uses, and activities prohibited by the articles of this Ordinance.

3. Use of dwelling and physical limitations: All activities in connection with the home occupation shall take place within the principal building on the lot. The gross floor area of a dwelling unit devoted to each home occupation shall not exceed 1,000 square feet or 25 percent of the gross floor area of the dwelling, whichever is less. No internal or external alterations inconsistent with the residential use of the building may be permitted.
4. Vehicles and parking: It shall be unlawful to routinely park any marked business vehicles on the street or in driveways in public view in connection with the home occupation. Only vehicles used primarily as passenger vehicles shall be visible in connection with the conduct of the home occupation. No more than one commercial vehicle, not exceeding one-ton capacity and two axles, may be stored on the premises; and it must be parked inside an enclosed garage or otherwise

completely concealed from view when not in use. Incoming vehicles related to the home occupation shall at all times be parked off-street within the confines of the residential driveway or other on-site permitted parking.

5. Equipment; nuisances: No mechanical equipment shall be installed specifically for use as a home occupation or used except such as is normally used for domestic purposes. No home occupation shall generate traffic, sound, smell, vibration, light, or dust that is offensive or that creates a nuisance. No equipment that interferes with radio and/or television reception shall be allowed. Home occupation must exclude the use of machinery or equipment that emits sound (e.g., saws, drills, etc.) that are detectable beyond the property. Chemical, electrical, or mechanical equipment that is not normally a part of domestic or household equipment and which is used primarily for commercial purposes shall not be permitted.
6. Visitations: No clients or patrons are allowed on the premises in conjunction with a home occupation except for persons in care at a family day care home where no more than six clients are allowed. Instruction in music, dance, arts, and crafts, and similar subjects shall be limited to one student at a time. In no event shall visitations or any other vehicle trip associated with said home occupation be permitted between the hours of 9:00 p.m. and 6:00 a.m.
7. Display and stock-in-trade: There shall be no display and no visible stock-in-trade on the premises in connection with a home occupation. Storage devoted to a home occupation shall be limited in size to no more than 50 percent of area allowed and shall be counted as part of the total size limits established by this section for a home occupation.

#### **801.2. Residential Businesses and Rural Businesses**

1. Any accessory areas involving more than 100 square feet of unenclosed (open air) storage materials or any automobile parking and/or vehicle loading/unloading areas containing/designed for six or more vehicles or an aggregate area of 1,000 square feet or more shall be screened from adjacent properties in a residential or agricultural ~~the LL, low intensity~~ district, according to the definition of screening as provided in these regulations.
2. The minimum lot size shall be one acre for ~~either a rural business or a residential business~~.
3. A residential business use shall not exceed 1,500 square feet per acre of administrative/office space nor 3,000 square feet total for offices/professional services establishments and shall not exceed 1,000 gross square feet per acre of retail or service space nor 2,000 feet total for retail/service establishments.
4. ~~A rural business shall not exceed 5,000 square feet per acre of storage, assembly, or manufacturing space per acre nor 5,000 square feet total for such uses.~~
5. Residential ~~or rural~~ businesses shall not be operated between the hours of 11:00 p.m. and 6:00 a.m.
6. No more than two residential ~~and/or rural~~ businesses shall be operated on any one property.
7. A business license, if required by the county, shall be obtained prior to the commencement of operations.
8. Only one sign not to exceed eight square feet in area, provided, however, that residential ~~and rural~~ businesses located on properties fronting a state route may have one sign not to exceed 16 square feet in area; and provided further, that such uses located on properties fronting on any divided highway may have one sign not to exceed 32 square feet in area.

**Section 802. Accessory Buildings Structures and Uses.** It is the intent of this section to regulate the installation, configuration, and use of accessory structures. Regulation is necessary in order to ensure that accessory structures are compatible with the surrounding area and are consistent with the character and intent



of the land use district in which the accessory structures are located. Accessory buildings and uses shall be permitted only in side or rear yard setbacks, except as allowed in subsection 802(g) below. Accessory buildings and uses shall be permitted only if they meet the following:

- a. Only one principal building and its customary accessory buildings may hereafter be erected on any one lot, regardless of the land use intensity district.
- b. Permissible accessory uses and structures are identified in Section 306.
- c. Accessory structures shall be on the same lot and subordinate to the principal use or structure.
- d. No accessory building shall be erected on a lot prior to the time of construction of the principal building to which it is accessory.
- e. Accessory buildings ~~and uses~~ shall be set back a minimum of five feet from side and rear property lines except as allowed in subsection 802(g).
- f. Where any accessory building is structurally attached to a principal building, it shall become subject to and must conform to all regulations applicable to the principal building.
- g. Accessory buildings shall meet all front yard requirements and, in the case of multiple ~~double~~ frontage lots, accessory buildings shall observe front yard requirements on all both streets.
- h. No accessory building structure shall exceed the dimensional characteristics of the principal structure.
- i. Accessory structures, other than fences located in compliance with the requirements of Article X, shall not be located within any required buffer or landscaping area, parking lot, protected resource area, easement, or stormwater management area;
- j. In no instance shall an accessory building exceed the gross ground floor area of the principal building. Accessory structures may be allowed in the front yard, as defined in section 301, subject to the following:
  1. The accessory structure meets the setback requirements for a principle structure in that land district.
  2. Entry to the principle structure does not face the street or road.
  3. The front yard is the only location available to meet required setbacks.
  4. The structure must be aesthetically similar in material and appearance to the principle structure.
- g. A pit privy, as defined in section 201 and not to be confused with a porta-potty, is only allowed as an accessory structure within the agriculture (AG) or low intensity (LI) land use district. Furthermore, a pit privy must have a minimum of 25 contiguous acres and shall be located a minimum of 200 feet from any property line.

### **Section 803. Temporary Uses and Structures.**

**803.1. Temporary Dwelling When House is Under Construction.** A mobile/manufactured home or recreational vehicle may be occupied on a temporary basis in cases where a permit has been issued for a permanent residence on the same property as the permanent residence, provided the following are met:

1. A permit is obtained from the Administrative Officer. Said permit shall be valid for a period of only one year but renewable once not to exceed six months.
2. Suitable provisions are made for water, sanitary sewerage or septic tank, and utilities to the satisfaction of both the Administrative Officer and the Habersham County Health Department

**803.2. Temporary Offices Used During Construction.** Temporary structures may be located on a construction site to be used for administrative functions during construction. The temporary structure shall be removed within thirty (30) days of completion of the construction site for which they are permitted.

**Section 804. Model Homes Sales Offices.** Model homes are permissible only in conjunction with a new residential development during the period of construction of site improvements and new homes, subject to the following standards:

1. Model homes may be erected or displayed in districts that include residential uses, provided that such models shall not be used for residential purposes, but only for display as a means to sell homes;
2. A model home shall be located on a platted lot meeting all standards of this CLDO;
3. A model home shall be located to meet all site design standards of this CLDO, except for the modifications specifically enumerated herein;
4. A model home may include a sales office. Hours of sales operations shall not extend beyond 8:00 p.m.;
5. One (1) off-street parking space shall be provided for each employee plus one (1) off-street parking space per model home. These spaces shall be provided on the same lot as the model dwelling unit or on a contiguous lot within the specific project;
6. The model home shall be discontinued as a model unit and sales office when ninety (90) percent of the lots or homes in the residential development have been sold. The model home site shall be redesigned to comply with all site design requirements applicable to the residential development. Such redesign includes, at a minimum, removal of parking in excess of that associated with a single-family home; removal of any signs; and removal of any exterior lighting associated with the model home and sales office.

### **Section 805. Roadside Vendors.**

**805.1.** Roadside vendors selling agricultural products or firewood are permissible in accordance with the standards of this section.

**805.2.** The applicant shall have written permission of the property owner to conduct sales.

**805.3.** The applicant shall possess a valid occupational license.

**805.4.** Roadside vendors shall not be located within:

1. The public right-of-way;
2. Any required buffer area;
3. Any driveway or access way, or in such a manner as to block a driveway or access way; or
4. Any designated fire lane or in such a manner as to block a fire lane.

**Section 806. Portable Outdoor Storage Containers.** Portable outdoor storage containers shall be allowed all land use districts on a lot, parcel, or tract of land for a period of time not to exceed thirty (30) days.



## **Article IX – Signs**

### **Section 901. Definitions.**

Definitions are found in Section 201 of this Ordinance.

### **Section 902. Findings.**

- A. The county's population and the surrounding areas of the county have grown substantially in the past decade. The result is that the major thoroughfares of the county have experienced a drastic and dramatic increase in the volume of traffic along with significant increases in automobile collisions. The regulations in this article are designed to promote the public health and safety by controlling number, placement, size, and height of signs to prevent excessive and undue distraction to motorists and pedestrians and to prevent traffic hazards.
- B. The county is an attractive and pleasant community with a rural atmosphere where various and diverse businesses have located. The county recognizes the need of these businesses to advertise products and services. The county also finds that it is in the best interests of all property owners, residents and businesses to avoid an environment that encourages visual blight and seek to encourage an attractive suburban environment. As a result, the county must balance the needs of business against the county's obligation to restrict clutter, maintain an aesthetically pleasing environment, protect property values, and enhance public safety.
- C. The county further finds that uniform regulation of signage providing directional, commercial, and noncommercial information to the motoring public to promote public safety is essential. Regulation of the location, size, placement, and certain features of signs is necessary to enable the public to locate goods, services, and facilities in the county without difficulty and confusion, to improve the general attractiveness of the community, to take advantage of the beauty of the community's natural environment, and to protect property values therein. Such regulation is also necessary to facilitate and aid in the identification and location of businesses in the county in the event of police, fire, or other emergencies and to avoid confusion and delay in response to such emergencies.

### **Section 903. Intent and Purpose.**

- A. Accordingly, it is the intention of the county to establish regulations governing the display of signs that will:
  - 1. Promote and protect the public health, safety, and general welfare
  - 2. Enhance the economy and the business and industry of the county by promoting the reasonable, orderly, and effective display of signs
  - 3. Restrict signs and lights that increase clutter or which increase the probability of traffic accidents by obstructing vision
  - 4. Promote signs that are compatible with their surroundings
- B. It is also the purpose of this article to ensure proper maintenance for safety and structural soundness, as well as the appearance and attractiveness of signs.
- C. Provide a reasonable balance between the right of an individual to identify his or her business and the right of the public to be protected against the visual discord resulting from the unrestricted proliferation of signs and similar devices.
- D. Permit the reasonable dissemination of all forms of speech.
- E. To guard against an excess of large, intense signs which cause visual blight on the appearance of the county. Visual blight adversely affects the aesthetic quality of life and traffic safety in the county for residents, businesses, pedestrians, and persons in vehicles.
- F. Protect the public health, safety, and general welfare while protecting the rights of sign owners to expression and identification.
- G. Promote economic development.
- H. Protect property values by minimizing the possible adverse effects and visual blight caused by signs.

- I. Ensure that signs are compatible with adjacent land uses and with the total visual environment of the community.
- J. Encourage signs that are well designed and compatible with their surroundings and with the buildings to which they are appurtenant, and encourage signs that are integrated with and harmonious to the buildings and sites they occupy.
- K. Eliminate excessive and confusing sign displays.
- L. Recognize that the size of signs that provide adequate identification in pedestrian-oriented business areas differs from those that are necessary in vehicular-oriented areas where traffic is heavy, travel speeds are greater, and required setbacks are greater than in pedestrian areas.
- M. Preserve and improve the appearance of the county as a place in which to live and to work and as an attraction to nonresidents who come to visit or trade.
- N. Encourage creative and well-designed signs that contribute in a positive way to the county's visual environment, express local character, and help develop a distinctive image for the county, and to discourage mediocre and poorly-designed signs.
- O. Encourage new and replacement signage that is appropriately sized in its context so as to be easily readable.
- P. Encourage the construction, alteration, and repair of signs according to accepted and approved standards.
- Q. Ensure the fair and consistent enforcement of sign regulations.
- R. Further the objectives of the county's Comprehensive plan and the Comprehensive Land Development Ordinance.

#### **Section 904. Permits.**

- A. Except as specifically excluded from the provisions of this article, it shall be unlawful for any person to post, display, substantially change, or erect a sign in the county without first having obtained a sign permit.
- B. Existing signs that conform to the provisions of this article that would be required to obtain a permit under the regulations of this article must register with the county to establish that conformity. Failure to register shall not render the sign illegal; however, failure to register the sign shall shift the burden of proof of conformity with the sign regulations in effect at the time of the erection and initial permitting of the sign to the sign owner/property owner. The information provided for registration will be the same information required in a permit application under Section 1423. No permit fee will be required for the registration of existing signs.

#### **Section 905. Application Information.**

The sign owner or the owner's agent shall file applications for sign permits required by this article with the building and/or Planning Department. 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 which bears an indication of the proposed location of the sign
- 2. The aggregate area for all signs on the parcel with documentation (and calculations) of applicable wall and floor square footage necessary for the aggregate area computation as well as pro rata signage calculations (for multi-tenant buildings, floor build-out plans)
- 3. The total square footage of all wall signage
- 4. The name and address of the owner of the real property upon which the subject sign is to be located
- 5. Consent of the owner, or the owner's agent, granting permission for the placement or maintenance of the sign
- 6. Name, address, phone number, and business license number of the sign contractor
- 7. Structural details or other information necessary to ensure compliance with the provisions of these regulations and all applicable codes including, but not limited to:
  - a. The type of sign to be erected
  - b. The area of the sign
  - c. The height of the sign

- d. The shape of the sign
  - e. An explanation of how the sign is to be mounted or erected
  - f. The distance of the sign from the closest adjacent sign in either direction
  - g. The size of the parcel on which the sign is to be placed
  - h. The construction cost
8. One scaled site plan with elevation drawings and showing drives, structures, and any other limiting site features including notation of zoning, property dimensions, vicinity map, site address, and existing rights-of-way
  9. One scaled drawing of plans, specifications (including color of material samples described and keyed to the proposed sign) and method of construction and attachment to the building or ground for the sign
  10. Copy of stress sheets and calculations showing the structure is designed for dead load and wind pressure in any direction in the amount required by this article and all other ordinances of the county and applicable construction

### **Section 906. Time for Consideration of Application.**

The county shall process all sign permit applications within 30 business days of the county's actual receipt of a completed application and a sign permit fee. The Administrative Officer or their designee shall give notice to the applicant of the decision of the county by hand delivery or by mailing a notice by certified mail, return receipt requested, to the address on the permit application on or before the thirtieth business day after the county's receipt of the completed application. If mailed, notice shall be deemed to have been given upon the date of mailing in conformity with this section. If the county fails to act within the 30-day period, the permit shall be deemed to have been granted.

### **Section 907. Display of Inspection Permit.**

Every sign for which a permit is required under this article shall be plainly marked with a permit decal issued for said sign by the administrator affixed on the framework of the sign in such a manner that the information contained therein shall be readily accessible and durable.

### **Section 908. Denial and Revocation.**

- A. Procedure: The county shall deny permits to applicants that submit applications for signs that do not comply with the provisions of this article, incomplete applications, and applications containing any false material statements. Violation of any provision of this article will be grounds for terminating a permit granted by the county 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 article, the Building Official shall revoke the permit. Should the county deny a permit, the reasons for the denial are to be stated in writing and mailed by certified mail, return receipt requested, to the address on the permit application on or before the thirtieth business day after the county's receipt of the 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 and the applicant is granted a public hearing before the County Manager or his designee as the hearing officer designated by the county. The applicant will be given ten days' written notice of the time, place, and purpose of the hearing along with a statement of the reason for the denial of the permit application or the revocation of a permit. The term "due cause" means the violation of the provisions of this article, state or federal law, or the submission of an incomplete application or an application containing false material statements.
- B. Appeal: The applicant whose permit application has been denied or a permittee whose permit has been revoked may appeal the decision of the Administrative Officer ~~building official~~ to the Planning Commission ~~County Commission~~ provided that they file written notice of an appeal stating the reasons for the appeal with the Administrative Officer ~~County Manager~~ within ten business days of the initial decision of the

~~Administrative Officer Building Official~~. Otherwise, the initial decision of the designated Administrative Officer Building Official is final. Such appeal shall be considered by the Planning Commission ~~county board of appeals~~ at the next scheduled meeting held after the county's receipt of the written notice of appeal provided that notice of appeal is received a minimum of two full business days before the meeting..

### **Section 909. Permit Expiration.**

A sign permit shall become null and void if the sign for which the permit was issued has not been installed and completed within 180 days 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.

### **Section 910. Fees.**

The permit fee for signs shall be as provided in the fee schedule maintained by the county.

### **Section 911. Setback.**

Every sign, except as specifically exempted, shall be located on private property, and at least five (5) feet from all street rights-of-way but not less than fifteen (15) from any street paving or curb line, and at least fifteen (15) feet from any other property line.

### **Section 912. Prohibited Signs.**

A. The following types of signs are prohibited throughout the county:

1. Roof signs
2. Animated signs, changing signs, electronic message board signs, and changeable copy signs except as permitted by Section 916.
3. Signs on public rights-of-way other than publicly-owned or maintained signs
4. Window signs that exceed 30 percent of the window area
5. Signs that contain words, pictures, or statements that are obscene as defined in O.C.G.A. § 16-12-80
6. Signs which simulate an official traffic control or warning sign or hides from view any traffic or street sign, signal, or public service sign
7. Signs that emit or utilize in any manner any sound capable of being detected on any traveled road or highway by a person with normal hearing
8. Signs that interfere with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic
9. Signs erected by nailing, fastening, or affixing the sign in any manner to any tree, post, curb, utility pole, or other structure except as set forth herein
10. Signs which advertise any activity, service, or product prohibited by the laws or regulations of the United States or the state or by the ordinances or resolutions of the county
11. Signs attached to or painted on a vehicle parked adjacent to and visible from a street for the sole purpose of advertising onto said street
12. Air- and gas-filled devices
13. Flashing, blinking, or varying intensity signs except as permitted by Section 916
14. Portable or trailer display signs
15. All off-site premises signs unless specifically authorized by this article
16. Spotlighted or floodlighted signs, with the exception of monument signs
17. Foreign language sign regulations:
  - a. A foreign language sign is any sign whose English letters and words occupy less than 75 percent of the total area of the sign occupied by letter and words or language characters. Nothing in this section shall be construed to prohibit signs in foreign languages or signs using

foreign symbols or letters so long as the English equivalent is placed on the sign in letters of at least the same size.

- b. A foreign language sign is any sign containing other than English letters and words that has not submitted a notarized translation to the county Planning Department by a qualified translator (as determined by the county Planning Department upon submission, review and approval of qualifications). The qualified translator must be someone other than the owner of the business. A translator approved to perform translation services before any court in the state shall be a qualified translator and need only submit proof of such court approval.

18. Banner signs:

- a. Banner signs except as registered in subsection (A)(18)(b) of this section
- b. Banner signs are permitted under the following conditions:
  - 1. The business location has permitted permanent signage which is in compliance with this code section.
  - 2. Banner signs are registered (no fee) with the county by completion of the required registration forms on the county's website ([www.habershamga.com](http://www.habershamga.com)) or with the Building Department. Written confirmation shall be given of registration.
  - 3. Banner signs shall not be displayed more than 60 days in any one period of time.
  - 4. Banner signs shall not exceed more than three banners, and the total banner signage shall not exceed 50 percent of the maximum permitted signage for the business location (up to a maximum of 100 square feet total).
  - 5. No banners are allowed in the common parking areas of shopping centers and multi-tenant commercial premises.
  - 6. Banners which are not registered within ten days of notice from the county or which are not in compliance with all the provisions of the within code section shall be removed within ten days of notice of noncompliance. Thereafter, the county shall remove said banners and hold for ten days during which time the banner owner may redeem said banner by payment of a fee of \$25.00 plus the actual cost of removal. At the end of ten days, said banners shall be destroyed.
  - 7. Banners must be attached to a principal building.

- B. The ordinance from which this article is derived is adopted in order to facilitate and aid in the identification and location of businesses and other entities in the county upon police, fire, and other emergencies and to avoid confusion and delay in response to such emergencies.

**Section 913. Restrictions in LI-R, LI-C, and MI-R Districts.**

Parcels located in LI mapping districts shall not have an aggregate sign area greater than eight square feet.

Signs having a height of greater than three feet above the grade level of the adjacent street to which the parcel on which the sign is located are not permitted. No sign shall have a sign area of greater than 2.5 feet.

However, one single-faced sign, one double-faced sign, or two single-faced signs no larger than 24 square feet each and bearing identical copy may be permitted to identify the name of a single-family development at the major entrance.

**Section 914. Restrictions in MI-C Mapping Districts.**

Parcels located in the MI mapping district shall not have an aggregate sign area greater than 24 square feet or a sign height exceeding five feet above the ground level of the adjacent street to which the parcel on which the sign is located.

**Section 915. Height Requirements.**

The following height requirements shall be adhered to:

- 1. No sign shall exceed 25 feet in height at the highest point of the sign.



2. All sign heights shall be measured from the grade level of the street adjacent to the property on which the sign is located and viewed from. The level of the ground shall not be altered in such a way as to provide additional sign height.

**Section 916. Size and Location Requirements for Commercial Uses in MI-C and HI Mapping District.**

**A. Freestanding Signs:** No freestanding sign may be located within 30 feet of the intersection of street right-of-way lines extended. In no case shall the freestanding sign impair sight distance and/or traffic safety.

**B. Signs Attached to Property of Person Other Than Owner:** No sign shall be located on any building, fence, or other property belonging to another person without the consent of the owner and as permitted under the provisions of this article.

**C. Billboard Signs:**

1. Billboard (general advertising) signs shall not exceed 150 square feet of sign area. Billboard sign areas shall not exceed 10 feet in height or 36 feet in length nor extend more than 25 feet above the level of the centerline of the adjacent roadway on which it has access; or in the case of multiple frontage, from which it is viewed. Prior to issuance of a permit, a certified profile showing the height of the sign above the adjacent travel lane of the state or county roadway shall be submitted to the county.
2. Billboard signs shall only be located on parcels adjacent to designated state or federal highways.
3. No billboard sign shall be located within a 1,000 feet radius of another billboard sign.
4. No billboard sign shall be located within a 500 feet radius of LI mapped parcels.
5. No billboard sign shall be located within 500 feet in any direction of a public park, public playground, public recreation area, public forest, designated scenic area, or cemetery, provided, however, that such sign may be located within 500 feet of a public park, public playground, public recreation area, public forest, designated scenic area, or cemetery when the sign is separated by buildings or other obstructions so that the sign located within the 500-foot zone is not visible from the public park, public playground, public recreation area, public forest, scenic area, or cemetery.

**D. Maximum Aggregate Sign Area:** Parcels may contain more than one sign provided that:

1. Parcels shall be allowed a maximum aggregate sign area for the entire parcel in an amount equal to 200 square foot or ten percent of the total wall square footage of the major street-facing wall, whichever is greater, except those parcels which front on two or more major arteries shall have a maximum aggregate sign square footage equal to ten percent of the total wall square footage of two walls facing major arteries with the greatest square footage.
2. These limits shall include the area of all wall signs, billboard signs, and freestanding signs located on the parcel.

**E. Stanchion Signs:**

1. Each parcel shall be allowed one stanchion sign per street frontage.
2. Stanchion signs for single-occupant buildings shall total a maximum of 75 square feet in sign area.
3. Stanchion signs for multi-tenant parcels shall not exceed a sign area of 125 square feet with each tenant allowed a pro-rata share of the total sign square footage based upon a percentage calculated by dividing the tenant rental floor square footage by the total rental floor square footage of the multi-tenant building.
4. Stanchion signs shall only be located on property in MI and/or HI mapping districts.

**F. Wall And Awning Signs:**

1. Wall and awning signs shall not project above the parapet wall.

2. Wall signs shall not project beyond the building face. Awning signs shall not project beyond the building face by more than four feet.
3. Wall and awning signs shall not exceed a sign area of 150 square feet or eight percent of the wall face, whichever is more, on the major street-facing wall.
4. The maximum wall or awning sign height shall be ten feet.
5. Wall signs shall only be located on property in MI and/or HI mapping districts.
6. Each multi-tenant building tenant shall be allowed wall or awning signage based on the major street-facing wall with a total sign area not to exceed the individual tenant's pro rata share of the wall/awning sign area component of the maximum aggregate sign area.

#### **G. Monument Signs:**

1. Monument signs are encouraged in lieu of permitted stanchion signs but shall total a maximum of 150 square feet of total area and shall not exceed ten feet in height which shall include signage and structure.
2. Multi-building commercial developments shall be allowed one monument sign not exceeding 150 square feet for identification purposes at the major entrance to said development with each occupant being allowed name signage area not to exceed six square feet. Each individual building shall be allowed one additional monument sign not to exceed 35 square feet. No other stanchion signs shall be allowed in such developments except on outparcels that front major arteries.
3. Multi-building industrial/office/professional developments shall be allowed one monument sign not exceeding 150 square feet for identification purposes at the major entrance to said development with each occupant being allowed name signage area not to exceed six square feet. Each individual building shall be allowed one additional monument sign not to exceed 35 square feet.
4. Single-building industrial/office/professional developments shall be allowed one monument sign not to exceed 35 square feet.
5. Only one face of a double-faced sign with parallel, opposing faces bearing identical copy shall be used in computing the sign area.

#### **H. Changing Signs, Electronic Message Board Signs, and Changeable Copy Signs:**

1. Changing signs, electronic message board signs, and changeable copy signs shall be permitted solely in county HI mapping district upon strict compliance with all of the following regulations as well as all other state and federal laws and county ordinances applicable hereto.
2. No sign permitted under Section 916(H) shall be erected within 100 feet of an adjoining residential district. No such sign face shall be visible from the interior of any property used for residential purposes.
3. No visible portion of such a sign face shall be located within 100 feet of any street having a posted speed limit less than 35 miles per hour.
4. Electronic message boards shall not exceed 12 square feet, shall use red or amber light only, and may be incorporated into a monument sign. Any messages of said board shall consist of text which may change but shall not flash or scroll across the screen. Each message displayed shall remain fixed for at least ten seconds. When a message is changed, it must be accomplished within an interval no greater than one second.
5. No changing sign, electronic message board sign, or changeable copy sign shall be located adjacent to Hwy 365/441 or be visible from any portion of said highway unless the sign is otherwise permitted by state law and complies with the following:
  - a. Any sign which is directly or indirectly illuminated, including changing signs, electronic message boards, and changeable copy signs, shall be reviewed by the Community Planning and Development Director or his designee prior to the issuance of a permit for a determination of full compliance with this subsection (H)(5).

- b. No such sign shall be erected and there shall be no lighting of such signs in such a manner and location so as to obstruct the view of or be confused with any authorized traffic signal, notice or control device or with lights on any emergency vehicle or so as to create hazards or distractions to drivers because of direct or reflected natural or artificial light, flashing, intermittent or flickering lighting, or real or apparent movement. No flashing or animated sign shall extend over any public right-of-way.
- c. No changing sign, electronic message board, or changeable copy sign shall extend over any public right-of-way.
- d. If any sign is found to constitute a traffic hazard, the owner of the sign may be required to reduce the intensity of the condition or effect which caused the hazard to a level acceptable to the county. The county may through the issuance of a stop work order, cause an immediate cessation of such conditions or effects where an imminent danger to the traveling public is found.
- e. Each message displayed on any changing sign display shall remain static for at least ten seconds following the completion of its transition from the previous message. As used in this subsection, the term "static" means a display that is fixed in one position with no portion of the display changing in color or light intensity.
- f. When a message is changed mechanically, the transition between a complete static display of the previous message and a complete static display of the next message shall be accomplished in three seconds or less. The transition period shall be measured as that period between any change in any part of the display of the previous message and the time that the display of the next message is fully static.
- g. When a message is changed electronically, the transition between a complete static display of the previous message and a complete static display of the next message shall be accomplished in two seconds or less. The transition period shall be measured as that period between the time that the previous message is static and fully illuminated and the time that the display of the next message is static and fully illuminated.
- h. No changing sign may include animated, flashing, full-motion, video, or other intermittent elements. The transition period between two fully-illuminated static message displays in an electronically-changed sign shall not be considered an intermittent element so long as the purpose of the changing light intensity is to fade or dissolve into the next message.
- i. No changing sign may have any type of changing effect on the border of the sign that is not fully integrated with a static message display and which does not transition to the next static message display in the same manner as the rest of the display.
- j. No display or other effect from any electronically-changed sign shall cause a glare or other condition that impairs the vision of the driver of any motor vehicle or which otherwise interferes with the safe operation of a motor vehicle. Such display or effect shall be considered an acute traffic hazard and shall be subject to the regulations contained in this section.
- k. All signs shall appropriately adjust display brightness as ambient light level changes so that brightness of the display does not cause a glare or other condition that impairs the vision of the driver of any motor vehicle or which otherwise interferes with the safe operation of a motor vehicle. The failure of an electronically-changed sign to appropriately adjust display brightness as ambient light levels change shall be considered an acute traffic hazard and shall be subject to the regulations contained in this section.
- l. No malfunction of a changing sign shall cause a glare or other condition that impairs the vision of the driver of any motor vehicle or which otherwise interferes with the safe operation of a motor vehicle. Any such condition resulting from a malfunction shall be considered an acute traffic hazard and shall be subject to the regulations contained in this section.

- m. No general advertising sign employing changing sign technology which is permitted by state law to be located on or adjacent to a state highway system or a general advertising sign with a changing message sign face that is visible from a state highway shall be located within a 5,000 feet radius of another general advertising sign employing changing sign technology that is permitted adjacent to a state highway and on the same side of said state highway or any other general advertising sign with a changing message sign face that is visible to traffic traveling in the same direction on said state highway. The distances shall be measured in a straight line from the nearest edges of the signs.
- n. No general advertising sign employing changing sign technology which is adjacent to an arterial or connector street or with a message face that is visible from an arterial or connector street shall be located within 2,500 feet radius of another general advertising sign employing changing sign technology that is visible to traffic traveling in the same direction on said arterial or connector street, as measured in a straight line from the nearest edges of the signs.
- o. A freestanding business identification sign which is not permitted to be a changing sign and employing any changing sign technology shall contain only static messages and shall not be allowed to change more than once every 24 hours. Any change of copy shall require a permit.
- p. Shopping center signs may employ changing sign technology in those zones where changing signs are allowed. The portion of the sign face which is capable of employing changing sign technology shall be limited to 50 percent or less of the total area of the sign face.
- q. Permit applications for electronically-changed signs must also include a certification from the owner or operator of the sign stating that the sign shall at all times be operated in accordance with this part and that the owner or operator shall provide proof of such conformance upon request of the county. Whether the sign is programmed from the site or from a remote location, the computer interface or other method that programs or controls the changing of the sign copy shall be available for inspection upon the request of the county so that the county can determine the messages being displayed. If the information from the computer interface or other control method is not immediately available, the sign shall cease operation until such access can be provided.
- r. Any general advertising sign which applies to employ changing sign technology shall be required to include as a part of its application a statement which shall indicate that the applicant is willing to allow law enforcement agencies to utilize its display capabilities to disseminate emergency messages on a temporary basis.
- s. Due to the limitation on distances between certain electronic changing signs, an approved application to employ changing sign technology must be acted upon within the time frames stated on the sign permit. After expiration of the permit, a new application for the location shall be required and the expired permit shall be not considered to bar location of other changing signs due to distance requirements under this part. The county may issue one extension of 60 days for good cause as shown in writing by the permit holder prior to the expiration of the original permit.

### **Section 917. Nonconforming Signs.**

- A. Nonconforming signs are signs which met all legal requirements when erected and were permitted. Nonconforming signs shall be permitted until one of the following conditions occurs:
- 1. The deterioration of the sign or damage to the sign makes it a hazard or unsightly
  - 2. The sign has been damaged to the extent that more than minor repairs are required to restore the sign
  - 3. The sign is removed or moved for any reason including, but not limited to, right-of-way acquisition, remodeling, or reconstruction.

- B. No structural repairs or change in shape, size, or design shall be permitted except to make a nonconforming sign comply with all requirements of this article.
- C. A nonconforming sign may not be replaced by another nonconforming sign.

### **Section 918. Illegal Signs.**

If the administrator shall find that any sign or other advertising structure regulated herein is unsafe or insecure or is a menace to the public or has been constructed or erected or is being maintained in violation of the provisions of this article, written notice shall be given to the permittee thereof. If the permittee fails to remove or alter the structure so as to comply with the standards herein set forth within ten days after such notice, such sign or advertising structure may be removed or altered to comply by the administrator at the expense of the permittee or owner of the property upon which it is located. The administrator shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The fee for the owner or permittee to reclaim the sign will be as provided in the fee schedule maintained by the clerk. With regard to signs for which a permit is required, any sign shall be considered an illegal sign if the information furnished to obtain the permit upon the application was false or incorrect. The administrator may cause any sign or other advertising structure that is in immediate peril to persons or property to be removed summarily and without notice.

### **Section 919. Variances.**

Where a literal application of the terms of this article due to special circumstances would result in an unusual hardship in an individual case, a variance may be granted where all the following conditions exist:

1. Exceptional conditions pertaining to the property where the sign is to be located as a result of its size, shape, or topography, which are not applicable to other lands or structures in the area
2. The applicant would be deprived of rights that are commonly enjoyed by others similarly situated
3. Granting the variance would not confer on the applicant any significant privileges that are denied to others similarly situated
4. The exceptional circumstances are not the result of action by the applicant
5. The requested variance is the minimum variance necessary to allow the applicant to enjoy the rights commonly enjoyed by others similarly situated
6. Granting of the variance would not violate more than one standard of this article
7. Granting the variance would not result in allowing a sign that interferes with road or highway visibility or obstruct or otherwise interfere with the safe and orderly movement of traffic

### **Section 920. Exemptions.**

- A. Signs erected by a public officer in the performance of his duties shall be exempt from the provisions of this article. Such signs include, but are not limited to:
  1. Public notices
  2. Safety signs
  3. Danger signs
  4. Traffic and street signs
  5. Directional signs
  6. County signs
  7. Memorial plaques
  8. Historical markers
- B. The following types of signs shall be exempt from the permit requirements of Section 904 and shall not count towards the maximum aggregate sign area limits provided in Section 916(G):
  1. Non-illuminated signs, having a sign area of less than 2.5 feet, provided they are not located in the public right-of-way. Such signs in commercial and industrial zoned parcels shall be limited to four times a year for a period of ten days at a time. Each period of display shall be separated by at least 30 days.

2. Window signs installed for purposes of viewing from outside the premises. However, such signs shall not exceed 30 percent of the available window space.
  3. Directional or information or public service signs not exceeding 2.5 square feet in sign area erected for the convenience of the public and only used to identify:
    - a. Entrances
    - b. Exits
    - c. Drive-throughs
    - d. Bay door entrances
    - e. Parking areas
    - f. No parking areas
    - g. Restrooms
    - h. Public telephones
    - i. Walkways
    - j. Cart paths and similar such features
    - k. No trespassing, no fishing, and no hunting signs
    - l. Other such property regulation signs
  4. Signs that appear on vending machines or similar devices so long as the sign refers to the product contained within or on the device.
  5. Professional nameplates not exceeding 2.5 square feet in sign area.
  6. Residential nameplates not exceeding 2.5 square feet in sign area and bearing only property numbers, post office box numbers, and names of occupants of premises or owners of the property.
  7. Construction signs not exceeding five feet in height and 32 square feet in aggregate sign area with a limit of one sign per site. The sign may only be erected after a building permit has been issued for the site. The sign may only be used to identify the name of the project, architects, engineers, contractors, and other individuals or firms involved with the construction but not including any advertisement of any project. In single-family residential areas or developments, the maximum size is six square feet and must be removed no later than seven days after issuance of an occupancy permit by the county (and in no case more than one year).
- C. Future use signs are permitted in all districts and shall be used to announce a future use of a now vacant parcel of land. These signs can be no more than five feet in height, no more than 32 square feet in sign area, and shall be limited to one sign for each parcel of land. Future use signs may remain erected for a maximum of one year subject to review by the administrator and must be replaced immediately by a construction sign once a building permit has been issued.

## **Section 921. Illumination.**

Illumination for signs shall not cast light on adjoining property or shine in such a manner as to cause traffic interference.

## **Section 922. Enforcement and Penalties.**

- A. All signs shall be maintained in good condition as to present a neat and orderly appearance. The county may, after due notice, issue a citation to any permittee for any sign which shows gross neglect or becomes dilapidated. Such due notice shall be in writing, shall specify the sign and location, and shall state that the sign has not been properly maintained. The county shall give the permittee ten days to rectify the condition or remove the dilapidated sign before issuing a citation.
- B. The county may issue a citation for violation of this article by any sign erected, altered, converted, or used in violation of this article.
- C. Any person violating any provision of this article shall be guilty of an offense and, upon conviction, shall be fined not less than \$100.00 and not more than \$500.00 for each offense. Each day shall constitute a separate offense.



## Article X – Buffer, Landscape, Screening, and Open Space Requirements

### Section 1001. Purpose and Intent.

The following regulations are designed to promote the health, safety, order, aesthetics, and general welfare by protecting against incompatible uses of land, providing for a more attractive urban environment, assuring adequate open space, and reducing noise, night lighting, glare, odor, objectionable views, loss of privacy, and other adverse impacts and nuisances through the use of buffers and landscaping. This appendix is also designed to encourage the protection and planting of trees, which are declared to be beneficial public resources, and to prevent the needless, wasteful, or purposeless destruction of trees in order to better control problems of flooding, soil erosion, and air pollution.

### Section 1002. Buffer Required.

A planted buffer, as defined by this appendix, shall be provided along any rear or side property line of adjacent properties, not separated by road or railroad right-of-way, containing residential and commercial/industrial uses or in other cases as required by this appendix, provided that no buffer shall extend within 15 feet of a public right-of-way line. Minimum buffer widths shall be established in accordance with the following schedule:

1. When a commercial or industrial use in a MI-C or HI ~~high-intensity~~ district abuts a residential use ~~in any mapping district~~, regardless of ownership, a setback of 50 feet shall be provided including a 25-foot buffer.
2. When a commercial use in a LI-C ~~moderate-intensity~~ District abuts a residential use ~~in any mapping district~~, regardless of ownership, a setback of 40 feet shall be provided including a 25-foot buffer.
3. When a single-family residence, mobile/manufactured home, modular home, or other dwelling is to be built abutting an AG district, a setback of 50 feet shall be provided. When a residential subdivision, preliminarily or final platted after the date of adoption of these regulations, is to be built abutting an existing building or structure used to house poultry or commercial livestock on any abutting property, a setback of 100 feet shall be provided including a 50-foot buffer along the entire portion of the property line abutting said building or structure used to house poultry or commercial livestock.
4. When a building or structure used to house poultry or commercial livestock is constructed adjacent to a single-family residence, mobile/manufactured home, modular home, or other dwelling, a setback of 100 feet shall be provided including a 50-foot buffer along the entire portion of the property line abutting said dwelling, and such buffer shall also extend an additional 100 feet in each direction along said common property line to protect the yard and lot of the dwelling.

A natural buffer, as defined in this appendix, shall be required along all waterways as stipulated in Article V and for erosion protection in areas of steep slope development as stipulated in Section 607.

It shall be the responsibility of the subdivider of any property hereafter divided to designate required setbacks and buffers on preliminary and final subdivision plats.

It shall be the responsibility of the developer upon installation of utilities, streets, etc., to designate required buffers on construction plans and to ensure that existing vegetation within required buffers is maintained unless disturbance of the buffer is approved by the Administrative Officer as specifically provided herein.

It shall be the responsibility of the property owner of the lot to be used or built upon to maintain existing vegetation within required buffers and to replant where sparsely vegetated or install fencing, walls, etc. as approved to achieve the desired screening. Installation of vegetation, fencing, walls, etc. may be phased in accordance with approved building plans.



### **Section 1003. Buffer Specifications.**

All buffers required by this appendix shall conform to the following provisions:

1. Utilization will be made of existing vegetation where it has been determined by the Administrative Officer that existing vegetation is appropriate for inclusion within the buffer; or when found not appropriate, shall be supplemented with approved, additional plantings.
2. Disturbance or modification of the natural topography of the land for property improvements or during construction and maintenance activities is to be minimized, except in the following instances that have been approved by the Administrative Officer.
  - a. Where the land must be cleared and graded as required by the application of laws to prevent soil erosion or sedimentation
  - b. Where regulations for storm drainage improvements require alteration of the topography
  - c. Where necessary to prevent a nuisance; or to thin natural growth that has become so dense as to prohibit normal growth; or to remove diseased, misshapen, or dangerous or decayed growth
  - d. Where access and/or utility crossings have been approved
3. Vegetation planted for screening, except for ground covers, shall be of such type as to be a height of not less than three feet when planted and which will, in normal growth, attain a height of six feet within three years, provided, however, that such plant materials can form a hardy screen dense enough and high enough both to interrupt vision and to reduce the transmission of sound.
4. Vegetation planted for erosion control shall meet the minimum requirements of this appendix and Chapter 26, Environment of the Code of Habersham County. Required buffers must be well established and maintained to control erosion until completion of the entire project.

### **Section 1004. Acceptable Plant Materials.**

In those instances where the natural vegetation and topography are insufficient to achieve the desired level of screening required by this appendix, a planted buffer shall be provided and shall consist of plant material of such growth characteristics as will provide an acoustical and visual screen and/or erosion control barrier. Planted materials shall conform to the following specifications:

1. Trees used for screening purposes should be native to the region and shall not be deciduous. Trees should be at least three feet in height above the ground when planted or which will, in normal growth, attain a height of six feet within three years.
2. Shrubs that are used to form hedges shall not be deciduous. Shrubs shall be at least two feet above the ground level when planted. They should be spaced in such a way that, when mature, they will form a continuous visual screen (hedge) that is at least six feet in height.
3. For purposes of erosion control, ground covers, perennial plants, and shrubs shall be placed to facilitate development of a continuous root network within one year or the period of construction, whichever is the greater.

### **Section 1005. Maintenance of Buffers and Landscape Strips.**

The owner and/or user of the property shall be responsible for installing the trees, shrubs, and ground covers and maintaining them in good health in a neat and orderly appearance. This includes irrigating or watering, fertilizing, pruning, and replanting where necessary. In cases of non-compliance, the Administrative Officer shall be empowered to take action as provided by law to ensure maintenance of all plant and landscaping materials.

### **Section 1006. Administration and Enforcement.**

Where buffers are required, the applicant must demonstrate, whether on appropriate plans or after inspection by the Administrative Officer, that the plant materials in place or installed achieve the required screening and/or erosion controls. All site plans, plot plans, and grading and drainage plans shall indicate all required buffers and landscape strips.

Required buffers, landscape strips, and parking lot landscaping shall be installed in accordance with approved plans prior to the issuance of a certificate of occupancy. Certificates of occupancy may be withheld if, after inspection, the required buffers and landscape strips have not been installed in accordance with approved plans. However, owing to special conditions or exceptional circumstance such as drought, said buffers and landscape strips may be installed within 90 days after the issuance of a certificate of occupancy provided that a letter of credit, escrow money, performance bond, or other approved alternative is submitted to the Administrative Officer prior to the issuance of a certificate of occupancy.

**Section 1007. Exception to Buffer, Landscape, Screening, and Open Space Requirements.**

The single exception to the buffer, landscape, screening and open space requirements is public and semi-public buildings and uses to house communication equipment, pumps, security, or similar such uses, as determined by the Administrative Officer, located on small parcels that could not normally meet the buffer, landscape, screening, and open space requirements in section 1002, 1003, 1004, 1005, and 1006 ~~902, 903, 904, 905, and 906~~.



## ARTICLE XI. PLANNING COMMISSION

### Section 1101. Existence Continued.

The Planning Commission for Habersham County as it exists on the effective date of this appendix shall continue.

### Section 1102. Meetings and Records.

The Planning Commission shall meet one time each month and ~~usually at 6:00 p.m. on the third Tuesday of the month at the Habersham County Courthouse~~ determine its' time of meeting; provided, however, that this provision shall not be construed as requiring the Planning Commission to meet when it has no regular business to transact. All such meetings shall be open to the public. The Planning Commission shall adopt rules for the transaction of business, or in lieu of such rules, the commission shall follow "Robert's Rules of Order," latest edition. The Planning Commission shall keep record of its resolutions, recommendations, transactions, findings, and determinations; and all such records shall be public record and available for purchase by interested parties at a reasonable cost.

### Section 1103. Powers and Duties.

In addition to any other powers enumerated by the Habersham County Comprehensive Land Development Ordinance and any other resolution approved by the Habersham County Commission, the Planning Commission shall have the following functions, powers, and duties:

1. Prepare and recommend for adoption by the governing body land development regulations and Official Land Use ~~Intensity~~ District Map, subdivision regulations, and other such land use regulations; prepare and recommend for adoption by the governing body amendments to any of the land use regulations; and to review and make recommendations concerning applications for land use district map amendment and conditional use permits.
2. Review, approve, and/or deny applications for preliminary plats, final plats, and variances to the regulations of this appendix.
3. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Administrative Officer, or other Administrative Officer, in the enforcement of this Ordinance. An appeal of an administrative decision stays all legal proceedings in furtherance of the action appealed from, unless the Administrative Officer or other Administrative Officer from whom the appeal is made certifies to the Planning Commission, after the notice of appeal shall have been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case, proceedings shall not be stayed otherwise than by a restraining order which must be granted by a court of competent jurisdiction.
4. Perform other planning functions and duties as may be required by the governing body.



## ARTICLE XII. APPEALS AND VARIANCES

### Section 1201. Appeals.

Application, hearings, and notice: Decisions on applications for appeals shall only be made following a public hearing pursuant to notice and procedures approved by the Planning Commission.

Recourse from a decision of the Planning Commission shall be to a court of competent jurisdiction by the filing of an appeal within thirty (30) days of the decision.

~~The governing body is empowered to hear and decide appeals where it is alleged there is an error in any order, requirement, decision, or determination made by the Administrative Officer Building Official, or County Engineer or other employee or the Planning Commission in the interpretation or enforcement of this appendix.~~

~~The governing body is empowered to hear an appeal made by any person, firm, or corporation, or by any officer, department, board, or bureau affected by any decisions of the Administrative Officer, Building Official, or other employee based on this appendix.~~

~~Such appeal shall be taken within 30 days, or as provided by the rules of the board, by filing with the Administrative Officer notice of appeal specifying the grounds thereof. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the governing body.~~

~~The governing body shall select a reasonable time and place for the hearing of the appeal and give at least 15 days of public notice thereof and due notice to the parties in interest and shall render a decision on the appeal within a reasonable time.~~

### Section 1202. Variances.

The Planning Commission is hereby empowered to authorize upon application in specific cases such variance from the terms of this appendix as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this appendix will in an individual case, result in unnecessary hardship, so that the spirit of this appendix shall be observed, public safety and welfare secured, and substantial justice done. The existence of a nonconforming use of neighboring land, buildings or structures in the same land use district or of permitted or nonconforming uses in other districts shall not constitute a reason for the requested variance. The Planning Commission is not authorized to grant a use variance, only a variance to development standards in a district.

- A. A variance may be granted in an individual case of unnecessary hardship after appropriate application in accordance with Article XIII upon specific findings that all of the following conditions exist. The absence of any one of the conditions shall be grounds for dismissal of the application for variance.
  1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other land or structures in the same district
  2. A literal interpretation of the provisions of these regulations would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located

3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located
  4. Relief, if granted, will be in harmony with the purpose and intent of this appendix and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value
  5. The special circumstances are not the result of the actions of the applicant
  6. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure
  7. The variance is not a request to permit a use of land, building, or structure which is not permitted by right in the district involved
- B. Conditional approval permitted: In exercising the powers to grant appeals and approve use variances, the governing body may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of this appendix. In exercising its powers, the governing body may, in conformity with the provisions of this appendix, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination, and to that end shall have all of the powers of the Administrative Officer or Building Official and may issue or direct the issuance of a permit. The concurring vote of three members of the governing body shall be necessary to reverse any order, requirement, decision, or determination of the Administrative Officer, Building Official, or County Engineer.
- C. Approval period limited: No order of the governing body permitting the erection or alteration of a building shall be valid for a period of longer than six months unless such use is established within such period, provided, however, that such order by the governing body shall continue in force and effect if a building permit for said erection or alteration is obtained within such period and such erection or alteration is started and proceeds to completion in accordance with such permit.
- D. Application, hearings, and notice: Decisions on applications for appeals or variances shall only be made following a public hearing pursuant to notice and procedures approved by the Planning Commission and the governing body.

### **Section 1203. Administrative Variances.**

The Administrative Officer is hereby authorized to consider and grant or deny, pursuant to the procedures and standards contained in this Section, a variance or a special exception from the following regulations:

1. Reduce by variance any front, side or rear yard setback by an amount not to exceed ten percent (10%) of the district requirement, but not including any buffer or any setback which is a condition of zoning or conditional use.
2. Reduce by variance the off-street parking or loading requirements imposed by this Ordinance in an amount not to exceed ten percent (10%) of the requirement, pursuant to the standards specified in Article IV.





## **ARTICLE XIII – Amendment, Application, and Procedural Requirements**

### **Section 1301. Initiation of Amendments.**

Applications to amend this appendix may be in the form of proposals to amend the text or proposals to amend the Official Land Use ~~Intensity~~ District Map.

1. An application to amend the text of this appendix may be initiated by the Planning Commission or be submitted to the Planning Commission by the governing body or by any person having an interest in the county. An application to amend the Official Land Use ~~Intensity~~ District Map may be initiated by the governing body or the Planning Commission.
2. Unless initiated by the governing body or the Planning Commission, all applications to amend the Official Land Use ~~Intensity~~ District Map must be submitted by the owner of the affected property or the authorized agent of the owner. If submitted by an agent of the owner, such authorization shall be notarized and attached to the application.
3. An application for an amendment to the text of this appendix or to the Official Land Use ~~Intensity~~ District Map affecting the same property shall not be submitted more than once every six (6) ~~12~~ months, such interval to begin on the date of final decision by the governing body. ~~The 12-month interval shall not apply to applications initiated by the governing body, except for amendments to the zoning map which were defeated by the governing body, in which case the interval required for the subsequent application shall be at least six (6) months.~~
4. An application to alter conditions of rezoning may be submitted at any time after the final decision but shall not be submitted more than once every six (6) ~~12~~ months, such interval to begin on the date of the final decision by the governing body on said application to amend the condition.
5. An application may be withdrawn without prejudice at any time prior to the Planning Commission meeting. Withdrawal subsequent to that time shall mean such application may not be resubmitted for consideration for a period of six months, counting from the date of withdrawal to the date of renewed application. Unless withdrawn at a hearing, the withdrawal must be in writing, signed, and dated by the applicant.

### **Section 1302. Application for Amendment.**

Each application required by this appendix to amend this appendix or the Official Land Use District Map shall be filed with the Administrative Officer along with the fee as determined by the governing body. A maximum of ten applications shall be accepted by the Administrative Officer for consideration at any public hearing before the Planning Commission and/or the governing body. Applications shall be submitted in compliance with the following:

- A. Text amendment applications shall include the following:
  1. Name and current address of the applicant
  2. Current provisions of the text to be affected by the amendment
  3. Proposed wording of text change
  4. Reason for the amendment request
- B. Official Land Use District Map amendment applications shall include the following:
  1. A tax parcel card from the Habersham County Tax Assessor identifying the parcel to be rezoned or the parent parcel of the parcel to be rezoned if a split or subdivision is occurring
  2. A site plan is required by this article and shall, at a minimum, contain the following information:
    - a. Title of the proposed development and the name, address, and telephone number of the property owner
    - b. The name, address and telephone number of the architect, engineer, or other designer of the proposed development

- c. Scale, date, north arrow, and general location map showing relationship of the site to streets or natural landmarks
  - d. Boundaries of the subject property, all existing and proposed streets including right-of-way and street pavement widths, buildings, water courses, parking and loading areas, and other physical characteristics of the property and proposed development
  - e. Building setbacks, buffers, and landscape strips
- 3. The present and proposed land use district for the tract
- 4. Existing and intermediate regional floodplain and structures
- 5. The names and addresses of the owners of the land and their agents, if any
- 6. The names and addresses of all adjoining property owners. In determining the adjoining property owners, road, street, or railroad rights-of-way shall be disregarded.
- 7. A letter of intent which describes general characteristics of the proposed development such as type and time frame of development, background information in support of such application, and any other information deemed pertinent by the applicant
- 8. On any rezoning of three or more acres to be subdivided, a soil survey prepared by a soil scientist, registered in the State of Georgia, shall be submitted prior to approval, unless the property is served by sewer.
- 9. Such other and additional information as may be requested by the Administrative Officer
- C. An application shall be submitted at least ~~28~~ 24 days prior to the date on which it is to be considered by the Planning Commission. The governing body shall establish fees for an application to amend this appendix or the Official Land Use District Map. A fee shall not be charged for applications initiated by the governing body or Planning Commission.
- D. With respect to amendments to the Official Land Use District Map, an applicant may file site plans, renderings, construction specifications, written development restrictions, and other conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application, provided, however, that such conditions or alterations or changes thereto shall be filed with the Administrative Officer at least seven days prior to the public hearing before the Planning Commission. If such conditions or alterations or changes thereto are proposed by an applicant and have not been filed as required by this paragraph, the governing body, at the time of the public hearing on the application, may defer any action on such application to a specific meeting date which will permit the Planning Commission to conduct another hearing to consider the applicant's proposal prior to consideration of the application by the governing body. At the hearing in which the deferral is granted, the governing body shall specify the date of the hearing before the Planning Commission and the subsequent hearing before the governing body and this action shall constitute public notice of such hearings; and no additional notices shall be required prior to the hearings so scheduled by the governing body. The date designated for action on the application shall be set at a time which will allow the applicant to comply with the filing requirements of this paragraph.

### **Section 1303. Public Notification.**

- A. Legal notice: Due notice of each public hearing pursuant to this article shall be published in the newspaper of general circulation within the county at least 15 days prior to the date of each scheduled hearing of the governing body and of the Planning Commission but not more than 45 days prior to the date of each scheduled hearing. If the application is initiated by the governing body, the notice shall state the time, place, and purpose of the public hearing. If the application for amendment to the Official Land Use District Map is initiated by anyone other than the governing body, then the notice shall also include the location of the property, the present land use district of the property, and the proposed land use district of the property. The cost of the advertisement shall be borne by the applicant. The notice shall also state, "Notice is hereby given

that the governing body has the power to impose a different land use classification from the classification requested and impose or delete zoning conditions that may change the application considerably."

- B. Signs posted: If the application for amendment to the Official Land Use District Map is initiated by anyone other than the governing body, the Administrative Officer shall post, at least 15 days prior to the Planning Commission's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign containing information as to the application and date, time, and place of the public hearing.

#### **Section 1304. Planning Commission Action.**

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

1. A written report of the Planning Commission's recommendation shall be submitted to the Administrative Officer, or designee, and shall be a public record. The Planning Commission's action may recommend amendments to the applicant's request which would reduce the land area for which the application is made, change the district requested and recommend conditions of rezoning which may be deemed advisable so that the purpose of this appendix will, if applicable, be served and health, public safety, and general welfare secured.
2. Proposed land use decisions shall be called in the order determined by the Administrative Officer. If an application is not complete or all requirements of this appendix have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.

##### **~~A. Conduct of hearing:-~~**

- ~~1. All persons who wish to address the Planning Commission at a hearing on the proposed amendment under consideration by the Planning Commission shall first sign up on a form to be provided by the county prior to the commencement of the hearing. The chair will read the proposed amendments under consideration in the order determined by the Administrative Officer. The Administrative Officer, or his designee, shall then present the amendment, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed amendment. The chair will then call each person who has signed up to speak on the amendment in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak unless a majority of the commission, in its discretion, allows the person to speak to the amendment, notwithstanding the failure of the person to sign up prior to the hearing.~~
- ~~2. Each speaker shall be allowed five minutes to address the Planning Commission concerning the amendment then under consideration, unless the Planning Commission, by two-thirds vote of the members present, prior to or at the time of the reading of the proposed amendment, vote to allow additional time in which to address the commission on said proposed amendment. The speaker may initially use all of the time allotted to him to speak; or he may speak and reserve a portion of his allotted time for rebuttal, provided, however, that the proponents and opponents of each amendment shall have no less than ten minutes per side for presentation of data, evidence, and opinion thereon.~~
- ~~3. Each speaker shall speak only to the merits of the proposed amendment under consideration and shall address his remarks only to the members of the Planning Commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the~~

~~proposed amendment under consideration. The chair may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection.~~

~~4. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed amendment is conducted in a fair and orderly manner.~~

~~5. These procedures shall be available in writing at each hearing.~~

### **Section 1305. Governing Body's Public Hearing.**

A. Before taking action on a proposed amendment and after receipt of the Planning Commission recommendations, the governing body shall hold a public hearing on the proposed amendment made pursuant to this article. At the public hearing, the governing body shall review the analysis submitted by the initiating party and the recommendation prepared by the Planning Commission. So that the purpose of this appendix will be served, health, public safety and general welfare secured, the governing body may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or add or delete conditions of the application. The governing body shall have the power to impose a different zoning classification from the classification requested and impose any zoning conditions which ameliorate the impact of the zoning on neighboring property owners or serve other lawful purposes of this appendix. An action by the governing body to defer the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application, and no further notice is required.

B. In conjunction with the approval of a map amendment in accordance with this section, governing body may impose conditions to zoning approval which shall have the full force and effect of law. A condition to zoning approval may be imposed regardless of whether it is agreed to by the applicant or property owner. Use or development of the rezoned property shall not be permitted unless the conditions are fully complied with.

C. The date of all approved amendments to the text of this appendix shall be indicated on the title/cover page of the text, and any sections within the CLDO text hereafter amended or repealed shall be so indicated by an asterisk (\*, \*\*, \*\*\*, etc.) and concurring footnote providing the date such amendment was approved. All such text amendments shall be incorporated within the text without unreasonable delay.

D. Conduct of the hearing:

1. All persons who wish to address the governing body at a hearing concerning a proposed zoning decision under consideration by the governing body shall first sign up on a form to be provided by the county prior to the commencement of the hearing.

2. The Administrative Officer or his designee will read the proposed zoning decision under consideration and summarize the departmental reviews pertaining thereto prior to receiving public input on said proposed zoning decision. Proposed zoning decisions shall be called in the order determined by the Administrative Officer. If an application is not complete or all requirements of this appendix have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.

3. The chair shall call each person who has signed up to speak on the zoning decision in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak unless the governing body, in its discretion, allows the person to speak to the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.

4. Each speaker shall be allowed five minutes to address the governing body concerning the zoning decision then under consideration unless the governing body, prior to or at the time of the reading of the proposed zoning decision, allows additional time in which to address the governing body on said

proposed zoning decision. The applicant or his representative may initially use all of the time allotted to him to speak; or he may speak and reserve a portion of his allotted time for rebuttal, provided, however, that the proponents and opponents of each amendment shall have no less than ten minutes per side for presentation of data, evidence, and opinion thereon.

5. Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his remarks only to the governing body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The governing body may limit or refuse a speaker the right to continue if the speaker, after first being cautioned, continues to violate this subsection.
6. Nothing contained herein shall be construed as prohibiting the governing body from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.
7. These procedures shall be available in writing at all hearings.

### **Section 1306. Standards Governing the Exercise of Zoning Power.**

The following standards governing the exercise of the zoning power are 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 diminution of property values of the subject property promote 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. Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property
8. Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property
9. Whether the zoning proposal is in conformity with the policies and intent of the land use plan
10. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools
11. 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.

### **Section 1307. Standards for Granting Conditional Uses.**

In reviewing an application for a conditional use, the governing body shall consider the following standards:

1. A proper application has been filed in accordance with the requirements of the governing body
2. A recommendation has been received from the Planning Commission
3. The applicant is in compliance with the particular conditions for the proposed conditional use that are required by this appendix
4. The applicant is in compliance with conditions imposed by the governing body for the purpose of reducing the harmful effects of the use on surrounding uses and assuring compatibility with surrounding uses
5. The governing body determines that the benefits of and need for the proposed conditional use are greater than any possible depreciating effects and damages to the neighboring properties

**Section 1308. Hearing Procedures.**

Hearings on conditional uses shall follow the procedures for public hearings on text and map amendments.

**Section 1309. Reapplication.**

An application for a conditional use which has been denied shall not be resubmitted for a period of six (6) ~~12~~ months from the date of the denial by the governing body.



## **ARTICLE XIV. Administration, Interpretation, Enforcement, Penalties, and Remedies**

### **Section 1401. Administration and Interpretation.**

The Administrative Officer shall be responsible for interpretation of the provisions of this appendix and for maintenance of the Official Land Use District Map, subject to general direction of the Planning Commission.

### **Section 1402. Enforcement.**

The provisions of this appendix shall be enforced by the ~~building official~~ and Administrative Officer.

### **Section 1403. Land Disturbing Activity Permit Required.**

- A. A land disturbing activity permit shall be required for any proposed use of land(s) or building(s) to indicate and insure compliance with all provisions of this appendix and chapter 26 of the OCHC before any building permit is issued or any improvement, grading, land disturbing activity, or alteration of land(s) or building(s) commences, provided, however, that land disturbance permits shall not be required for single-family residences on individual lots.
- B. All land-disturbing activity permits shall be issued by the Administrative Officer, who shall in no case approve a land disturbance permit for the use, construction, or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this appendix or any other codes and laws
- C. A land disturbance permit shall not be issued until an approved plat has been submitted with the application.

### **Section 1404. Building Permit Required.**

No building, structure, or sign, shall be erected, moved, extended, enlarged or structurally altered until a building permit has been issued, except as specifically identified below:

- 1. Structures no greater than 200 square feet in size located on any lot of record in Habersham County.
- 2. Signs as set forth in Section 201 of this Ordinance.

Although not required to obtain a building permit, the above-referenced structures shall obtain applicable permits for the connection of electricity, plumbing, mechanical, heating equipment, and fuel gas piping.

Building permits shall become invalid unless the work authorized by it commences within 180 days of the date of issuance or if the work authorized by it is suspended or abandoned for a period of 180 days or more.

### **Section 1405. Certificate of Occupancy Required.**

A certificate of occupancy issued by the Administrative Officer is required in advance of occupancy or use of any lot or change or extension in the use of any lot, any building or structure hereafter erected, or any change in the use of an existing building or structure.

All certificates of occupancy shall be issued by the Administrative Officer, and no such certificate shall be issued unless the proposed use of a building or land conforms to the applicable provisions of this appendix. Business licenses shall not be issued until the business conforms to the regulations of the district in which it is located and a valid certificate of occupancy is issued.



#### **Section 1406. Penalties for Violation.**

Any person, firm, or corporation violating, neglecting, or refusing to comply with any of the provisions of this appendix shall be guilty of a misdemeanor; and, upon conviction, shall be fined not less than \$100.00 nor more than \$500.00 for each offense or a sentence of imprisonment not exceeding 60 days in jail, or to work on the streets or public works for a period not exceeding 60 days, or as determined by the court of proper jurisdiction, provided, however, that the following minimum fines are hereby established for specific actions which violate this appendix:

- a. Failure to obtain location decal by owner under section 703.2: Penalty is as set forth in section 703.4(2).
- b. Moving mobile home/manufactured home for which no relocation permit has been issued under section 703. Penalty is as noted in section 703.4(3).
- c. Failure of park owner or operator, dealer, leaser, or seller to make semi-annual report under section 1312: \$250.00
- d. ~~Each day such violation continues shall constitute a separate offense.~~

#### **Section 1407. Remedies.**

In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building structure or land is or is proposed to be used in violation of any provision of this appendix, the Administrative Officer or any other appropriate authority may, in addition to other remedies and after due notice to the owner of the violation, issue a citation for violation of this appendix requiring the presence of the violator in the court of proper jurisdiction; institute injunction or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use to correct or abate such violation or to prevent the occupancy of such building, structure or land. Where a violation of this appendix exists with respect to a structure or land, the Administrative Officer may, in addition to other remedies, require that public utility service be withheld there from until such time as the structure or premises is no longer in violation of this appendix.

#### **Section 1408. Jurisdiction for Enforcement.**

The boundaries of the area of jurisdiction of this appendix shall be the boundaries of Habersham County, excluding that land which lies within the boundaries of any municipality within the county. The land within these municipalities may be included under this appendix only after legal action is taken by the individual governing bodies of these municipalities to lawfully adopt this appendix.

#### **Section 1409. Administrative Procedures.**

The Habersham County Planning Commission and governing authority may supplement these regulations as necessary with administrative procedures so that the regulations may be more effectively and consistently applied. These administrative procedures must be explicitly recorded in the minutes of Habersham County Planning Commission or governing authority.

## ARTICLE XV – Overlay Development Standards

### PART I. Corridor Overlay District

#### Section 1501. Purpose

The purpose of this Article is to establish an overlay district to address the unique characteristics of the properties adjacent to the Hwy 365/441 transportation corridor in Habersham County.

#### Section 1502. Intent

The Hwy 365/441 transportation corridor has unique traffic management needs, development pressures, and aesthetic characteristics that require the establishment of additional development standards to meet the County's goals and fulfill the purpose of this Ordinance. The intent of the CD, Corridor Development Overlay District is to require development along the corridor that is aesthetically consistent, responsive to development pressures, and proportional to the area's traffic management issues.

#### Section 1503. Overlay District Boundaries

The Overlay District shall apply to all property located within 500 feet of the right-of-way of Hwy 365/441 and elsewhere as designated on the Habersham County Official Land Use District Map.

**A. Applicability:** The following developments must bring the site into compliance with the requirements of this section:

- a. Any new public or private development.
- b. Changes to use of higher impact as determined by the ~~Planning Director~~ Administrative Officer.
- c. Properties that have remained unused or without a permitted use for a period of 180 days.
- d. Any improvements with total cost exceeding 50 percent of the assessed value of the building according to county tax records.
- e. Expansions of existing structures exceeding 50 percent of the pre-expansion floor area.
- f. Any vehicular use area that is enlarged.

**B. Zoning Map:** The boundaries for the Corridor Development Overlay District are shown on the Official Land Use District Map. The Corridor Development Overlay District is marked with a CD two-digit code and a pattern as designated on the Official Land Use District Map's legend.

#### Section 1504. Applicable Permitted and Conditional Uses and Development Standards

**A. Permitted Uses:** All uses permitted, not-permitted, and permitted as conditional uses in any underlying Land use district to which the Corridor Development Overlay District is applied shall be unaffected by the presence of the overlay district.

**B. Development Standards:** All single and two-family residential and agricultural uses shall be exempt from the development standards of the overlay district and shall comply with the requirements of the standard district in which they are located. The overlay district development standards shall apply to all other uses as follows:

- a. All development standards established by any underlying land use district shall also apply if that district is included in the Corridor Development Overlay District unless alternate development standards are provided by this Article.
- b. Properties located in the Corridor Development Overlay District shall also be subject to any additional development standards established in this Article.
- c. In cases where development standards established by the underlying land use district and the

overlay district are inconsistent, the requirements of the overlay district shall apply.

## **Section 1505. Overlay District Development Standards**

**A. Signage:** Off premise freestanding signs as defined in this ordinance may not exceed 40 feet in height. All other free-standing sign may not exceed 15 feet in height, measured from ground level. Berms or other means used to elevate the sign above the ground level may be used, but shall be counted as part of the sign height. In no instance shall this provision be interpreted as prohibiting the placement of off-premise signs consistent with the requirements of Article 7, Sign Standards, of this Ordinance.

**B. Building Orientation:** All primary structures shall face the front of the lot on which they are located. No loading docks, overhead service doors, or trash collection bins may be placed on or adjacent to any facade which faces a public street.

**C. Outdoor Storage, Truck Dock, Mechanical Equipment, and Waste Containers:** Outdoor storage of unfinished products or supplies shall be prohibited unless screened in accordance with Article X. All outdoor storage of finished products and materials for sale, all trash and recycling containers and materials, all truck docks, and all mechanical equipment shall be completely enclosed or screened from public view.

- a. Stored materials, seasonal and other outdoor sales areas, mechanical equipment, and waste containers located on the ground shall be enclosed by a fence or wall constructed of like materials as the primary structure on the lot.
  - 1. The enclosure shall not exceed 8 feet in height.
  - 2. No stored products or waste containers or materials may exceed the height of the enclosure.
  - 3. An opaque wooden gate, painted consistent with the main color of the primary structure on the lot shall be provided at all access points to the enclosed area.
- b. Mechanical equipment located on the roof shall be screened by a parapet or other building feature.
- c. No area for the storage of waste materials shall be located within 20 feet of any public street right-of-way, public sidewalk, or internal pedestrian way.
- d. All truck docks shall be screened from view from all public areas, including parking lots and adjacent public streets. The screening enclosure shall consist of a fence or wall constructed of like material as the exterior of the primary structure on the lot.

**D. Building Materials:** The primary building material for all facades facing public streets shall be brick, natural or cut stone, pre-cast concrete, on-site tilt up concrete panels, or any material with a stucco type finish or a masonry material.

**E. Roofs :** Roofs shall be a gable design with slopes between 15 and 45 degrees. Sloped roofs shall either be of standing seam metal or dimensional shingles.

### **F. Vehicular Use Area Shall be Designed to Comply with the Following:**

- 1. At least 10 percent of the total interior square footage of all vehicular use areas as designed and constructed shall be dedicated to landscaping and shall meet the following requirements:
  - a. All areas of the parking lot framed by the required buffer and adjacent buildings (where the perimeter buffer is not required) shall be used in calculating the required interior landscaped area, and the required interior landscaping shall be located within this area.
  - b. Each required interior landscaped area shall be at least 64 square feet in size with no dimension less than four feet.

- c. A pass-through for pedestrian access shall be placed at intervals not less than one every 100 feet across landscape strips between parking aisles. No reduction in required vegetation will be permitted to accommodate this access. All such pedestrian access areas shall be clearly shown and labeled on the landscape plan.
2. Any vehicular use area shall require a minimum landscape buffer of eight feet in depth or a berm along the lineal boundary of all streets or alleys and five feet along all other perimeters of the vehicular use area, except that the perimeter buffer shall not be required where it interferes with pedestrian access to a building for which the parking is provided or with loading, unloading, and utility areas.
3. Berms may be used to fulfill the requirements of the eight foot exterior landscape buffer along the linear boundary of streets or alleys and shall comply with the following:
  - a. Maximum rise to run ratio of 2:1 is provided.
  - b. Minimum depth of the berm shall be eight feet.
  - c. All areas shall be stabilized and maintained with appropriate landscape materials with ground covers, mulches, or similar natural materials.
  - d. Within residential developments, a decorative wall no higher than six feet may be used in lieu of a landscape buffer at the side or rear property lines with the approval of the review board.
  - e. If perimeter buffer requirements overlap with the buffer yard and screening requirements from Table 1232, the greater requirement shall apply.
4. Landscaping requirements associated with vehicular use areas shall comply with the following:
  - a. There shall be sufficient upper-story trees within and around the vehicular use area to ensure any portion of the vehicular use area is within 40 feet of a planted or retained tree trunk.
  - b. The trees shall be located within the front or side street setbacks.
  - c. The minimum landscape area for each tree shall be no less than 170 square feet with four feet minimum distance between all trees and paving at time of planting, measured at the base of the tree.
  - d. Shrubs within a landscape buffer abutting a street right-of-way or within a perimeter of the vehicle use area shall be arranged to form a continuous row, designed to be planted three feet on center and must occupy the buffer for which they were calculated.
  - e. The shrubs shall be planted no farther than four feet from the vehicular use area.
  - f. Shrubs must be located within the interior landscaped area for which they were calculated.
  - g. The required shrubs shall be maintained at a height of approximately 36 inches.
5. Other requirements include:
  - a. All landscaped areas shall be stabilized and maintained with ground covers, mulches, or similar natural materials to control weeds, prevent soil erosion, and allow rainwater infiltration. Ground cover shall cover all portions of landscape area not occupied by landscape materials. Ground cover may consist of the following: grass or turf material, shrubs that do not exceed 12 inches in height at maturity, organic mulch, or other pervious landscape amenity approved by the Administrative Officer zoning and codes administrator.
  - b. All landscaped areas shall be protected from vehicle damage by the installation of curbing, wheel stops, or other comparable methods allowing for a 30-inch vehicle overhang.
  - c. This standard shall not prohibit the use of planting areas as on-site storm water management devices. Vehicle overhang areas shall not count towards required minimum landscaping areas.
6. The following additional plantings required for residential development:
  - a. In addition to other landscaping requirements, one upper-story tree shall be required to be planted within the required open space for every three dwelling units in multi-family residential developments.
7. All bulk waste receptacles are subject to the following:
  - a. Outdoor bulk receptacles and storage areas shall be located outside of the required front setback and screened by using a gated, opaque fence or masonry wall, at a minimum of six feet in height.

- b. The fence or wall shall be combined with evergreen shrubs located at three-foot intervals around the foundation of the fence or wall.
  - c. Outdoor bulk receptacles located within the functional rear of the property may be located within setback area to allow access for service provided the receptacles are properly gated, fenced, and screened.
  - d. Location of the receptacle shall be coordinated with the Director of Public Works.
8. All bulk utility equipment is subject to the following:
- a. Outdoor utility equipment shall be screened by using an opaque fence or masonry wall with a minimum height of at least one foot higher than the equipment to be screened.
  - b. All fencing and masonry walls used for screening purposes shall be architecturally compatible with the proposed structures and shall have the finished side of the fence facing the abutting property or street.
  - c. The fence or wall shall be combined with evergreen shrubs located at three-foot intervals around the foundation of the fence or wall.

**G. Buffer Yard and Screening Requirements:** The size and type of vegetation required under this division shall be determined from Table 1233.

**Table 1232 Buffer Yard and Screening Requirements**

Use	Existing Use	Buffer Type
<b>Multi-family</b>	Single-family/Two Household	15' C
	Multi-family	10' B
	Townhouse	10' B
	Mixed-use	10' B
	Office/Commercial	10' A
	Industrial	25' A
	Institutional	10' A
	Vacant Land	5' A
<b>Townhouses</b>	Single-family/Two Household	15' C
	Multi-family	10' B
	Townhouse	10' B
	Mixed-use	10' B
	Office/Commercial	10' A
	Industrial	25' A
	Institutional	10' A
	Vacant Land	5' A
<b>Mixed-Use</b>	Single-family/Two Household	<ul style="list-style-type: none"> <li>• 25' C – within High Density Residential Districts</li> </ul>

		<ul style="list-style-type: none"> <li>• 15' C – within Medium Density Residential Districts</li> <li>• 5' A – along Vehicle Use Areas within all Non-residential Districts</li> </ul>
	Multi-family	10' A
	Townhouse	10' A
	Mixed-use	10' A
	Office/Commercial	5' A
	Industrial	25' B
	Institutional	25' B
	Vacant Land	5' A
<b>Office/Commercial</b>	Single-family/Two Household	<ul style="list-style-type: none"> <li>• 25' C – within High Density Residential Districts</li> <li>• 15' C – within Medium Density Residential Districts</li> <li>• 5' A – along Vehicle Use Areas within all Non-residential Districts</li> </ul>
	Multi-family	10' A
	Townhouse	10' A
	Mixed-use	10' A
	Office/Commercial	5' A
	Industrial	25' B
	Institutional	25' B
	Vacant Land	5' A
<b>Industrial</b>	Single-family/Two Household	50' E
	Multi-family	25' C
	Townhouse	25' C
	Mixed-use	25' C
	Office/Commercial	25' B
	Industrial	25' B
	Institutional	25' B
	Vacant Land	10' A
<b>Institutional</b>	Single-family/Two Household	25' C
	Multi-family	25' C
	Townhouse	25' C

	Mixed-use	25' C
	Office/Commercial	25' B
	Industrial	25' B
	Institutional	25' B
	Vacant Land	10' A

**H. Materials Required in Buffer Yards:** The required landscape material to be utilized in buffer yards is provided in Table 1233.

**Table 1233 – Landscape Materials Required Within Buffer Yards**

Buffer Type	Number of Plants	Plants and/or Structures required per 100 linear feet
A	3	Upper-story (Canopy) trees
	20	<ul style="list-style-type: none"> <li>Shrubs; or</li> <li>Continuous wall constructed of brick, masonry, or stone 36" min. to 48" max. in height; or<sup>1</sup></li> <li>Continuous earthen berm 36" min. to 48" max. in height with live ground cover</li> </ul>
B	6	Upper-story (Canopy) trees
	30	<ul style="list-style-type: none"> <li>Shrubs; or</li> <li>Continuous wall constructed of brick, masonry, or stone 36" min. to 48" max. in height; or<sup>1</sup></li> <li>Continuous earthen berm 36" min. to 48" max. in height with live ground cover</li> </ul>
C	6	Upper-story (Canopy) trees
	1	6 to 8 foot high wall within 12 inches of property line; finished side facing adjacent property <sup>1</sup>
D	12	Upper-story (Canopy) trees
	4	Understory Trees
	30	<ul style="list-style-type: none"> <li>Shrubs; or</li> <li>6 to 8 foot high wall within 12 inches of property line; finished side facing adjacent property<sup>1</sup></li> </ul>
E	12	Upper-story (Canopy) trees
	4	Understory Trees
	30	<ul style="list-style-type: none"> <li>Shrubs; and</li> <li>6 to 8 foot high wall within 12 inches of property line; finished side facing adjacent property<sup>1</sup></li> </ul>
F	1	Landscape Berm
	12	Upper-story (Canopy) Trees
	4	Understory Trees

<sup>1</sup>Walls are optional when industrial uses border residential districts.

1. The following shall apply for materials and determination of buffer yards:
  - a. When a lot has a combination of different land uses, the buffer yard is calculated on the use of the highest impact.
  - b. Where the functional rear and side of any commercially-zoned properties as determined by the Administrative Officer zoning and codes administrator are across the street from any residentially-zoned property, the required buffer shall be a 10 foot type “A” buffer.
  - c. Where industrial and institutional uses are across the street from any residentially-zoned properties, the property shall be buffered as if the properties were abutting without the fence or wall.
  - d. Where the adjacent land use is nonconforming, the depth of the buffer and live landscape materials shall be reduced by 60 percent.
  - e. When two landscape buffers are abutting the materials for either, buffer may be intermingled provided the required amount for each buffer is maintained. A maintenance agreement between the property owners for the landscape areas will be required to be approved by the Administrative Officer zoning and codes administrator before the buffer is accepted.
  - f. When perimeter landscape buffers overlap, the greater requirement shall apply.
2. Exceptions to landscape materials requirements:
  - a. When the site is impacted by one or more of the following, the materials within a required landscape buffer may be modified as follows:
    - i. When natural body of water or stream that is within the required landscape buffer, the amount of trees and shrubs will be reduced by the linear area affected.
    - ii. When the adjacent property is on elevation greater than six feet above from the developed property, the requirement for any wall will be removed by the linear feet affected, provided the property line is within six feet of the base of the slope.
  - b. When a parcel of land is partially developed, then the area that is not developed is not required to be buffered, provided:
    - i. The undeveloped area is at least 0.50 acres
    - ii. The closest improvement, buildings, parking areas, or any other structure is 100 feet from the neighboring property
    - iii. There is no grading, clearing or any other disturbance of the area, other than water/sewer installation
    - iv. Any development or site disturbance within this area will require installation of the required buffer if any portion of this property has been graded or clear cut of vegetation within the past three years.
  - c. For “E” type buffer yards, a wall is not required when there are no structure or vehicle use areas within four times the width of the required buffer.
3. When required buffer and/or landscaping may interfere with overhead utility lines, the Administrative Officer is authorized to modify or waive the required plant materials.

#### **Section 1506. Acceptable Plant Materials.**

In those instances where the natural vegetation and topography are insufficient to achieve the desired level of screening required by this appendix, a planted buffer shall be provided and shall consist of plant material of such growth characteristics as will provide an acoustical and visual screen and/or erosion control barrier. Planted materials shall conform to the following specifications:

- a. Trees used for screening purposes should be native to the region and shall not be deciduous. Trees should be at least three feet in height above the ground when planted or which will, in normal growth, attain a height of six feet within three years.



- b. Shrubs that are used to form hedges shall not be deciduous. Shrubs shall be at least two feet above the ground level when planted. They should be spaced in such a way that, when mature, they will form a continuous visual screen (hedge) that is at least six feet in height.
- c. For purposes of erosion control, ground covers, perennial plants, and shrubs shall be placed to facilitate development of a continuous root network within one year or the period of construction whichever is the greater.

#### **Section 1507. Maintenance of Buffers and Landscape Strips.**

The owner and/or user of the property shall be responsible for installing the trees, shrubs, and ground covers and maintaining them in good health in a neat and orderly appearance. This includes irrigating or watering, fertilizing, pruning, and replanting where necessary. In cases of non-compliance, the Administrative Officer shall be empowered to take action as provided by law to ensure maintenance of all plant and landscaping materials.

#### **Section 1508. Administration and Enforcement.**

Where buffers are required, the applicant must demonstrate, whether on appropriate plans or after inspection by the Administrative Officer, that the plant materials in place or installed achieve the required screening and/or erosion controls. All site plans, plot plans, and grading and drainage plans shall indicate all required buffers and landscape strips.

Required buffers, landscape strips, and parking lot landscaping shall be installed in accordance with approved plans prior to the issuance of a certificate of occupancy. Certificates of occupancy may be withheld if, after inspection, the required buffers and landscape strips have not been installed in accordance with approved plans. However, owing to special conditions or exceptional circumstance such as drought, said buffers and landscape strips may be installed within 90 days after the issuance of a certificate of occupancy, provided that a letter of credit, escrow money, performance bond, or other approved alternative is submitted to the Administrative Officer prior to the issuance of a certificate of occupancy.

#### **Section 1509. Exception to Buffer, Landscape, Screening, and Open Space Requirements.**

The single exception to the buffer, landscape, screening, and open space requirements is public and semi-public buildings and uses to house communication equipment, pumps, security, or similar such uses, as determined by the Administrative Officer, located on small parcels that could not normally meet the buffer, landscape, screening, and open space requirements in section Article XVII.

### **PART II. Airport Hazard Overlay District**

**Section 1510. Short Title; Jurisdiction.** This Ordinance shall be known and may be cited as the Airport Hazard Overlay District. The description of airport zones is Comprehensive for the Habersham County Airport airspace requirements, but enforcement of this Ordinance applies only to the unincorporated areas of Habersham County.

**Section 1511. Authority; Findings; Policy.** This Ordinance is adopted pursuant to the authority conferred by article 9, section 2, paragraph 4 of the constitution of the state [Ga. Const. art. IX, § II, ¶ IV]. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Habersham County Airport and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Habersham County Airport; and that an obstruction may reduce the size of areas available for the landing, takeoff, and maneuvering of aircraft, thus tending to destroy or impair the utility of Habersham County Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Habersham County Airport;
2. That it is necessary in the interest of the public health, public safety, and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power.

It is further declared that the prevention of the creation or establishment of hazards to air navigation; the elimination, removal, alteration or mitigation of hazards to air navigation; and the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

**Section 1512. Definitions.** As used in this Ordinance, unless the context otherwise requires, the following definitions shall apply:

1. Airport: The Habersham County Airport.
2. Airport elevation: The highest point of an airport's usable landing area measured in feet from sea level, which is 1,448 feet for the Habersham County Airport.
3. Approach surface: A surface longitudinally centered on the extended runway centerline, extending outward and upward from the end of the primary surface and at the same slope as the approach zone height limitation slope set forth in Section 407(E).
4. Approach, transitional, horizontal, and conical zones: These zones are defined as set forth in Section 407(D).
5. Conical surface: A surface extending outward and upward from the periphery of the horizontal surface at a slope of twenty (20) to one (1) for a horizontal distance of 4,000 feet.
6. Hazard to air navigation: An obstruction determined to have a substantial adverse effect on the safe and efficient utilization of the navigable airspace.
7. Height: For the purpose of determining the height limits in all zones set forth in this Ordinance and shown on the zoning map, the datum shall be mean sea level elevation unless otherwise specified.
8. Heliport primary surface: The area of the primary surface coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the elevation of the established heliport elevation.
9. Horizontal surface: A horizontal plane 150 feet above the established airport elevation, the perimeter of which coincides with the perimeter of the horizontal zone.
10. Larger than utility runway: A runway that is constructed for and intended to be used by propeller-driven aircraft of greater than 12,500 pounds maximum gross weight and jet-powered aircraft.
11. Nonconforming use: Any preexisting structure, object of natural growth, or use of land which is inconsistent with the provisions of this Ordinance or an amendment thereto.
12. Nonprecision instrument runway: A runway having an existing instrument approach procedure utilizing air navigation facilities with only horizontal guidance, or area type navigation equipment, for which a straight-in nonprecision instrument approach procedure has been approved or planned.
13. Obstruction: Any structure, growth, or other object, including a mobile object, which exceeds a limiting height set forth in Section 407(E).

14. Person: An individual, firm, partnership, corporation, company, association, joint-stock association, or governmental entity; such term includes a trustee, a receiver, an assignee, or a similar representative of any of them.
15. Planning Commission: A board consisting of seven members appointed by the Habersham County Board of Commissioners.
16. Precision instrument runway: A runway having an existing instrument approach procedure utilizing an instrument landing system (ILS), global positioning system (GPS), a precision approach radar (PAR), or any precision approach system adopted by the Federal Aviation Administration. It also means a runway for which a precision approach system is planned and is so indicated on an approved airport layout plan or any other planning document.
17. Primary surface: A surface longitudinally centered on a runway. When the runway has a specially prepared hard surface, the primary surface extends two hundred (200) feet beyond each end of that runway; for military runways or when the runway has no specially prepared hard surface, or planned hard surface the primary surface ends at each end of that runway. The width of the primary surface is set forth in Section 407(D). The elevation of any point on the primary surface is the same as the elevation of the nearest point on the runway centerline.
18. Runway: A defined area on an airport prepared for landing and takeoff of aircraft along its length.
19. Structure: An object, including a mobile object, constructed or installed by man including, but without limitation, buildings, towers, cranes, smokestacks, earth formations, and overhead transmission lines.
20. Transitional surfaces: These surfaces extend outward at 90-degree angles to the runway centerline and the runway centerline extended at a slope of seven feet horizontally for each foot vertically from the sides of the primary and approach surfaces to where they intersect the horizontal and conical surfaces. Transitional surfaces for those portions of the precision approach surfaces, which project through and beyond the limits of the conical surface, extend a distance of 5,000 feet measured horizontally from the edge of the approach surface and at 90-degree angles to the extended runway centerline.
21. Tree: Any object of natural growth.
22. Utility runway: A runway that is constructed for and intended to be used by propeller-driven aircraft of 12,500 pounds maximum gross weight and less.
23. Visual runway: A runway intended solely for the operation of aircraft using visual approach procedures.

**Section 1513. Airport Zones.** In order to carry out the provisions of this Ordinance, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces; horizontal surfaces, and conical surfaces as they apply to the Habersham County Airport. Such zones are shown on the Habersham County Airport zoning map consisting of one sheet, prepared by the Habersham County Community Planning and Development Department, which is, by this reference, made a part of this Ordinance. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

1. Utility runway visual approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

2. Utility runway nonprecision instrument approach zone: The inner edge of this approach zone of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
3. Runway larger than utility visual approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
4. Runway larger than utility with a visibility minimum greater than three-fourths-mile nonprecision instrument approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
5. Runway larger than utility with a visibility minimum as low as three-fourths-mile nonprecision instrument approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
6. Precision instrument runway approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.
7. Heliport approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.
8. Transitional zones: The transitional zones are the areas beneath the transitional surfaces.
9. Heliport transitional zones: These zones extend outward from the sides of the primary surface and the heliport approach zones a horizontal distance of 250 feet from the primary surface centerline and the heliport approach zone centerline.
10. Horizontal zone: The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.
11. Conical zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

**Section 1514. Airport Zone Height Limitations.** Except as otherwise provided in this Ordinance, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this Ordinance to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows:

1. Utility runway visual approach zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
2. Utility runway nonprecision instrument approach zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
3. Runway larger than utility visual approach zone: Slopes twenty (20) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.
4. Runway larger than utility with a visibility minimum greater than three-fourths-mile nonprecision instrument approach zone: Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
5. Runway larger than utility with a visibility minimum as low as three-fourths-mile nonprecision instrument approach zone: Slopes thirty-four (34) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.
6. Precision instrument runway approach zone: Slopes fifty (50) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward forty (40) feet horizontally for each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.
7. Heliport approach zone: Slopes eight (8) feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of four thousand (4,000) feet along the heliport approach zone centerline.
8. Transitional zones: Slopes seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,598 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they interest the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height

limits sloping seven (7) feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

9. Heliport Transitional Zones: Slope two (2) feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90 degree angles to the primary surface centerline and heliport approach zones centerline.
10. Horizontal zone: Established at 150 feet above the airport elevation or at a height of 1,598 feet above mean sea level.
11. Conical zone: Slopes twenty (20) feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

**Section 1515. Use Restrictions.** Notwithstanding any other provisions, no use may be made of land or water within any zone established by this Ordinance in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards, or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

**Section 1516. Nonconforming Uses.**

1. Regulations not retroactive. The regulations prescribed by this Ordinance shall not be construed to require the removal, lowering, or other change or alteration of any structure or tree not conforming to the regulations as of the effective date, or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this Ordinance, and is diligently prosecuted.
2. Marking and lighting. Notwithstanding the preceding provisions of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation, and maintenance thereon of such markers and lights as shall be deemed necessary by the Habersham County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the presence of such airport obstruction. Such markers and lights shall be installed, operated, and maintained at the expense of the airport commission.

**Section 1517. Permits.**

1. Future uses. Except as specifically provided in paragraphs a, b, and c hereunder, no material change shall be made in the use of the land, no structure shall be erected or otherwise established, and no tree shall be planted

in any zone created in this Ordinance unless a permit therefore shall have been applied for and granted. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure, or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted. No permit for a use inconsistent with the provisions of this Ordinance shall be granted unless a variance has been approved in accordance with Section 407 (H) (4) of this section.

- a. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree less than seventy-five (75) feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree would extend above the height limits prescribed for such zones.
- b. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree less than seventy-five (75) feet of vertical height above the ground, except when such tree would extend above the height limit prescribed for such approach zones.
- c. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree less than seventy-five (75) feet of vertical height above the ground, except when such tree, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.

Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or growth of any tree in excess of any of the height limits established by this Ordinance.

2. Existing uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this Ordinance or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.
3. Nonconforming uses abandoned or destroyed. Whenever the Community Planning and Development Director determines that a nonconforming tree or structure has been abandoned or more than fifty (50) percent torn down, physically deteriorated or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.
4. Variances. Any person desiring to erect or increase the height of any structure, or permit the growth of any tree, or use property not in accordance with the regulations prescribed in this Ordinance, may apply to the Planning Commission for a variance from such regulations. The application for variance shall be accompanied by a determination from the Federal Aviation Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace. Such variances may be allowed where it is found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice, and will be in accordance with the spirit of this Ordinance.

Additionally, no application for variance to the requirements of this Ordinance may be considered by the Planning Commission unless a copy of the application has been furnished to the Habersham County Airport Commission for advice as to the aeronautical effects of the variance. If the Habersham County Airport Commission does not respond to the application within thirty (30) days after receipt, the Planning Commission may act on its own to grant or deny said application.

5. Obstruction marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this Ordinance and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner's expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to require the owner to permit the Habersham County Airport Commission, at its own expense, to install, operate, and maintain the necessary markings and lights.

**Section 1518. Enforcement.** It shall be the duty of the Community Planning and Development Director to administer and enforce the regulations prescribed in this Ordinance. Applications for permits and variances shall be made to the Community Planning and Development Director upon a form published for that purpose. Applications required by this Ordinance to be submitted to the Community Planning and Development Director shall be promptly considered and granted or denied. Application for action by the Planning Commission shall be forthwith transmitted by the Community Planning and Development Director.

**Section 1519. Conflicting Laws and Regulations.** Where there exists a conflict between any of the regulations or limitations prescribed in this Ordinance and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

**Section 1520. Severability.** If any of the provisions of this Ordinance or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end, the provisions of this Ordinance are declared to be severable.





## ARTICLE XVI

### PART I. Wireless Telecommunications Facilities

#### Section 1601. Purpose and Intent.

The purpose of this article is to regulate the permitting, siting, placement, construction, and modification of Wireless Telecommunications Towers and facilities. While fulfilling all applicable zoning standards and the visioning, planning and guidance within the Habersham County ~~2029~~ Comprehensive Plan.

Requirements in this article are based upon the County's authority to regulate wireless telecommunication facility development in unincorporated Habersham County under Georgia Law and as provided in the Telecommunications Act of 1996. The Comprehensive Plan directs, as a major source of Economic Development, a significant increase in tourism that relies upon special natural beauty, sports, recreation, cultural resources, and rural character. Desired Economic Development is achievable when gains from expansion and upgrading of Wireless Services correspond with the Comprehensive Plan's protection of the special resources and characteristics necessary to achieve gains from the priority to increase tourism. Consequently, this ordinance shall be interpreted to achieve the visioning within the Comprehensive Plan.

#### Section 1602. Overall Policy and Goals For Permits For Wireless Telecommunications Facilities.

In order to ensure that the placement, construction, and modification of Wireless Telecommunications Facilities protects the County's health, safety, public welfare, environmental features, the nature and character of the community and neighborhood and other aspects of the quality of life specifically listed elsewhere in this Ordinance and the Comprehensive Plan, the County hereby adopts an overall policy for Wireless Telecommunications Facilities for the express purpose of achieving the following goals:

- A) The obtainment of an applicable permit for any new, co-location or modification of a Wireless Telecommunications Facility.
- B) An application process for person(s) or entities seeking a Permit for Wireless Telecommunications Facilities.
- C) Application review and issuance of a Permit for Wireless Telecommunications Facilities that is both fair and consistent.
- D) The promotion of sharing and/or co-location of Wireless Telecommunications Facilities and towers among service providers.
- E) Requirement, promotion and encouragement, wherever possible, of the placement, height and number of Wireless Telecommunications Facilities in such a manner to minimize adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and within the same general area as the requested location.

#### Section 1603. Exceptions and Exclusions

No Person shall be permitted to site, place, build, construct, modify, or prepare any site for the placement or use of a Wireless Telecommunications Facility unless exempted below. No Permit shall be required for those non-commercial exceptions noted in this section.

- A) All legally permitted Wireless Telecommunications Towers and Facilities in existence on or before the effective date of this Ordinance
- B) Any Repair and Maintenance of a Wireless Facility does not require an application for a Permit. However, no additional construction or site modification will be permitted.
- C) The County's fire, Sheriff's or other public service facilities owned and operated by the County.
- D) Any facilities expressly exempt from the County's siting, building and permitting authority.
- E) Over-the-Air reception Devices including the reception antennas for direct broadcast satellites (DBS), multi-channel multipoint distribution providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception,

F) Facilities not exceeding 75 feet in height used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial Telecommunications.

G) Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, and g services (e.g. Wi-Fi and Bluetooth) where the facility does not require a new tower.

H) Any electrical utility pole or tower used for the distribution or transmission of electrical service or other utilities not regulated by the County.

#### **Section 1604. Permit Application Requirements for A New Wireless Support Structure or Increase In Height Of An Existing Wireless Support Structure**

All Applications for a Permit for a new Wireless Telecommunications Facility or for a modification or a co-location under this section shall comply with the requirements set forth in this Section. The Board Designee is the entity to whom applications for a Permit must be submitted. Said designee is authorized to review, analyze, evaluate, and make recommendations to the Planning Commission and /or Board of Commissioners <sup>1</sup>

A) The Board Designee may reject in writing, applications not meeting the requirements stated herein, which are otherwise not complete or not accompanied by proper fees.

B) Any and all representations made by the Applicant to the Board or its duly authorized representatives on the record during the Application process shall be in writing and shall be deemed a part of the Application and will be deemed to have been relied upon in good faith by the Board or their designee.

C) An Application for a Permit for Wireless Telecommunications Facilities shall be signed on behalf of the Applicant by the person preparing the same and with knowledge of the contents and representations made therein and attesting to the truth and completeness of the information.

D) The Applicant must provide documentation to verify it has the authority to proceed as proposed on the Site.

E) The Applicant shall include a statement in writing:

1) That the applicant's proposed Wireless Telecommunications Facilities shall be maintained in a safe manner, in compliance with all conditions of the Permit, as well as all applicable County, State and Federal Laws, rules, and regulations; and

2) That the construction of the Wireless Telecommunications Facilities is legally permissible, including, but not limited to the fact that the Applicant is authorized to do business in the State.

F) Where a certification is called for in this Article, such certification shall bear the signature and seal of a Professional Engineer licensed by the State.

G) In addition to all other required information as stated in this Article, all applications for the construction or installation of a new Wireless Telecommunications Facility or co-location of an existing facility where the overall height or width of the structure or where the dimensions of the equipment compound will be increased shall contain the information hereinafter set forth. An applicant will be granted permission for anything that it can conclusively prove the technical or legal "need" as defined in Section 301

H) Specific Requirements: The items contained in Appendix C are mandatory on all applications to assist the Board in rendering an informed decision on the application.

#### **Section 1605. Requirements for An Application For A Co-Location Or Modification To An Existing Structure**

The grant of a permit under this section shall be done by administratively granted authorization, such being defined in Section 201.

A) Within 30 calendar days of the date an application for modification or collocation is filed with the County, the Board Designee shall notify the applicant in writing of any information required to complete the application.

B) Within 90 calendar days of the date an application for modification or collocation of wireless facilities is filed with the County, unless another date is specified in a written agreement between the Board Designee and the applicant, the Board Designee shall:

- 1) Have the application reviewed and make its final decision to approve or disapprove the application; and
- 2) Advise the applicant in writing of its final decision.

C) An Application for attaching wireless facilities to an existing structure, including but not limited to cellular or PCS facilities and microwave facilities, shall contain the following information and comply with the following requirements:

1) Documentation shall be provided proving that the Applicant has the legal right to attach to the structure.

2) A written statement that:

a) The proposed Wireless Telecommunications Facility will be maintained in a safe manner, and in compliance with all conditions of all applicable permits and authorizations.

b) The construction of the Wireless Telecommunications Facilities is legally permissible.,

~~D) An application for attaching to an existing structure or for modifying an existing structure shall contain the items contained in Appendix D.~~

~~E) An application for attaching to an existing structure or for modifying an existing structure where there is an increase in the height or width of the support structure shall contain all the items contained in Appendix D.~~

#### **Section 1606. Location of New Wireless Telecommunications Facilities**

A) If a service provider requests a planning meeting prior to considering a new site for an application, the meeting may include representative(s) of the applicant, the planning designee of the county, members of the community, and the county's consultant should the Board Designee deem it necessary for the consultant to attend..

B) Unless the proof of technical need is established as set forth in subsection C) below, telecommunications towers and Wireless Telecommunications Facilities shall be prohibited:

1. from being built on any crest or extending above any and all crests;
2. when any portion of a structure on a ridge extends higher than 30 feet above the ambient tree height near the facility.
3. within areas of traditional neighborhoods or subdivisions except the fringe and at least one eighth (1/8) mile from a dwelling.
4. within or visually intrusive to county identified River Protection Corridor and Scenic Road Corridors character areas.
5. within or visually intrusive to any recognized Historic area for the purposes of cultural preservation.
6. in areas identified by local, state, or federal agencies containing biological or environmental impact to alleviate harm to any variety of species.
7. within or visually intrusive to a view shed that contributes to scenic beauty and/or tourist attractions or facilities.

C) Wireless Telecommunications Facilities may be allowed in the above seven (7 ) areas if the applicant provides proof of technical need by documentation in the form of clear and convincing evidence to demonstrate that the proposed Telecommunications tower or Wireless Facility is necessary and:

1. the area cannot be served from outside the area.
- 2 Co-location is not possible.
3. increasing the height of an existing Wireless Telecommunication Facility cannot provide the service.
4. serving a traditional neighborhood or subdivision residential area from outside the area is technologically impracticable.

5. serving a traditional neighborhood or subdivision with a satisfactory stealth structure is technologically impracticable.
  6. an alternative structure compatible with the area such as a silo, barn cupola, or church steeple cannot be used to provide Wireless Telecommunications service to the area.
  7. an alternative configuration of sites to avoid a structure on a crest or on a ridge that extends no more than thirty (30) ft above the ambient tree height near the facility is technologically impracticable.
- D) Notwithstanding that a potential site may be situated in an area of highest or highest available priority, the county may disapprove an Application for any, or a combination, of the following reasons:
1. Conflict with local, state, and federal safety and safety-related codes and requirements.
  2. The placement and location or height of a Wireless Telecommunication Facility would create an unacceptable risk, or the reasonable possibility of such to residents, the public, or employees of the service provider, or other service providers.
  3. Placement and location or height of the facility conflicts with provisions of this article.
  4. Failure to submit documentation required under this article within thirty (30) days of written notice to the Applicant setting forth any deficiencies in the application.
- E) Notwithstanding anything to the contrary in this article the governing body may require the investigation of relocation of a proposed site, chosen by the Applicant to use more than one (1) site or other support structure to provide substantially the same service if the location could result in a less intrusive facility or facilities, singly or in combination, as long as such does not prohibit or serve to prohibit the provision of service.

#### **Section 1607. Shared Use Of Wireless Telecommunications Facilities And Other Structures.**

- A. This Article requires Wireless Facilities to be located on existing wireless support structure or other suitable structures; unless such is proven to be technologically impracticable. The Applicant shall submit a Comprehensive report inventorying all existing wireless support structure and other suitable structures within one (1) mile of the location of any proposed new Wireless support structure. Applicant may present conclusive documentation for consideration by the governing body showing that another distance is more appropriate and other suitable structure cannot be used.
- B. An Applicant intending to locate on an existing tower or other suitable structure not owned by the Applicant shall be required to provide documentation from the existing owner that the Applicant is permitted co-location.
- C. Shared use or co-location shall contain the minimum antenna array technologically required to primarily serve the needs of customers within the County, with incidental service to customers outside the county at the Board's discretion.

#### **Section 1608. Height Of Telecommunications Tower(S).**

- A) New towers shall be of the monopole type, unless such is proven to be technologically impracticable.
- B) The Applicant shall submit documentation justifying the technical need by the service provider for the total height of any wireless support structure and/or Antenna requested and the basis therefore. To enable verification of the need for new wireless support structures, documentation in the form of propagation studies must include all backup data used to produce the studies at the height requested, the maximum height allowed by this ordinance, and the midpoint of the height range. Such documentation will be analyzed in the context of the justification of the height needed to primarily serve the needs of customers within the County.
- C)
  1. The placement and installation of towers and antennas are permitted by application for a building permit up to a height of one hundred sixty five feet (165') pursuant to the provisions of Section 1706.
  2. The placement and installation of towers and antennas are permitted with Planning Commission review up to a height of one hundred ninety nine feet (199') pursuant to the provisions of Section 1606.

3. The placement and installation of towers and antennas with a height of two hundred feet (200') or greater shall be conditional uses in all land use districts.
- D) Spacing or the distance between towers shall be such that the service may be provided without exceeding the maximum permitted height.

#### **Section 1609. Visibility Of Wireless Telecommunications Facilities.**

- A) Wireless Telecommunications Facilities shall not be artificially lighted or marked, except as required by Ordinance or other applicable agencies.
- B) Stealth: All new Wireless Telecommunications facilities, including but not limited to towers, shall utilize Stealth or Camouflage techniques, unless such can be shown to be either Commercially or Technologically Impracticable
- C) If Wireless Telecommunications Facilities are lighted for any reason, the applicant shall provide a detailed plan for sufficient lighting of as unobtrusive and inoffensive an effect as is permissible under State and FAA's regulations. All such lighting shall be affixed with technology that enables the light to be seen as intended from the air, but that prevents the ground scatter effect so that it is not able to be seen from the ground to a height of at least 12 degrees vertical for a distance of at least 1 mile in a level terrain situation  
Flush Mounting: So as to be the least visually intrusive reasonably possible all antennas attached to a tower or other structure shall be as near to flush mounted as is technologically practicable.
- D) Placement on Building – Facie: If attached to a building, all antennas shall be mounted on the facie of the building and camouflaged so as to match the color and, if possible, texture of the building or in a manner so as to make the antennas as visually innocuous and undetectable as is possible given the facts and circumstances involved.

#### **Section 1610. Security Of Wireless Telecommunications Facilities.**

- A) All Wireless Telecommunications Facilities, Antennas and accessory equipment shall be located, fenced, or otherwise secured in a manner that prevents unauthorized access.
- B) Transmitters and Telecommunications control points shall be installed in such a manner that they are readily accessible only to persons authorized to operate or service them.

#### **Section 1611. Signage.**

Wireless Telecommunications Facilities shall contain a sign no larger than four (4) square feet in order to provide adequate notification to persons in the immediate area of the presence of RF radiation to minimize accidental exposure to RF radiation within a given area. A sign of the same size is also to be installed containing the name(s) of the owner(s) and operator(s) of the Antenna(s) as well as emergency phone number(s). The sign shall be on the equipment shelter or cabinet of the Applicant and be visible from the access point of the site and must identify the equipment owner of the shelter or cabinet. On tower sites, an FCC site registration, as applicable, is also to be present. The signs shall not be lighted, unless specified by law, rule, or regulation. No other signage, including advertising, shall be permitted.

#### **Section 1612. Lot Size And Setbacks.**

- A. All proposed towers shall be setback from recorded rights-of-way and habitable building, by the distance specified by the engineer of record plus 25%, otherwise known as the Fall Zone. The nearest portion of any new access road to the tower shall be no less than fifteen (15) feet from the nearest property line.
- B. There shall be no development of habitable buildings within the Fall Zone set forth in the preceding subsection

### **Section 1613. Retention Of Expert Assistance**

The Board of Commissioners may hire any consultant and/or expert necessary to assist the County in reviewing and evaluating applications. Such consultant and/or expert shall participate in pre-application and site visit meetings, and upon receipt of a complete application shall review and evaluate the application and associated data, including safety requirements and technical review.

### **Section 1614. Action On An Application For A Permit For Wireless Telecommunications Facilities.**

A) The Board Designee will review an Application pursuant to this Article in a timely fashion, and as required by applicable Federal Law (the Telecommunications Act of 1996), as amended and legally enforceable interpretations and declaratory rulings thereof.

B) For applications requiring a public hearing before the Board of Commissioners, the County Board of Commissioners may by proper vote and in accordance with its by-laws, request further study, approve, approve with conditions, or deny a Permit.

C) the Applicant shall be notified of the Board's ruling and any conditions, if applicable, in writing within ten (10) calendar days of the Board's action. The grant and issuance of such permit does not exempt the applicant from obtaining land disturbance permits and building permits, or Certificates of Compliance.

### **Section 1615. Adherence To State And/Or Federal Rules And Regulations, Building Codes, And Safety Standards.**

To ensure the structural integrity of wireless support structures, the owner, permittee, or subsequent lessee of a tower or alternative tower structure shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas, ensure that towers are maintained in compliance with standards contained in applicable local building codes and published by the International Code Council and the American National Standards Institute. If, upon inspection, the department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee, or lessee of the tower, said party shall have 180 days to bring the tower into compliance with such standards. If the owner, permittee, or lessee fails to bring the tower into compliance within the 180-day period, the governing authority may remove the tower at the owner, permittee, or lessee's expense. Prior to the removal of any tower, the department may consider detailed plans submitted by the owner, permittee, or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above referenced compliance period. Any such removal by the governing authority shall be in the manner provided in O.C.G.A. §§ 41-2-7 through 41-2-17.

### **Section 1616. Abandonment of Wireless Telecommunication Facilities.**

(A) Any tower or antenna that is not operated for a continuous period exceeding six months shall be considered abandoned, and the owner of such antenna or tower shall remove the structure within 60 days of receipt of notice from the department notifying the owner of such abandonment. If said tower or antenna is not removed within said 60 days, the governing authority may, in the manner provided in the O.C.G.A. §§ 41-2-7 through 41-2-17, remove such antenna or tower at the owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease utilizing the tower.

(B) Prior to the issuance of a permit for the construction of a tower or antenna, the owner of the tower or antenna facility shall procure a bond or a letter of credit from a surety with an office located in State of Georgia, in an amount not less than \$25,000.00 conditioned upon the removal of the tower and/or antenna, should it be deemed abandoned under the provisions set forth in subsection (a) of this section. Such bond or letter of credit must be renewed at least every two years during the life of the tower or antenna.

### **Section 1617. Appeals, Variances, Application, Procedural Requirements, Administration, Interpretation, Enforcement, Penalties, And Remedies**

Unless otherwise prohibited by law or in conflict with any section of this Article, appeals, variances, application, procedural requirements, administration, interpretation, enforcement, penalties and remedies as set forth in

Articles XII in the Comprehensive Land Development Ordinance, as Codified and as most currently amended, are expressly incorporated in this Article.

## **PART II. Standards for Small Wireless Facilities Placed in the County Right of Way**

### **Section 1618. Purpose and Scope**

A. The purpose of this Article is to establish nondiscriminatory policies and procedures for use of the right of way and more specifically the placement of small wireless facilities in right of way within the County jurisdiction, which will provide public benefit consistent with the preservation of the integrity, safe usage, and reasonable aesthetic qualities of the County right of way and the County as a whole.

B. In enacting this Article, the County is establishing uniform standards consistent with federal and state law to address the placement of small wireless facilities and associated poles in the right of way, including without limitation, to:

1. prevent interference with the use of streets, sidewalks, alleys, parkways and other public ways and places;
2. prevent the creation of visual and physical obstructions and other conditions that are hazardous to vehicular and pedestrian traffic;
3. prevent interference with the facilities and operations of facilities lawfully located in right of way or public property;
4. preserve the character of Historic Districts or areas with decorative poles;
5. protect against environmental damage, including damage to trees; and
6. facilitate rapid deployment of small cell facilities to provide the benefits of wireless services.

C. This Article supersedes all Articles or parts of Articles adopted prior hereto that are in conflict herewith, to the extent of such conflict.

### **Section 1619. Definitions**

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

*Administrative Review:* means review of an application by the County relating to the review and issuance of a permit, including review by County staff, to determine whether the issuance of a permit is in conformity with the applicable provisions of this Article. An application that is subject to administrative review shall be approved except as provided in Subsection 1729.K of this Article.

*Antenna:* means the following:

1. Communications equipment that transmits and/or receives electromagnetic radio frequency signals used in the provision of wireless services or other wireless communications; or
2. Similar equipment used for the transmission or reception of surface waves.

The definition for an antenna does not apply to broadcast antennas, antennas designed for amateur radio use, or satellite dishes for residential or household purposes.

*Applicable Codes:* means uniform building, fire, safety, electrical, plumbing, or mechanical codes adopted by a recognized national code organization to the extent such codes have been adopted by the County or otherwise are applicable in the County. The County adopted the current edition of the Utility Accommodation Policy and Standards (UAM) issued by the State of Georgia Department of Transportation.

*Applicant:* means any person who submits an application as or on behalf of a wireless provider.



*Application*: means a written request submitted by an applicant to the County for a permit to:

1. Collocate a small wireless facility in a right of way; or 2.
2. Install, modify, or replace a pole or decorative pole in a right of way on which a small wireless facility is or will be collocated.

*County*: means Habersham County, Georgia.

*County Pole*: means a pole owned, managed, or operated by or on behalf of the County. Such term shall not include poles, support structures, electric transmission structures, or equipment of any type owned by an electric supplier.

*Collocate or Collocation*: means to install, mount, modify, or replace a small wireless facility on or adjacent to a pole, decorative pole, or support structure.

*Communications Service Provider*: means a provider of communications services.

*Communications Services*: means cable service as defined in 47 U.S.C. Section 522(5); telecommunications service as defined in 47 U.S.C. Section 153(53); information service as defined in 47 U.S.C. Section 153(24), as each such term existed on January 1, 2019; or wireless services.

*Decorative Pole*: means a County pole that is specially designed and placed for aesthetic purposes.

*Eligible Facilities Request*: means an eligible facilities request as set forth in 47 C.F.R. Section 1.40001(b)(3), as it existed on January 1, 2019 and as may be amended from time to time.

*Fee*: means a one-time, nonrecurring charge based amount based on time and expense.

*Historic District*: means the following:

1. Any district, site, building, structure, or object included in, or eligible for inclusion in, the National Register of Historic Places maintained by the Secretary of the Interior of the United States in accordance with Section VI.D.1.a.i-v of the Nationwide Programmatic Agreement codified by 47 C.F.R. Part 1;
2. Any area designated as a historic district under O.C.G.A. Article 2 of Article 10 of Title 44, the “Georgia Historic Preservation Act”; or
3. Any area designated as a historic district or property by law prior to the effective date of this code section.

*Law*: means and includes any and all federal, state, or local laws, statutes, common law, codes, rules, regulations, orders, or ordinances.

*Micro Wireless Facility*: means a small wireless facility not larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height that has an exterior antenna, if any, no longer than 11 inches.

*Permit*: means a written authorization, in electronic or hard copy format, required to be issued by the County to initiate, continue, or complete the collocation of a small wireless facility or the installation, modification or replacement of an associated pole or decorative pole upon which a small wireless facility is collocated.

*Person*: means an individual, corporation, limited liability company, partnership, association, trust, or other entity or organization, including the County.

*Pole*: means a vertical pole such as a utility, lighting, traffic, or similar pole made of wood, concrete, metal, or other material that is lawfully located or to be located within a right of way, including without limitation a replacement pole and an County pole. Such term shall not include a support structure, decorative pole, or electric transmission structure.

*Rate*: means a recurring charge.

*Reconditioning Work:* means the activities associated with substantially painting, reconditioning, improving, or repairing County poles.

*Replace, Replacement, or Replacing:* means to replace an existing pole or decorative pole with a new pole or decorative pole, similar in design, size, and scale to the existing pole or decorative pole consistent with 47 C.F.R. 1.40001(b)(7) as it existed on January 1, 2019, in order to address limitations of, or change requirements applicable to, the existing pole to structurally support the collocation of a small wireless facility.

*Right of Way or ROW:* means property or any interest therein, whether or not in the form of a strip, which is acquired for or devoted to a public road. A public road can be a highway, road, street, avenue, drive, or other way that is either open to the public or has been acquired as right of way, and is intended to be used by the public and for the passage of vehicles in any county or municipality of Georgia. The term ROW shall only apply to property or an interest therein that is under the ownership or control of the County. The term ROW shall not include property or any interest therein acquired for or devoted to an interstate highway, or the public rights, structures, sidewalks, facilities, and appurtenances for buildings for public equipment and personnel used for or engages in administration, construction, or maintenance of such ways or scenic easements and easements of light, air, view, and access.

*Small Wireless Facility:* means radio transceivers, surface wave couplers, antennas, coaxial, fiber-optic or other cabling, power supply and backup battery, and comparable and associated equipment, regardless of technological configuration, at a fixed location or locations that enables communication or surface wave communication between user equipment and a communications network and that meets both of the following qualifications:

1. Each wireless provider's antenna could fit within an enclosure of no more than six (6) cubic feet in volume; and
2. All other wireless equipment associated with the facility is cumulatively no more than twenty-eight (28 ) cubic feet in volume. When an enclosure is used, volume shall be measured based on the exterior dimensions of the enclosure.

The following types of associated, ancillary equipment are not included in the calculation of equipment volume: electric meter, concealment elements, telecommunications demarcation box, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for connection of power and other services. The term does not include the pole, decorative pole or support structure on, under, or within which the equipment is located or collocated or to which the equipment is attached and does not include any wireline backhaul facilities or coaxial, fiber-optic or other cabling that is between small wireless facilities, poles, or support structures or that is not otherwise immediately adjacent to or directly associated with a particular antenna.

*Support Structure:* means a building, billboard, water tank, or any other structure to which a small wireless facility is or may be attached. Such term shall not include a decorative pole, electric transmission structure, or pole.

*Wireless Infrastructure Provider:* means any person, including a person authorized to provide telecommunications service in the state, that builds, installs or operates small wireless facilities, poles or support structures on which small wireless facilities are or are intended to be used for collocation, but that is not a wireless services provider.

*Wireless Provider:* means a wireless infrastructure provider or a wireless services provider.

*Wireless Services:* means any services using licensed or unlicensed spectrum, including the use of Wi-Fi, whether at a fixed location or mobile, provided to the public.

*Wireless Services Provider:* means a person who provides wireless services.

*Wireline Backhaul Facility*: means an aboveground or underground wireline facility used to transport communications data from a telecommunications demarcation box associated with small wireless facility to a network.

## **Section 1620. Rates and Fees**

A. As a condition to the issuance of a permit to collocate a small wireless facility or to install, modify, or replace a pole or a decorative pole for collocation of a small wireless facility in the right of way, the applicant shall pay the following fees and rates:

1. An application fee for each small wireless facility collocated on an existing pole, decorative pole, or support structure assessed by the County not to exceed one hundred dollars (\$100) per small wireless facility;
2. An application fee for each new pole with an associated small wireless facility assessed by the County not to exceed one thousand dollars (\$1,000) per pole with an associated small wireless facility;
3. An application fee for each replacement pole with an associated small wireless facility assessed by the County not to exceed two hundred fifty dollars (\$250) per replacement pole with an associated small wireless facility;
4. Annual right of way occupancy rate assessed by the County for non-exclusive occupancy of the right of way by the applicant not to exceed:
  - a. One hundred dollars (\$100) per year for each small wireless facility collocated on any existing or replacement pole, including an existing or replacement County pole;
  - b. Two hundred dollars (\$200) per year for each new pole with an associated small wireless facility, provided however that such rate shall not be applied to a replacement pole;
5. An annual attachment rate assessed by the County for collocations on County poles shall be nondiscriminatory regardless of the services provided by the collocating wireless provider. Such annual attachment rates shall not exceed forty dollars (\$40) per year per small wireless facility;
6. A Fee for make-ready work, as provided in Subsection 1722.M of this Article; and
7. Generally applicable, non-discriminatory fees for any permit required under generally applicable Law, provided however that an applicant shall not be required to obtain or pay any fees for a building permit, as the permit issued pursuant to this Article serves as a building permit for the applicable poles and small wireless facilities.

B. The monetary caps in Subsections 1720.A (1-5) of this Article shall increase two and one-half percent (2.5%) annually beginning January 1, 2021.

C. An applicant shall not be subject to any fees or rates, other than those expressly provided for by this Article.

D. The applicant, or person who owns or operates the small wireless facility collocated in the right of way (including, without limitation, on a County pole) may remove its small wireless facilities at any time from the right of way, upon not less than thirty (30) days prior written notice to the County and may cease paying to the County any applicable fees and rates for such use, as of the date of actual removal of the small wireless facilities. In the event of such removal, the right of way shall be, to the extent practicable, restored to its condition prior to the removal. If the applicant fails to return the right of way, to the extent practicable in the reasonable judgement of the County, to its condition prior to the removal within ninety (90) days, the County may, at the sole option of the County, restore the right of way to such condition and charge the applicant its reasonable, documented cost of doing so, plus a penalty not to exceed five hundred dollars (\$500). The County may suspend the ability of the applicant to receive any new permits from the County until the applicant has paid the amount assessed for such restoration costs and the penalty assessed, if any.

E. Any failure to comply with Subsection 1721.B of this Article by a wireless provider shall allow the County, at the sole discretion of the County, to restore the right of way, to the extent practicable in the reasonable

judgment of the County, to its condition prior to the unpermitted collocation or installation and to charge the responsible wireless provider its reasonable, documented cost of doing so, plus a penalty not to exceed one thousand (\$1,000). The County may suspend the ability of the wireless provider to receive any new permits from the County until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any.

#### **Section 1621. Collocations and Pole Installations Subject to Administrative Review**

A. A wireless provider may collocate small wireless facilities on County poles, decorative poles, and support structures in the right of way, subject to administrative review only and issuance of a permit as set forth in this Article. All such uses shall be in accordance with applicable provisions of this Article, including without limitation, those set forth in Section 1724 of this Article:

1. Collocation of a small wireless facility on or adjacent to a pole or a support structure that does not exceed the limitations set forth in Subsection 1722.I of this Article or on or adjacent to a decorative pole in compliance with Section 1727 of this Article; and
2. Installation, modification, or replacement of a pole or a decorative pole for collocation of a small wireless facility that does not exceed the limitations set forth in Subsection 1722.I of this Article.

B. No wireless provider shall collocate any small wireless facility in the right of way or install, modify, or replace a pole or decorative pole for collocation of a small wireless facility in the right of way without first filing an application and obtaining a permit therefor, except as otherwise expressly provided in Subsection 1721.E of this Article.

C. The County shall make accepted applications publicly available. Notwithstanding the foregoing, an applicant may designate portions of its application materials that it reasonably believes contain trade secrets by following the procedures set forth in subparagraph (34) of paragraph (a) of O.C.G.A. Article 72 of Article 18 of Title 50.

D. The application shall be made by the applicable wireless provider or its duly authorized representative and shall contain the following:

1. The applicant's name, address, telephone number, and e-mail address, including emergency contact information for the applicant;
2. The names, addresses, telephone numbers, and e-mail addresses of all consultants, if any, acting on behalf of the applicant with respect to the filing of the application;
3. A general description of the proposed work and the purposes and intent of the proposed facility. The scope and detail of such description shall be appropriate to the nature and character of the physical work to be performed, with special emphasis on those matters likely to be affected or impacted by the physical work proposed;
4. Detailed construction drawings regarding the proposed use of the right of way;
5. To the extent the proposed facility involves collocation on a pole, decorative pole, or support structure, a structural report performed by a duly licensed engineer evidencing that the pole, decorative pole, or support structure will structurally support the collocation (or that the pole, decorative pole, or support structure may and will be modified to meet structural requirements) in accordance with applicable codes;
6. For any new aboveground facilities, visual depictions or representations if not included in the construction drawings;
7. Information indicating the horizontal and approximate vertical location, relative to the boundaries of the right of way, of the small wireless facility for which the application is being submitted;

8. If the application is for the installation of a pole or replacement of a decorative pole, a certification that complies with Subsection 1721.J of this Article;
9. If the small wireless facility will be collocated on a pole or support structure owned by a third party, a certification that the wireless provider has permission from the owner to collocate on the pole or support structure; and
10. If the applicant is not a wireless services provider, a certification that a wireless services provider has requested in writing that the applicant collocate the small wireless facilities or install, modify, or replace the pole or decorative pole at the requested location.
- E. An application shall not be required for the following activities, provided that a wireless provider may be required to obtain permits for such activities, such as electrical permits or street opening permits, if otherwise required by generally applicable law:
1. With respect to a pole or decorative pole on which a small wireless facility is collocated, inspections, testing, repairs, and modifications that maintain functional capacity and aesthetic and structural integrity, provided that modifications are limited by the structural load analysis supplied by the applicant in its prior application to the County; and
  2. With respect to a small wireless facility, inspections, testing, or repairs that maintain functional capacity or the replacement or upgrade of antennas or other components of the small wireless facility such as a swap out or addition of antennas and radio equipment as required by the applicant, with antennas and other components that are substantially similar in color, aggregate size, and other aesthetics to that previously permitted by the County and consistent with the height and volume limits for small wireless facilities under this Article, so long as the pole, decorative pole, or support structure will structurally support, or prior to installation will be modified to support, the structural load in accordance with the structural load analysis supplied by the applicant in its prior application to the County.
- F. Any material change to information contained in an application shall be submitted in writing to the County within thirty (30) days after the events necessitating the change.
- G. Unless otherwise provided by applicable Laws, all applications pursuant to this Article shall be accompanied by the fees as required in Section 1720 of this Article.
- H. The County shall not enter into an exclusive arrangement with any person for use of the right of way for the collocation of small wireless facilities or the installation, operation, marketing, modification, maintenance, or replacement of poles, or for the right to attach to County poles. A person who purchases or otherwise acquires a County pole is subject to the requirements of this section.
- I. The County, in the exercise of its administration and regulation related to the management of the right of way, shall be competitively neutral and nondiscriminatory with regard to other users of the right of way.
- J. A wireless provider shall not apply to install a pole or replace a decorative pole unless it has determined after diligent investigation that it cannot meet the service objectives of the permit by collocating on an existing pole or support structure on which the provider has the right to collocate subject to reasonable terms and conditions; and such collocation would not impose technical limitation or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it must provide a written summary of the basis for such determination.
- K. Requests for installation, modification, or replacement of a support structure are not eligible for administrative review as set forth in this Section 1721 of this Article.

## **Section 1622. Review of Applications Subject to Administrative Review**

A. The requirements of this section govern the County's review of applications for uses that are subject to administrative review as described in Subsection 1721.A of this Article.

B. If an applicant has not previously held a meeting that complies with this Article, an applicant shall meet with the County at least thirty (30) days before submitting applications under Section 17.412.040 of this Article to inform the County in good faith when such applicant expects to commence deployment of small wireless facilities and poles within the County pursuant to this Article, the number of small wireless facilities and poles it expects to deploy during the twenty four (24) months after commencement, and the expected timing of such deployments.

1. All documents or other information provided by the applicant in the course of, or in association with, any meetings provided for in this Article shall be presumed to be confidential and proprietary and a trade secret as such term is defined in O.C.G.A. Article 27 of Article 1 of Title 10, shall be subject to exemption from disclosure under state and federal law, and shall not be subject to disclosure under O.C.G.A. Article 4 of Article 18 of Title 50.

C. Within twenty (20) days of receiving an application, the County must:

1. notify the applicant in writing of the commencement and completion dates of any widening, repair, reconstruction, or relocation of the applicable right of way that is scheduled to commence, or is anticipated in good faith to commence, within twenty-four months after the application is filed.

2. notify the applicant, based on the County's good-faith preliminary review of the information provided in the application, of any aspect of the application that appears to be grounds for the County not to approve the application as described in Subsection 1722.J of this Article; and

3. determine whether the application is complete and inform the applicant of its determination in writing. If the County determines an application is incomplete, it must specifically identify to the applicant in writing all missing information within this twenty (20) day period; otherwise the application is deemed complete. If the County identifies missing information to the applicant as provided above, the applicant may submit such missing information to the County within twenty (20) days of receipt of notification in writing from the County without paying any additional application fee, and any subsequent review of the application by the County for completeness must be limited to the previously identified missing information. If the County determines that an application remains incomplete, or if the County determines that the applicant has made material changes to the application (other than to address the missing information identified by the County), the County must notify the applicant of such determination in writing within ten (10) days of receipt of the resubmission of the application, and absent an agreement to the contrary between the County and the applicant that is confirmed by email or other writing, such notice shall constitute a denial of the application and a new application and application fee must be submitted. If the County does not provide such written notification to the applicant within this ten (10) day period, the application shall be deemed complete.

D. The County shall make its final decision to approve or deny the application within thirty (30) days of the written determination that the application is complete or when the application is deemed complete as described in Subsection 1722.C of this Article, whichever is earlier, for a collocation, and within seventy (70) days of the written determination that the application is complete or when the application is deemed complete as described in Subsection 1722.C of this Article, whichever is earlier, for the installation, modification, or replacement of a pole or decorative pole.

E. A decision to deny an application pursuant to this Section 1722 of this Article shall be in writing, shall identify all the reasons for the denial, and shall identify the applicable code provisions or other standards applicable pursuant to this Article on which the denial was based. The decision to deny shall be sent to the applicant contemporaneously via email or regular mail. The written decision shall be deemed delivered upon email

transmission, or deposit into regular mail receptacle with adequate postage paid. The review period shall run until the written decision is sent to the applicant.

F. If the County fails to act on an application within the review period referenced in Subsection 17.412.050.E of this Article, the applicant may provide the County written notice that the time period for acting has lapsed, and the County then has twenty (20) days after receipt of such notice within which to render its written decision. The application shall be deemed approved by passage of time and operation of law if the County does not render its written decision within such twenty (20) days.

G. An applicant may, at the applicant's discretion and subject to the consolidated application requirements and processes as described in Section 1729 of this Article, file a consolidated application.

H. Notwithstanding any other provision of this Article, to the extent that an application constitutes an eligible facilities request, the County may not deny the application and shall approve the application within sixty (60) days according to the procedures established under 47 C.F.R. 1.40001(c).

I. Small wireless facilities, and new, modified, or replacement poles to be used for collocation of small wireless facilities may be placed in the right of way as a permitted use in accordance with Section 1721 of this Article, subject to the definition of a small wireless facility as described in Section 1719 of this Article:

1. Each such new, modified, or replacement pole installed in the right of way in historic districts and in areas zoned exclusively for residential use shall not exceed fifty (50) feet above ground level;
2. Each such new, modified, or replacement pole installed in the right of way that is not in an historic district or in area zoned exclusively for residential use shall not exceed the greater of:
  - a. fifty (50) feet above ground level; or
  - b. ten (10) feet greater in height above ground level than the tallest existing pole in the same County right of way in place as of January 1, 2019, and located within five hundred (500) feet of the new proposed pole; and
3. New small wireless facilities in the right of way shall not exceed:
  - a. For a collocation on an existing pole or support structure, more than ten (10) feet above the existing pole or support structure; or
  - b. For a collocation on a new, modified, or replacement pole as described in Subsection 1722.I of this Article, the height limit under those paragraphs.

J. The County shall approve an application for permitted uses described in Subsection 1721.A of this Article unless it:

1. Interferes with the operation of traffic control equipment;
2. Interferes with sight lines or clear zones for transportation or pedestrians;
3. Fails to comply with the Americans with Disabilities Act, 42 U.S.C. Section 12101, et seq., or similar Laws of general applicability regarding pedestrian access or movement;
4. Requests that ground-mounted small wireless facility equipment be located more than seven and a half (7.5) feet in radial circumference from the base of the pole, decorative pole or support structure to which the small wireless facility antenna would be attached, provided that the County shall not deny the application if a greater distance from the base of the pole, decorative pole or support structure is necessary to avoid interfering with sight lines or clear zones for transportation or pedestrians or to otherwise to protect public safety;
5. Fails to comply with applicable Codes;
6. Fails to comply with the maximum limitations set forth in Subsection 1722.I of this Article, or the requirements of Section 1728 of this Article;

7. With respect to an application to install a pole or decorative pole, interferes with the widening, repair, reconstruction, or relocation of a public road or highway by the County or the Department of Transportation that has been advertised for bid and scheduled for completion within six (6) months after the application is filed;
8. With respect to an application to install a pole or decorative pole, interferes with a public works construction project governed by O.C.G.A. Article 91 of Title 36 which is advertised for bid and scheduled for completion within six (6) months after the application is filed;
9. Fails to comply with Sections 1725, 1726, or 1727 of this Article;
10. Fails to comply with Laws of general applicability addressing pedestrian and vehicular traffic and safety requirements; or
11. Fails to comply with Laws of general applicability that address the occupancy or management of the right of way and that are not otherwise inconsistent with this Article.

#### K. Effect of Permit.

1. A permit from the County authorizes an applicant to undertake only certain activities in accordance with this Article, and does not create a property right or grant the applicant to impinge upon the rights of others who may already have an interest in the right of way.
2. Collocation, installation, modification, or replacement for which a permit is issued under this Article shall be completed within six (6) months after issuance, provided that an extension shall be granted for up to an additional six (6) months upon written request made before the end of the initial six (6) month period if a delay results from circumstances beyond the reasonable control of the applicant. Issuance of a permit authorizes the applicant to:
  - a. Undertake the collocation, installation, modification, or replacement approved by the permit; and
  - b. Operate and maintain the small wireless facilities and any associated pole covered by the permit for a period of not less than (10) ten years, which shall be renewed for equivalent durations so long as the applicant is in compliance with the criteria set forth in Subsection 1722.J of this Article, subject to the relocation requirements described in Subsection 1722.L of this Article and the applicant's right to terminate at any time.

L. If, in the reasonable exercise of police powers, the County requires widening, repair, reconstruction, or relocation of a public road or highway, or relocation of support structures, poles, or small wireless facilities is required as a result of a public project; a wireless provider shall relocate poles and support structures it has installed in the right of way for the collocation of small wireless facilities pursuant to this Article at no cost to the County should such poles be found by the County to be unreasonably interfering with the widening, repair, reconstruction, relocation project, or public project. If widening, repair, reconstruction, or relocation is required as a condition or result of a project by an entity other than the County, the other entity shall bear the cost of relocating such poles or support structures and any communications facilities on such poles or support structures. The wireless provider shall relocate the support structures or poles:

1. By the date designated in a written notice from the County that contains a good faith estimate by the County of the date by which the County intends to commence work, whenever the County has determined that such removal, relocation, change, or alteration, is reasonably necessary for the construction, repair, maintenance, or installation of any County improvement in or upon, or the operations of the County in or upon, the right of way so long as the same timeframes are applied to all utilities in the right of way; provided however that the date designated for relocation must be at least forty-five (45) days after the County provides the written notice to the wireless provider; or
2. Within the time frame the wireless provider estimates in good faith is reasonably needed to complete the relocation, so long as the wireless provider provides the County written notice of its good faith estimate within thirty (30) days following receipt of the written notice provided by the County pursuant to Subsection 1722.L



of this Article, and explains in detail why the wireless provider cannot reasonably complete the relocation by the date designated in the County's written notice.

3. The wireless provider shall reasonably cooperate with the County to carry out reconditioning work activities in a manner that minimizes interference with the wireless provider's approved use of the facility.

a. Prior to commencing reconditioning work, the County will use reasonable efforts to provide the wireless provider with at least one hundred twenty (120) days prior written notice. Upon receiving that notice, it shall be the wireless provider's sole responsibility to provide adequate measures to cover, remove, or otherwise protect the wireless provider's communications facility from the consequences of the reconditioning work, including but not limited to paint and debris fallout. The County reserves the right to require the wireless provider to remove all of the wireless provider's communications facility from the County pole and surrounding premises during reconditioning work, provided the requirement to remove such is contained in the written notice required by Section 1722 of this Article. All cost associated with the protection measures, including temporary removal, shall be the sole responsibility of the wireless provider. If the County fails in good faith to give notice of at least one hundred twenty (120) days, it will not affect the County's rights under this Subsection. In all cases, as much notice as possible should be provided, but less than thirty (30) days notice shall be prohibited. The County will provide the wireless provider with a date by which its equipment must be protected or removed.

b. The wireless provider may request a modification of the County procedures for carrying out reconditioning work in order to reduce the interference with wireless provider's operation of its communications facility. If the County agrees to the modification, the wireless provider shall be responsible for all reasonable incremental cost related to the modification.

c. The County shall provide wireless provider with at least one hundred twenty (120) days written notice of any replacement work before the County may remove the wireless providers communications facilities. The County shall also promptly notify the wireless provider when the County poles have been replaced and the wireless provider may re-install its equipment. During the replacement work, the wireless provider may maintain a temporary communications facility on the property, or after approval by the County, on any land owned or controlled by the County, in the vicinity of the property. If the property will not accommodate the wireless provider's temporary communications facility or if the parties cannot agree on a temporary location, the wireless provider, at its sole option, shall have the right to suspend the applicable permit, until the replacement pole is installed, upon thirty (30) days written notice to the County.

M. For any collocation to County poles in the right of way, the County shall provide a good faith estimate for any make-ready work necessary to enable the County pole to support the proposed facility, including replacement of the pole if necessary, within sixty (60) days after receipt of a completed application requesting attachment to the County pole. Alternatively, the County may require the wireless provider to perform the make-ready work and so notify the wireless provider within the sixty (60) day period. If the wireless provider or its contractor performs the make-ready work it shall indemnify the County for any negligence by the wireless provider or its contractor in the performance of such make-ready work and the work shall comply with applicable Law. If the County opts to perform the make-ready work itself, it shall complete the work, including any pole replacement, within ninety (90) days of written acceptance of the good faith estimate by the wireless provider. Such acceptance shall be signified by payment via check or other commercially reasonable and customary means specified by the County. The County may require that the replaced County pole have the same functionality as the pole being replaced. If the County pole is replaced, the County shall operate County fixtures on the pole and, absent an agreement to the contrary between the County and the wireless provider that is confirmed in writing, the County shall take ownership of the new pole.

N. If the wireless provider fails to relocate a support structure or pole or fails to provide a written good faith estimate of the time needed to relocate a support structure or pole within the time period proscribed in Subsection 1722.L of this Article, the County shall have the right and privilege, after providing the wireless provider at least ten (10) day's written notice, to cut power to or move any support structure or pole located within the right

of way, as the County may determine to be necessary, appropriate, or useful in order to commence work on the public project.

O. Abandonment:

1. If a wireless provider decides to abandon any small wireless facility, support structure, or pole, it shall notify the County in writing as soon as practicable, but no later than thirty (30) days prior to the abandonment. Following receipt of such notice, the County shall direct the wireless provider in writing to remove all or any portion of the small wireless facility, support structure, or pole if the County determines that such removal will be in the best interest of the public safety and public welfare. If the provider fails to remove the abandoned small wireless facility, support structure, or pole within ninety (90) days after such notice, the County may undertake to do so and recover the actual and reasonable expenses of doing so from the wireless provider, its successors, or assigns, plus a penalty not to exceed five hundred dollars (\$500). The County may suspend the ability of the wireless provider, its successors, or its assigns, as applicable, to receive any new permits from the County until the wireless provider, its successors, or its assigns, as applicable, have paid the amount assessed for such removal costs and the penalty assessed, if any; provided, however, that the County shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

2. A small wireless facility that is not operated or a support structure or pole that is not utilized for a continuous period of twelve (12) months shall be considered abandoned and the owner of such wireless facility, support structure, or pole, shall remove such within ninety (90) days after receipt of written notice from the County notifying such owner of such small wireless facility, support structure, or pole of the abandonment. The County shall send the notice by certified or registered mail, return receipt requested, to such owner at the last known address of such owner of the small wireless facility, support structure, or pole. If the owner does not provide written notice that the small wireless facility has been out of operation, or the support structure or pole has been utilized for a continuous period of twelve (12) months, or does not remove such small wireless facility, support structure, or pole, within the ninety (90) day period, the County may remove or cause the removal of such small wireless facility, support structure, or pole, pursuant to the terms of its support structure or pole attachment agreement for County poles or through whatever actions are provided for abatement of nuisances or by other law for removal and cost recovery.

P. If the County determines that a wireless provider's activity in a right of way pursuant to this Article creates an imminent risk to public safety, the County may provide written notice to the wireless provider and demand that the wireless provider address such risk. If the wireless provider fails to reasonably address the risk within twenty four (24) hours of the written notice, the County may take or cause to be taken action to reasonably address such risk and charge the wireless provider the reasonable documented cost of such actions.

Q. The County may require a wireless provider to repair all damage to a right of way directly caused by the activities of the wireless provider, while occupying, installing, repairing, or maintaining small wireless facilities, poles, or support structures, in such right of way and to restore the right of way to its condition before the damage occurred pursuant to the competitively neutral and reasonable requirements and specifications of the County. If the wireless provider fails to return the right of way, to the extent practicable in the reasonable judgment of the County, to its condition prior to the damage within ninety (90) days of receipt of written notice from the County, the County may, at the sole discretion of the County, restore the right of way to such condition and charge the wireless provider its reasonable, documented cost of doing so, plus a penalty not to exceed five hundred dollars (\$500). The County may suspend the ability of the wireless provider to receive any new permits from the County until the wireless provider has paid the amount assessed for such restoration costs and the penalty assessed, if any; provided, however, that the County shall not suspend such ability of any applicant that has deposited the amount in controversy in escrow pending an adjudication of the merits of the dispute by a court of competent jurisdiction.

R. The County shall send any notice or decision required by this Section 1722 of this Article by registered or certified mail, statutory overnight delivery, hand delivery, or email transmission. The decision or notice shall be deemed delivered upon email transmission, deposit into overnight mail or regular mail receptacle with adequate postage paid, or actual receipt if delivered by hand.

**Section 1623. Activity in the Right of Way that is not Subject to Administrative Review or Not Addressed by this Article**

A. Applications for any other uses that are not expressly set forth or referenced in this Article shall require compliance with, and issuance of, a permit under applicable law. Without limiting the foregoing, any modification, maintenance, repair, or replacement that is not set forth in Section 1721.E or this Section, or that is not eligible for administrative review under Section 1722 of this Article shall require compliance with, and issuance of a permit under the County's applicable law.

B. The County shall not require a wireless provider to obtain a permit or any other approval or require fees or rates for the installation, placement, maintenance, operation, or replacement of micro wireless facilities that are suspended on cables that are strung between poles or support structures in the right of way in compliance with applicable codes; provided, however, that the County may require a wireless provider to obtain permits for any additional activities such as electrical work, excavation, or closure of sidewalks or vehicular lanes within the right of way if otherwise required by generally applicable law. Such permits shall be issued on a nondiscriminatory basis upon terms and conditions applied to any other person's similar activities in the right of way.

C. The construction, installation, maintenance, modification, operation, and replacement of wireline backhaul facilities in the right of way are not addressed by this Article, and any such activity shall comply with O.C.G.A. Article 1 of Article 5 of Title 46, and other applicable law.

D. The approval of the installation, placement, maintenance, or operation of a small wireless facility pursuant to this Article shall not authorize the provision of any communications services.

E. This Article shall not apply to the County to the extent that the County uses communications facilities to provide free Wi-Fi services to the public.

**Section 1624. Duty of Due Care Regarding Activity in the Right of Way**

A. An applicant in the right of way shall employ due care during the installation and maintenance process and shall comply with all safety and right of way protection requirements of general applicability set forth in applicable Law.

B. An applicant in the right of way shall not place any small wireless facilities, support structures, poles, or decorative poles where they will interfere with any existing infrastructure or equipment, and shall locate its lines and equipment in such a manner as not to interfere unnecessarily with the usual vehicular or pedestrian traffic patterns or with the rights or reasonable convenience of owners of property that abuts any right of way.

C. Nothing in this Article relieves any person of any duties set forth in O.C.G.A. Article 9 of Title 25.

**Section 1625. Historic Districts**

A. Notwithstanding anything to the contrary in this Article, within an historic district, an applicant may collocate a small wireless facility, and may place or replace a pole, only upon satisfaction of the following requirements:

1. Issuance of a permit under Subsection 1721.A of this Article; and
2. The collocation and the pole must:

- a. comply with any objective, reasonable and nondiscriminatory aesthetic and structural requirements that have been made publicly available in writing by the County at least thirty (30) days prior to submission of the application, provided however that any such requirements may not have the effect of materially inhibiting any

provider's technology or service, nor may compliance with any such requirements be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility; or

b. in the absence of any such requirements, a replacement pole must be substantially similar in height and appearance to the pole that is being replaced.

#### **Section 1626. New Poles in Areas Zoned for Residential Use**

A. For applications for new poles in the right of way in areas zoned for residential use, the County may propose an alternate location in the right of way within one hundred (100) feet of the location set forth in the application, and the wireless provider shall use the County's proposed alternate location unless it imposes technical limits or significant additional costs. The wireless provider shall certify that it has made such a determination in good faith, based on the assessment of a licensed engineer, and it shall provide a written summary of the basis for such determination.

#### **Section 1627. Decorative Poles**

A. Notwithstanding anything to the contrary in this Article, an applicant may collocate a small wireless facility on a decorative pole, or may replace a decorative pole with a new decorative pole, in the event the existing decorative pole will not structurally support the attachment, only upon satisfaction of the following requirements:

1. Issuance of a permit under Subsection 1721.A of this Article.

2. The collocation and the replacement decorative pole must:

a. comply with any objective and reasonable aesthetic and structural requirements that have been made publicly available in writing by the County at least thirty (30) days prior to submission of the application, provided however that any such requirements may not have the effect of materially inhibiting any provider's technology or service, nor may compliance with any such requirements be considered a part of the small wireless facility for purposes of the size restrictions in the definition of small wireless facility; or

b. in the absence of any such requirements, a replacement decorative pole must be substantially similar in height and appearance to the decorative pole that is being replaced.

B. The County shall operate County fixtures on the replaced decorative pole and, absent an agreement to the contrary between the County and the wireless provider that is confirmed by email or other writing, the County shall take ownership of the new decorative pole.

#### **Section 1628. Areas Designated Solely for Underground or Buried Facilities**

A. A wireless provider shall comply with reasonable and nondiscriminatory requirements that prohibit communications service providers and electric service providers from installing poles in a right of way in an area designated solely for underground or buried facilities of communications service providers and electric service providers where the County:

1. Has required all such facilities other than light poles and attachments to be placed underground and all such undergrounding has been completed prior to the submission of the application, or, for rights of way where such facilities other than light poles and attachments have not been deployed, has in effect a reasonable and nondiscriminatory zoning or development ordinance or regulation that requires such facilities other than light poles and attachments to be placed underground;

2. Does not prohibit the replacement of light poles or the collocation of small wireless facilities in the designated area; and

3. Permits wireless providers to seek a waiver of the underground requirements for the placement of a new pole to support small wireless facilities, which waivers shall be addressed in a nondiscriminatory manner and consistent with applicable law.

B. If the County adopts undergrounding requirements, those requirements shall:

1. Allow a wireless provider to maintain in place any previously collocated small wireless facilities subject to any applicable pole attachment agreement; or
2. Either allow the wireless provider to replace the pole associated with previously collocated small wireless facilities at the same location or propose an alternate location within fifty (50) feet of the prior location, which the wireless provider shall use unless such alternate location imposes technical limits or significant additional costs.

### **Section 1629. Processing of Applications that are Subject to Administrative Review**

A. An applicant may submit a single consolidated application provided that such a consolidated application shall be for a geographic area no more than two miles in diameter and must comply with this Article. The denial of one or more small wireless facilities or poles in a consolidated application shall not delay the processing of any other small wireless facilities or poles in the same application. The County may issue a single or multiple permits for the small wireless facilities and poles in a consolidated application.

B. For Class II Authorities as defined in O.C.G.A. 36-66C “Streamlining Wireless Facilities and Antennas Act”:

1. A consolidated application for the placement of new poles and the collocation of one or more small wireless facilities on such new poles may include no more than five (5) poles and any associated small wireless facilities. While an applicant has applications, including consolidated applications, pending before the County for review of fifteen (15) or more new poles and the collocation of associated small wireless facilities, the County may, but shall not be required to, toll the processing requirements under Section 17.412.050 of this Article for any application subsequently submitted by the same applicant for the placement of new poles and the collocation of associated small wireless facilities; and
2. A consolidated application for the collocation of small wireless facilities on existing poles or support structures may include no more than fifteen (15) sites. While an applicant has applications, including consolidated applications, pending before the County for review of forty-five (45) or more sites for the collocation of small wireless facilities on existing poles or support structures, the County may toll the processing requirements under Section 17.412.050 of this Article for any application subsequently submitted by the same applicant for the collocation of small wireless facilities on existing poles or support structures.

C. For purposes of Subsection 1729.B of this Article:

1. Small wireless facilities and poles that a wireless services provider applicant has requested a third-party to deploy, and that are included in a pending application by the third-party, shall be counted as pending requests by the wireless services provider applicant; and
2. When the processing of an application is tolled under Subsection 1729.B of this Article, it is no longer counted as pending. As processing of applications is completed, the County will begin processing previously tolled applications in the order they were submitted, unless the applicant specifies a different order.

### **Section 1630. Multiple Applications for the Same Location**

A. If multiple applications are received by the County to install two or more poles or decorative poles at the same location, or to collocate two or more small wireless facilities on the same pole, decorative pole, or support structure, the County shall resolve conflicting requests in an appropriate, reasonable, and nondiscriminatory manner.

### **Section 1631. Services Unrelated to Collocation**

A. Absent an agreement to the contrary that is made public and that is available for adoption upon the same terms and conditions to any requesting wireless provider, the County shall not require an applicant to perform services unrelated to the collocation for which approval is sought, such as in-kind contributions to the County,

including reserving fiber, conduit, or space on a utility pole or a wireless support structure for the County, and the County may not require an applicant to transfer small wireless facilities, poles, decorative poles, or support structures to the County, provided that the County may require transfer of a County pole replaced by the applicant to accommodate its collocation.

### **Section 1632. Indemnification**

A. The County shall not require a wireless provider to indemnify and hold the County and its officers and employees harmless against any claims, lawsuits, judgments, costs, liens, losses, expenses, or fees arising from the wireless provider's activities in the public right of way under this Article, except when a court of competent jurisdiction has found that the negligence of the wireless provider while conducting such activities caused the harm that resulted in such claims, lawsuits, judgments, costs, liens, losses, expenses, or fees or to require a wireless provider to obtain insurance naming the County or its officers and employees an additional insured against any of the foregoing.

B. In no event shall the County or any officer, employee, or agent affiliated therewith, while in the performance of its or his or her official duties, be liable for any claim related to the siting, installation, maintenance, repair, replacement, relocation, permitting, or location of wireless equipment, facilities, poles, or infrastructure, including, but not limited to, any claim for destruction, damage, business interruption, or signal interference with other communications service providers wherein such siting, installation, maintenance, repair, replacement, relocation, permitting, or location was undertaken in substantial compliance with this Article.



## **ARTICLE XVIII – Subdivision and Commercial Development Standards**

### **PART I. Subdivision Regulations**

#### **Section 1701. Short Title.**

This section shall be known and may be cited as the "Subdivision Regulations of Habersham County, Georgia."

#### **Section 1702. Application, Platting Jurisdiction, and Enforcement.**

- A. Plats required: Since subdivisions require land disturbances and infrastructure development that affects the residents of the county financially, aesthetically and generally, any subdivider proposing to subdivide land shall submit plats of the proposed subdivision as set forth in Section 1808 and/or 1818.
- B. New work: No subdivider shall proceed with any construction work on a proposed subdivision before obtaining preliminary plat approval from the Planning Commission.
- C. Platting authority is as follows:
  - 1. An exemption plat, as defined by Section 301, shall be reviewed, approved, and marked for recording by the designated representatives of the Planning Department.
  - 2. A preliminary plat, as defined in Section 301, shall be reviewed, approved, and marked by the Planning Commission.
  - 3. A final plat, as defined in Section 301, shall be reviewed, approved, and marked by the Planning Commission.

#### **Section 1703. Use of Plat.**

- A. No final plat of a subdivision as set forth in Sections 1804 and 1818 shall be recorded in the office of the Clerk of the Superior Court of Habersham County unless it shall have the approval of the Planning Department or the Planning Commission written on said plat.
- B. No person shall sell or transfer or agree to sell any land by reference to or exhibition of or other use of a plat of a subdivision before that plat has been approved and marked in accordance with this appendix and recorded in the office of the Clerk of the Superior Court of Habersham County. The description by metes and bounds in the instrument of transfer or other documents shall not exempt the transaction from such penalties.
- C. The filing or recording of a plat of a subdivision without the approval as required by this appendix shall be a misdemeanor. The Planning Commission and the governing body is authorized to levy charges for certain actions, inspections, and to cover certain direct costs. Such fees are to be used only to defray costs incurred by the Planning Commission when enforcing the provisions of Article XII.

#### **Section 1704. Administrative Plat Approval.**

The following types of land subdivisions, transfers, and sales are specifically exempted from the preliminary and final plat approval requirements of these regulations but shall be required to file an exemption plat meeting the requirements of Section 1818 with the Planning Department.

- A. The combination of portions of previously platted lots in an approved subdivision where a previously approved lot is not subdivided to create more than one additional lot ~~the total number of lots is not increased~~ and the resultant lots are equal to the standards of the county and no new roads or road location changes are involved.
- B. The creation and sale of cemetery plots.



- C. The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use.
- D. Subdivision of land as defined in Section 301.
- E. ~~Subdivision, family as defined in Section 301.~~

#### **Section 1705. Subdivision of Land and Family Subdivisions.**

- A. Subdivision of land, as defined in Section 301, is allowed and can be approved administratively if the following requirements are met:
  1. Panhandle or flag lots shall be designed as specified in Section 1817 of this article unless terrain or geometry makes standard design or frontage impossible or impractical.
  2. Minimum lot size is equal to that required by the district or minimum required by environmental health for septic tank or in compliance with the slope table of Section 1107, whichever is greater.
  3. Plats shall meet the applicable specifications for a final plat required in Section 1818.
  4. Does not involve the creation of any new streets, public or private, or parcels intended to utilize any community water or sewer system.
  5. Up to four lots or dwellings may use a shared driveway as defined in section 301. When shared driveways are used, the following statement shall be placed on the approved plat(s): "SOME DRIVES IN THIS SUBDIVISION ARE DESIGNATED PRIVATE AND WILL NOT BE ACCEPTED FOR MAINTENANCE BY HABERSHAM COUNTY."
  6. Five lots or more must comply with the requirements stipulated in Section 1117.
  7. Panhandles of 600 feet maximum may be allowed where terrain or geometry makes standard design or frontage impossible or impractical.
  8. Minimum one acre lot or minimum required by environmental health for septic tank or in compliance with the slope table of Section 1107, whichever is greater.
  9. A minimum setback of 35 feet from any easement or shared driveway on the front of the lot. Side and rear setbacks are determined by district requirements.
  10. Plats shall meet the applicable specifications for a final plat required in Section 1818.
- ~~B. Family subdivisions are allowed and can be approved administratively if the following requirements are met:
 
  - B. Ownership is limited to property transfers to immediate family members related by blood, by virtue of marriage, and/or adoption. Transfer of property to immediate family members includes, but is not limited to, spouse to spouse, parent to children, sibling to sibling, grandparent to grandchildren. Whenever a family subdivision is proposed, appropriate deeds and/or plats must be submitted to the Planning Department clearly stating the transfer of property from family member(s) to family member(s) so as not to circumvent any portion of this appendix.~~

~~If the plat complies with all applicable regulations, the Administrative Officer shall mark the plat as an approved family subdivision plat. If the exemption plat does not comply, the Administrative Officer shall not approve the plat unless it is modified to conform, provided, however, that such exemptions shall not require the county to issue permits if the resulting lot(s) fail(s) to meet any applicable provisions for lot size, lot width, access, or other dimensional requirements of this appendix or any applicable provisions of this section.~~

~~Further subdivision of property for sale to or transfer to or development by other than a family member will subject this property to the requirements of Section 1807 and referenced sections.~~

## **Section 1706. Special Subdivisions.**

### **I. Conservation Subdivision Design Option**

#### **A. Purpose and Intent**

This section is intended to allow for the development of conservation subdivisions that cluster development and provide for preservation of open space as an alternative to conventional subdivision development. This section is specifically intended:

1. To provide for the preservation of greenspace as a nonstructural storm water runoff and watershed protection measure
2. To provide a residential development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land
3. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands, and wildlife habitat
4. To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure, including paved surfaces and utility easements, necessary for residential development
5. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development
6. To promote interconnected greenways and corridors throughout the community
7. To promote contiguous greenspace with adjacent jurisdiction
8. To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places, and encouraging use of parks and community facilities as focal points in the neighborhood
9. To encourage street designs that reduce traffic speeds and reliance on main arteries
10. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles
11. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space
12. To preserve important historic and archaeological sites

#### **B. General Regulations**

1. Applicability of regulations: This design option is available as an alternative for the development of subdivisions that are served by public sewer or an approved private sewer system as permitted by right in the RS and RM ~~LI, MI and HI~~ districts. The applicant shall comply with all other provisions of the Comprehensive Land Development Ordinance and all other applicable laws.
2. Ownership of development site: The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.
3. Housing density determination: The maximum number of lots in the conservation subdivision shall be determined by development of a "Yield Plan." In a "Yield Plan," a conventional subdivision design plan is prepared by the applicant in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site plan, but the design must be capable of being constructed given site features and the Comprehensive Land Development Ordinance and all other applicable laws.
4. Minimum lot size: Once the maximum number of lots is determined through development of the "Yield Plan," a conservation subdivision layout is developed by meeting the requirements of this

section. The minimum lot size in a conservation subdivision shall be 10,000 square feet or the area necessary to accommodate required water and waste disposal systems.

### **C. Application Requirements**

1. Site analysis map required: Concurrent with the submission of a preliminary plat, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design and that the proposed open space will meet the requirements of this section. The site analysis map shall include the following features:
  - a. Property boundaries
  - b. All streams, rivers, lakes, wetlands and other hydrologic features
  - c. Topographic contours of no less than five-foot intervals for hilly terrain (slopes greater than ten percent), two-foot intervals for rolling terrain (two percent to ten percent), and one foot for flat terrain (slopes less than two percent) as referenced in the Comprehensive Land Development Ordinance
  - d. All primary and secondary conservation areas labeled by type as described in this section
  - e. General vegetation characteristics
  - f. General soil types
  - g. The planned location of protected open space
  - h. Existing roads and structures
  - i. Potential connections with existing greenspace and trails
2. Open space management plan required: An open space management plan, as described in this section, shall be prepared and submitted prior to the issuance of a land disturbance permit.
3. Instrument of permanent protection required: An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant, as described in this section, shall be placed on the open space concurrent with the issuance of a land disturbance permit.
4. Other requirements: The applicant shall adhere to all other applicable requirements of the underlying zoning, the land development ordinance, and all other applicable provisions of the Official Code of Habersham County, Georgia.
5. The configuration and location of the subdivision and the proposed open space are subject to approval of the Administrative Officer and Planning Commission to ensure that the purposes and intent of this section are met by the application.

### **D. Open Space**

1. Definition: Open space is the portion of the conservation subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument.
2. Standards to determine open space:
  - a. The minimum restricted open space shall comprise at least 40 percent of the gross tract area
  - b. The following are considered primary conservation areas and are required to be included within the open space unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this section:
    - i. The regulatory 100-year floodplain
    - ii. Buffer zones of at least 75-foot width along all perennial and intermittent streams
    - iii. Slopes above 25 percent of at least 5,000 square feet contiguous area
    - iv. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act
    - v. Populations of endangered or threatened species or habitat for such species
    - vi. Archaeological sites, cemeteries, and burial grounds

- c. The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible:
    - i. Important historic sites
    - ii. Existing healthy, native forests of at least one acre contiguous area
    - iii. Individual existing healthy trees greater than eight inches caliper as measured at DBH
    - iv. Other significant natural features and scenic view sheds such as ridge lines, peaks, and rock outcroppings, particularly those that can be seen from public roads
    - v. Prime agricultural lands of at least five acres contiguous area
    - vi. Existing trails that connect the tract to neighboring areas
  - d. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected open space but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the open space.
  - e. At least 75 percent of the open space shall be in a contiguous tract. The open space should adjoin any neighboring areas of open space, other protected areas, and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.
  - f. The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space.
3. Permitted uses of open space: Uses of open space may include the following:
- a. Conservation of natural, archeological or historical resources
  - b. Meadows, woodlands, wetlands, wildlife corridors, game preserves, or similar conservation-oriented areas
  - c. Walking or bicycle trails, provided they are constructed of porous paving materials
  - d. Active recreation areas, provided that they are limited to no more than ten percent of the total open space and are not located within primary conservation areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space.
  - e. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts and such activities are not conducted within primary conservation areas
  - f. Nonstructural storm water management practice
  - g. Easements for drainage, access, and underground utility lines
  - h. Other conservation-oriented uses compatible with the purposes of this chapter
4. Prohibited uses of open space:
- a. Golf courses
  - b. Roads, parking lots, and impervious surfaces, except as specifically authorized in the Comprehensive Land Development Ordinance
  - c. Agricultural and forestry activities not conducted according to accepted best management practices
  - d. Other activities as determined by the applicant and recorded on the legal instrument provided for permanent protection

## **E. Ownership and Management of Open Space**

- 1. Ownership of open space: The applicant must identify the owner of the open space who is responsible for maintaining the open space and facilities located thereon. If a homeowners' association is the owner, membership in the association shall be mandatory and automatic for all homeowners of the subdivision and their successors. If a homeowners' association is the owner, the homeowners' association shall have lien authority to ensure the collection of dues from all members.

The responsibility for maintaining the open space and any facilities located thereon shall be borne by the owner.

2. Management plan: Applicant shall submit a plan for management of open space and common facilities ("plan") that:
  - a. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements
  - b. Estimates the costs and staffing requirements needed for maintenance and operation of and insurance for the open space and outlines the means by which such funding will be obtained or provided
  - c. Provides that any changes to the plan be approved by the Planning Commissioners
  - d. Provides for enforcement of the plan
3. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, Habersham County, Georgia, may assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the owner, homeowners' association, or to the individual property owners that make up the homeowners' association, and may include administrative costs and penalties. Such costs shall become a lien on all subdivision properties.

#### **F. Legal Instrument For Permanent Protection**

1. The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:
  - a. A permanent conservation easement in favor of either:
    - i. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence, and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions.
    - ii. A governmental entity with an interest in pursuing goals compatible with the purposes of this section.If the entity accepting the easement is not Habersham County, Georgia, then a right of enforcement favoring Habersham County, Georgia, shall be included in the easement.
  - b. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.
  - c. An equivalent legal tool that provides permanent protection if approved by Habersham County, Georgia.
2. The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this appendix as well as any further restrictions the applicant chooses to place on the use of the open space.

#### **Section 1707. Procedures and Requirements for Approval of Subdivision Plats.**

- A. Pre-application Conference:** Whenever a subdivision is proposed within Habersham County, the developer is urged to consult early with the Administrative Officer, their designee, and/or the review committee. The developer may present sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision and request advice and guidance concerning the project and the administrative procedures involved.
- B. Sequence of Administrative Procedures:** Listed below in normal sequential order are the generally occurring steps required to successfully complete development of a subdivision:

1. Pre-application conference with the Administrative Officer: For projects of unique design, a conceptual site drawing would aid in the conference.
2. Review online or purchase Habersham County Comprehensive Land Development Ordinance for guidance in design.
3. Determine the public school district(s) and school(s) that will be necessarily impacted by the proposed subdivision.
4. Request the board of education determine the current student load and maximum capacity in each public school to be necessarily impacted by the proposed subdivision.
5. Consult with Habersham County Health Department to identify any possible water or sewage problems associated with the land proposed for subdividing.
6. Consult FIRM maps, historical flood data, county review staff and design professionals to ensure that land being developed does not propose building sites in flood plains, flood hazard areas, and that natural waterways will not be interrupted.
7. Have land surveyed to obtain required data for plat submittal and to determine and detail natural features such as topography and geometry, establish lot lines, and other specifications required in this appendix. Submit the preliminary plat to the Planning Department at least 30 days prior to the next regular meeting of the Planning Commission with the following:
  - a. A letter requesting review and approval of a preliminary plat and giving the name and address of a person to whom the notice of the hearing by the Planning Commission on the preliminary plat shall be sent.
  - b. Ten copies of the preliminary plat and other documents as may be specified.
  - c. A preliminary plat filing fee shall be assessed as established in the fee schedule approved by the Habersham County Board of Commissioners.
  - d. A Department of Transportation letter is required at the preliminary plat stage if any new road or street is created that abuts/joins a state route.
  - e. A traffic study is required at the preliminary plat stage when any new road or street is created that abuts or joins a public street and serves one of the following:
    - i. A residential development of ~~25~~ 50 lots or more; or
    - ii. A commercial/industrial project creating more than ~~50~~ 150 trips per day.

**Note to staff: Upon review of the preliminary plat by the Planning Department, all comments that need to be addressed shall be given to the applicant no later than three working days prior to the advertising deadline of next scheduled Planning Commission meeting. Each comment is to be referenced to the applicable section of code being commented upon.**

8. Be prepared to accompany the Planning Department staff or a Planning Commission member to the development site prior to the next public hearing of the Planning Commission meeting.
9. Attend Planning Commission meeting at which preliminary plat approval is sought or send competent representative with written authorization who can answer questions in your name. No action will be taken by the Planning Commission when no representative is present.
10. The Planning Commission shall review the preliminary plat at its public hearing. After staff presentation, the applicant shall have ten minutes to make a presentation and any opponents shall have ten minutes to speak. The Planning Commission may grant more time as necessary.
11. Prepare and submit to the Planning Department all documents required for a land disturbance permit.
12. Begin initial subdivision work.
13. Request inspection of earthwork and utility work, if any, by Planning Department prior to applying road surface material such as gravel or pavement and before seeding required by conditions of grading permit.
14. Complete survey work as needed.
15. Develop final plat for submission to HCPC.

16. Complete road, utility, and soil erosion work.
17. Request final Planning Department on-site inspection of completed required improvement work.
18. Submit final plat to Planning Department 30 days before meeting at which approval is sought. Plat must bear all required certificates noted in the appendix as well as all notations or changes specified by the Planning Commission when the preliminary plat was tentatively approved and the following:
  - a. A letter requesting review and approval of a final plat and giving the name and address of the person to whom the notice of the hearing by the Planning Commission on the final plat shall be sent.
  - b. The required number of paper copies of the final plat and other documents, as may be specified; and reproducible(s) which are to be returned to the subdivider for filing.
  - c. A final plat fee shall be assessed as established in the fee schedule approved by the Habersham County Board of Commissioners.
  - d. A complete disclosure on how all utilities, roads, and amenities are to be maintained, (including Department of Housing and Urban Development property report where appropriate) plus information requested as a result of findings during preliminary review.
  - e. A copy of all recorded covenants associated with the subdivision.
19. Attend Planning Commission meeting or send a competent representative with written authorization who can answer questions in your name. No action will be taken by the Planning Commission when no representative is present.

#### **Section 1708. Preliminary Plat Specifications.**

The preliminary plat shall conform to the specifications contained in Appendix B.

#### **Section 1709. Preliminary Plat Review.**

- A. The Administrative Officer or their designee shall check the plat for compliance with these and other relevant county regulations and ordinances and report findings and recommendations to the Planning Commission in public session.
- B. No preliminary plat shall be reviewed by Planning Commission except in public session ~~and advertised as required by Section 1807. Such sessions or hearings must be held at least monthly and are generally held on the third Tuesday of each month.~~ The Administrative Officer is not empowered to act or speak for the Planning Commission in approving or disapproving preliminary plat requests. ~~Not less than five days before the public hearing, a notice of the time and place of the hearing shall be sent by the Administrative Officer via registered or certified mail to the person designated in the letter requesting preliminary plat review. If personal telephone contact between these parties can be made before the five day requirement, only regular mail follow up is required.~~
- C. Planning Commission shall not review the preliminary plat or hear public comments unless the applicant or a designated representative with written authorization is present at the hearing. If the applicant or approved representative is not in attendance, the 60-day requirement in subsection (F) below is automatically waived for an additional 61 days.
- D. After conducting the public hearing as specified in subsection 1807(B)(10), the Planning Commission shall make one of the following decisions which shall be recorded in the minutes:
  1. Approve the preliminary plat.
  2. Approve the preliminary plat on condition that necessary modifications be made. Such required modifications must be recorded on the plat and in the minutes.
  3. Disapprove the preliminary plat.
- E. If the Planning Commission approves the preliminary plat, it shall be noted by a certificate of preliminary plat approval (See Appendix A, Form 1) inscribed on two copies of the preliminary plat and distributed as follows:

1. One annotated copy of the plat shall be returned to the subdivider or agent.
  2. One copy permanently filed in Planning Commission records.
- F. Plats not acted on by Planning Commission within 60 days of request for approval shall be deemed approved by the Planning Commission. If, however, Planning Commission determines that additional time is required to study a preliminary plat, an extension of time shall be requested in writing from the subdivider, who may agree to a specific time extension in lieu of a denial.

#### **Section 1710. Parameters of Preliminary Plat Approval.**

- A. All preliminary plat approvals shall be limited by these qualifications:
1. The approval is a tentative approval only pending submission of a final plat.
  2. The approval is valid for only one year from the issuance of a land disturbance permit or two years from the date of preliminary plat approval, whichever is the lesser, and shall be null and void after that date. If final plat approval is not received before the expiration of the preliminary plat, a new preliminary plat application shall be required.
  3. *Exception:* One extension of the land disturbance permit for good cause shown and for a maximum time period not to exceed the life of the preliminary plat approval may be granted when requested as follows:
    - i. In writing prior to the expiration of the preliminary plat approval
    - ii. Must be filed with the Community Planning and Development Department.
    - iii. The developer shall have the burden of proof and/or justification of a need for the extension.
- B. Preliminary plat approval does not constitute authorization for subdivider to begin physical improvement to the property being subdivided but rather the authority to:
1. Prepare and submit road and infrastructure construction plans; and
  2. Erosion and sedimentation plans for approval; and
  3. To request land disturbance permit(s).
  4. All required permits to construct only one model house.
- C. Plats of developments within municipalities where the Ordinance has not been adopted shall have the following certificate attached: "This plat of land within the city limits of \_\_\_\_\_ is not subject to regulation by the Habersham County Planning Commission."
- D. Major changes to preliminary plats necessitate that the plat be resubmitted to the Planning Commission for review and approval. No final plat will be approved that does not substantially comply to the approved preliminary plat. Major changes would be changing the street configuration, location of uses, number of lots, and similar changes.

#### **Section 1711. Land Disturbance Permit Application.**

The land disturbance permit application shall conform to and meet the specifications contained in Article XII of this appendix.

#### **Section 1712. Final Plat Specifications.**

The final plat shall conform to and meet the specifications contained in appendix B and contain the following:

- a. A surveyor's certification directly on the final plat. See Appendix A, Form 4.
- b. An owner's certification directly on the final plat. See Appendix A, Form 5.
- c. Certificate of dedication. See Appendix B.
- d. A certificate of approval of the final plat by the Planning Commission directly on the plat. See Appendix A, Form 3.



~~e. Copy of official action of governing body: A copy of the resolution adopted by the governing body accepting the streets, improvements, easements, and any other property dedicated by the owner for public use as indicated on the final plat shall be attached to the final plat within 45 days after action by the governing body.~~

### **Section 1713. Final Plat Review and Approval.**

- A. The Planning Department staff shall check the plat for conformance with the approved/conditionally approved preliminary plat and for compliance with this and other relevant county regulations and ordinances and report their findings with their recommendation to the Habersham County Planning Commission in public session. The Planning Department, upon review of the final plat, shall notify the applicant of any comment that needs to be addressed no later than ten working days prior to the next scheduled Planning Commission meeting. Each comment shall be referenced to the applicable section of code being commented upon.
- B. No final plat shall be acted upon by the Habersham County Planning Commission except in public session. ~~Such sessions or hearings must be held at least monthly and are generally held on the third Tuesday of each month.~~ The Administrative Officer is not empowered to act or speak for the Habersham County Planning Commission in approving or disapproving final plat requests.
- ~~C. Not less than five days before the public hearing, notice of the time and place of the hearing shall be sent by the Administrative Officer via registered or certified mail to the person designated in the request for final plat approval; or if personal contact between these parties can be made by telephone before the five-day requirement, only regular mail follow-up is required.~~
- D. The Habersham County Planning Commission shall take no action on a final plat if the applicant or a designated representative is not present at the hearing, in which case the 45-day requirement in subsection (g) below is automatically waived for 46 days.
- E. At a public hearing conducted under the procedures of subsection 1807(B)(10) within 45 days of request for final plat approval, the Habersham County Planning Commission shall take one of the following actions which shall be recorded with reasons for disapproval, where appropriate, in the minutes:
  - 1. Approve the final plat.
  - 2. Disapprove the final plat and further notify the subdivider in writing of the specific reasons for disapproval within five days.
- F. In order for the Habersham County Planning Commission to approve a final plat, all requirements of these regulations must have been satisfied and all improvements required must have been completed not less than five workdays prior to the scheduled hearing at which final plat approval is requested. All improvements shall be inspected by the Planning Department HCPC. No final plat will be approved that does not substantially comply with the approved preliminary plat.
- G. Plats not acted on by the Habersham County Planning Commission within 45 days of a request for approval shall be deemed approved, and a certificate of final plat approval shall be issued on request of the subdivider. If, however, the Habersham County Planning Commission determines that additional time is required to study a final plat, an extension of time shall be requested in writing from the, applicant or their duly authorized agent who may agree to a specific time extension in lieu of a plat disapproval.
- H. If final plat approval is requested two times and is denied both times because required improvements have not been made, the Habersham County Planning Commission shall not further consider that plat for 90 days following date of the second disapproval.
- I. When all conditions for approval of the final plat have been met and such approval has been granted, the Habersham County Planning Commission shall endorse and date the certificate of final plat approval on the original copy of the final plat. Such approval and endorsement convey the authority to record the plat and to sell lots shown on the plat.
- J. Upon approval of a final plat, the subdivision owner ~~chairman of the Planning Commission or his designated representative~~ shall have the final plat recorded in the office of the Clerk of the Superior Court of Habersham

County. ~~The subdivider shall be responsible for the payment of the recording fee at the time of submitting the final plat.~~

#### **Section 1714. Reserved.**

#### **Section 1715. General Design and Other Requirements.**

- A. Suitability of the land: Land subject to flooding, improper drainage, or erosion or that is for topographical or other reasons unsuitable for residential use that will contribute to danger to health, safety, or property destruction unless the hazards can be and are corrected. No land determined to fall in a 25-year floodplain identified by state or federal authority shall be approved for any building site. All land falling into the 100-year flood zone must be so identified on the preliminary and final plats.
- B. Name of subdivision: The name of the subdivision must have approval of the Planning Commission. The name shall not duplicate or closely approximate the name of an existing subdivision in the county.
- C. Conformance to adopted major thoroughfare and other plans: All streets and other features of the major thoroughfare plan of Habersham County, Georgia, shall be platted by the subdivider in the location and to the dimension indicated on the major thoroughfare plan. When features of other plans such as schools or public building sites, parks, or other land for public uses are located in whole or in part in a land subdivision, such features shall be either dedicated or reserved by the subdivider for acceptance or acquisition within a reasonable time by the appropriate public agency. Whenever a plat proposes the dedication of land to public use that the Planning Commission finds not required or suitable for such public use, the Planning Commission shall refuse to approve the plat and shall notify the governing body of the reasons for such action.
- D. Special easements: Easements having a minimum width of 18 feet and located along the side or rear lot lines shall be provided as required for utility lines, underground mains, and cables. Where a watercourse, drainage way, channel, or stream traverses a subdivision, there shall be provided a storm water or drainage right-of-way of adequate width parallel to streets. When suitable road shoulder slopes cannot be obtained within prescribed road right-of-way widths, slope easements shall be required on abutting lots.

#### **Section 1716. Reservation of Public Sites and Open Spaces.**

- A. Where the features of the Comprehensive plan such as school sites, parks, playgrounds, and other public spaces are located in whole or in part in a proposed subdivision, such features shall be reserved by the subdivider, provided, however, that no more than ten percent of the total area of the subdivision shall be required for reservation to fulfill the requirements of this section. Whenever the land required for such planned features is not dedicated to and accepted, purchased, acquired, optioned, or condemned by the appropriate public agency within a two-year period from the date of recording the subdivision plat or by the time that at least 75 percent of the lots are built on and occupied, whichever is sooner, the subdivider may claim the original reservation and cause it to be subdivided in a manner suitable to the subdivider subject to the provisions of this appendix. Whenever the public body responsible for land acquisition executes a written release stating that the reserved land is not to be acquired, the Planning Commission shall waive the reservation requirements. When a development is of such size or of a nature which will have a significant impact on community facilities, the dedication of an appropriate amount of land to meet such needs may be required by the Planning Commission.
- B. Whenever the Planning Commission finds that proposed reservation of land or dedication of land for public use is not required or suitable for such public use, it may require the rearrangement of lots to include such land.
- C. In all subdivisions, due regard shall be shown for all natural features such as large trees and water courses, as well as for historical sites and similar community assets. These, when preserved, will add attractiveness and value to the property or community.

## Section 1717. Design Standards for Blocks and Lots.

- A. Block lengths and widths: Block lengths and widths shall be as follows:
1. Blocks shall be no greater than 1,800 feet nor less than 600 feet in length, except in unusual circumstances.
  2. Blocks shall be wide enough to allow two tiers of lots, except where fronting on arterial, limited access highways, or railroads, or prevented by topographical conditions or size of property. In these cases, the Planning Commission may approve a single tier of lots of minimum depth (see section 1719) to include a buffer zone.
- B. Lot sizes and proportions: Residential lots shall meet the lot width and lot area requirements in section 607.
- C. Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended.
- D. Residential corner lots shall have adequate width to meet building setback requirements from both abutting streets.
- E. Adequate building sites: Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements, buffers, or building setback lines required by this appendix.
- F. Lot line arrangements: When practical, side lot lines shall be at right angles to straight street lines or radial to curved street lines.
- G. Panhandle or flag lots: "Panhandle" or "flag" lots of required width and area may be allowed where terrain or geometry makes standard design or frontage impossible or impractical. Where such lots are allowed, the street frontage of each panhandle access shall not be less than 60 feet wide; and the panhandle access shall be not more than 200 feet long. The lot shall conform to all other lot standards of this appendix. Not more than two such panhandle access points shall abut each other. All such access points or combinations thereof shall be separated from each other by the frontage of a standard lot required under the other provisions of this appendix.
- H. Building setback lines:
1. Building setback lines shall be indicated on each plat as set forth in section 1108 of this appendix. Corner lot setbacks shall conform to each right-of-way on which the lot fronts.
  2. In the case of electric transmission lines where easement widths are not definitely established, there shall be a minimum building setback line from the center of the transmission line as follows:

Voltage of Line	Minimum Building Setback
<u>600V – 45KV</u>	<u>15 feet</u>
46KV - 115KV	50 feet
116KV and over	75 feet

- I. Double frontage lots: Double frontage lots should be avoided except where essential to provide separation of residential development from major traffic arteries or to overcome specific disadvantages of topography and orientation. A planting screen easement of at least ten feet, and across which there shall be no right of access, shall be provided along the line of lots abutting such a traffic artery or other disadvantageous use.

## **PART II. ROADWAYS, STREETS, AND RIGHT-OF-WAY STANDARDS**

### **Section 1718. Requirements for Streets and Other Rights-of-Way.**

- A. Continuation of existing streets: Existing streets shall be continued at the same or greater width but in no case less than the required width.
- B. Street names: Proposed streets that are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names regardless of the use of the suffix: street, avenue, boulevard, drive, place, way, or court. Through its index list of street names on file, the Planning Commission can assist the subdivider in avoiding duplication.
- C. Street jogs: Street jogs with centerline offsets of less than 185 feet shall not be permitted.
- D. Cul-de-sacs or dead-end streets:
  - 1. Minor streets or courts designed to have one end permanently closed shall serve no more than 25 lots per block and have a turn-around or cross street every 1,000 feet unless necessitated by topography. They shall be provided with a turnaround at the closed end.
  - 2. Where in the opinion of the platting authorities it is desirable to provide street access to adjoining property, streets shall be extended to the boundary of such property and provided with a temporary turnaround.
- E. Single entry road restriction: In no case shall more than 100 lots in any subdivision be dependent on a single road or interval of road for entry/exit to/from the subdivision.

### **Section 1719. Development Along Major Thoroughfares, Limited Access Highway or Railroad Right-of-Way.**

Conditions and standards for land development within Habersham County shall be assigned in accordance with the type of road or street access provided to the properties. All roadways within the county shall be classified based according to Georgia Department of Transportation and Federal Highway Administration guidelines. The classifications shall be outlined within the County's Comprehensive Plan and updated at a minimum of every five years.

- a. Lots shall have no access to an arterial road, expressway, or other limited access highway but only to rural minor access or residential streets. Where a subdivision abuts or contains an arterial, a limited access highway, or a railroad right-of-way, the platting authorities shall require street approximately parallel to and on each side of such right-of-way either as a marginal access street or at a distance suitable for an appropriate use of the intervening land with a ten-foot, non-access reservation suitably planted. Due regard should be given requirements for approach grades and future grade separations in determining distances.
- b. Alleys: Alleys may be required at the rear of all lots used for multi-family, commercial, or industrial developments but shall not be provided in one- and two-family residential developments unless the subdivider provides evidence satisfactory to the platting authorities of the need for alleys.
- c. Street right-of-way and roadway pavement widths: The right-of-way width shall be the distance across a street from property line to property line. All subdivision streets, public or private, shall be platted as right-of-way streets. Lots shall not include any portion of the right-of-way. All streets shall be evaluated according to performance within specific site requirements or limitations. No street shall be platted on the basis of a private easement.
- d. Minimum street right-of-way widths shall be as follows:

1. *Rural minor and urban residential.*

Right-of-way	Minimum of 60 feet
Turnarounds (Cul-de-sacs)	100 feet in diameter (50-foot radius)
Roadbed	Minimum of 28 feet (pavement width plus shoulder width)
Turnarounds (Cul-de-sacs)	88 feet in diameter (Pavement width plus shoulder width)
Pavement	Minimum of 20 feet
Turnarounds (Cul-de-sacs)	80 feet in diameter (40-foot radius)

2. *Within curb and gutter subdivisions.*

Right-of-way	Minimum of 40 feet
Turnarounds (Cul-de-sacs)	100 feet in diameter (50-foot radius)
Roadbed	Minimum of 24 feet (pavement width plus shoulder width)
Turnarounds (Cul-de-sacs)	84 feet in diameter (Pavement width plus shoulder width)
Pavement	Minimum of 20 feet
Turnarounds (Cul-de-sacs)	80 feet in diameter (40-foot radius)

3. *Collectors and rural major.*

Right-of-way	Minimum of 80 feet
Roadbed	Minimum of 30 feet (Pavement plus shoulder width)
Pavement	Minimum of 22 feet

4. *Rural arterial system.*

Right-of-way	Minimum of 80-150 feet, depending on traffic conditions to be reviewed at time of development application
Roadbed	Minimum of 38 feet (Pavement plus shoulder width)
Pavement	Minimum of 28 feet

5. *Alleys, 16 feet right-of-way.*

6. *One-way streets.*

Right-of-way	30 feet
Roadbed	22 feet
Pavement	Width 14 feet

- e. Additional width on existing streets: Subdivisions that adjoin existing streets shall dedicate or reserve right-of-way to meet the above minimum street width requirements.
  - 1. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the street.
  - 2. When the subdivision is located on one side of an existing street, one-half of the required right-of-way, measured from the centerline of the existing roadway, shall be provided.
- f. Street grades: Maximum and minimum street grades shall be as follows:
  - 1. Rural arterial, not in excess of ten percent
  - 2. Rural major and collector streets, not in excess of 18 percent
  - 3. Rural minor routes, residential streets and alleys, not in excess of 16 percent
  - 4. No more than 25 percent of the total square feet of pavement within a subdivision may be applied to a grade of 18 to 16 percent.
  - 5. No street grade shall be less than one-half of one percent in cases where streets are curbed and guttered.
  - 6. In meeting these grade and slope requirements on steep terrain, the Planning Commission suggests wherever feasible that the developer utilize a divided roadway in which the lanes for travel in opposite directions are cut at different levels of elevation. Under certain conditions, this method of giving separate treatment to each travel lane would lessen cut and fill requirements. Median cuts would be used at points where both lanes have the same roadway grade. The median cuts would shorten distance of traveling any one direction and facilitate access to lots served by each lane.
- g. Horizontal curvature: The minimum radii of centerline curvature shall be as follows:
  - 1. Arterial streets as indicated on the road classification map, but in no case less than 800 feet.
  - 2. Collector and rural major streets, 300 feet.
  - 3. Rural minor and residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, resource recovery), 100 feet.
  - 4. Exceptions may be granted based on proven performance for special site requirements.
- h. Tangents: Between reverse curves, there shall be tangent having a length not less than the following:
  - 1. Minor arterial streets, not less than 200 feet
  - 2. Collector and rural major streets, 100 feet
  - 3. Rural minor, residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, and resource recovery), 25 feet
- i. Vertical alignment: Vertical alignment shall be such that the following requirements are met:

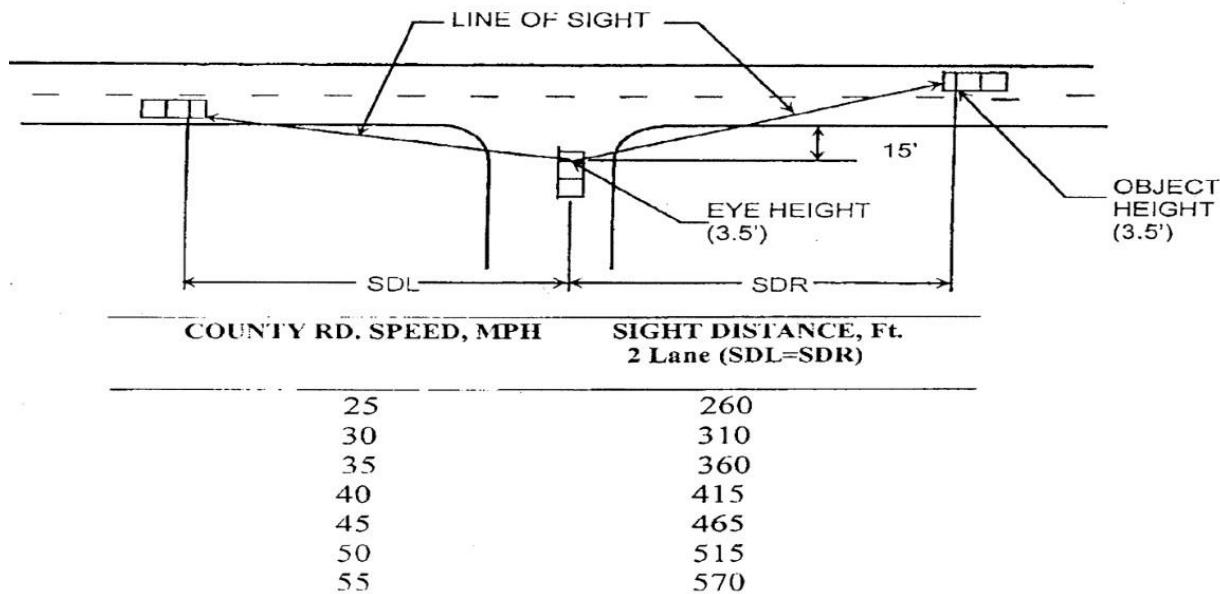
1. Rural arterial streets shall have a sight distance of at least 500 feet at four feet above ground level. (10 × the speed limit or 10 × the algebraic distance, per DOT/AASHTO.)
2. Rural major and collector streets shall have a sight distance of at least 200 feet at four feet above ground level.
3. Rural minor, residential streets and alleys, and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, and resource recovery) shall have a sight distance of at least 100 feet at four feet above ground level.
4. Rural arterial streets shall have a sight distance of at least 500 feet at four feet above ground level.
5. Local rural routes, 75 feet at four feet above ground level.
- j. Street intersections: Street intersections shall be as nearly at right angles as possible. No street intersection shall be at an angle of less than 75 degrees, unless required by unusual circumstances.
- k. Curb-line radii: Property lines at street intersections shall be rounded with a curb radius of 20 feet. Where the angle of intersection is less than 75 degrees, the platting authorities may require a greater radius. The platting authorities also may permit comparable cut-offs or chords in place of rounded corners.
- l. Steep slope development: Street alignments are subject to performance standards as are appropriate to Habersham County and state construction requirements as may be adjusted to any given site limitations. Driveways and roads coming into a county road shall observe at a minimum a 25-foot deep area with a slope of no more than two percent at the intersection with the county right-of-way. No storm water shall run out onto the county road from a subdivision or individual lot or parcel. Storm water runoff coming from driveways shall be diverted into ditches and away from the county road.

## **Section 1720. Development/Project Access Improvements.**

*Single-family detached, single-family attached, duplex residential subdivisions, multi-family and non-residential development:* When property that abuts upon an existing or proposed county road is to be developed or redeveloped as a single-family detached or duplex subdivision, multi-family and non-residential development and the county road will provide access to the property, access improvements to the county road (turn lanes, etc.) shall be provided by the developer as provided herein:

1. Design criteria shall be in accordance with the requirements of this document or the latest edition of the Georgia Department of Transportation's "Regulations for Driveway and Encroachment Control."
2. A right turn deceleration lane shall be required at each subdivision of 25 lots or more and commercial or private industrial project creating more than 50 trips per day with a road/street intersecting with a public road. Right turn deceleration lanes shall have a minimum length of 150 feet with an additional 50 feet taper length. Pavement width shall be 18 feet (exclusive of curb and gutter) if curb and gutter is required. The design thickness of the base and pavement structure shall include eight-inch compacted graded aggregate base course, four-inch compacted asphalt concrete binder, and two-inch compacted asphalt concrete "E" or "F" surface course. Additional right-of-way, if required, to accommodate the right turn deceleration lane and shoulder width to match the existing county road (in no case less than a four-foot wide shoulder) shall be acquired and dedicated by the developer to Habersham County at no cost. Associated drainage improvements as deemed necessary by the construction of the right turn deceleration lane shall be required.
3. In the event a developer desires to construct a median break to serve the subdivision, a left turn lane leading to the median break shall be required to be provided by the developer and shall meet the standards contained in the GDOT "Standards Specifications Manual" and "Regulations for Driveway and Encroachment Control," current editions.

4. Other access improvements may be required by the county upon the recommendation of either GDOT or the county engineer in order to ensure adequate site access, pedestrian access, convenience, and safety to the motoring public.
5. The developer shall be responsible for the relocation of public or private utilities and drainage structures as may be occasioned by the required access improvements.
6. Subdivision street intersections with county maintained roads shall be located to provide adequate sight distance. Minimum intersection sight distances are criteria provided in Table (A). The line of sight establishes the boundary of a sight triangle within which there should be no sight obstruction between the heights of 30 inches and 108 inches. No plants or shrubs shall be planted in this area that grows to a height greater than 30 inches. The sight distance criteria are based on the average time required for a vehicle to make a left or right turn from a stop controlled approach to the public road (AASHTO Case B1 and B2). The time to execute the maneuver is based on recommendations contained in NCHPR Report 383, Intersection Sight Distance. The sight distances for a two-lane road are the distance traveled at the posted speed limit during the average of 6.5 and 7.5 seconds. See ASSHTO Green Book, chapter 9 Intersections, for adjustments due to grades greater than three percent and design vehicle other than passenger cars. The developer's engineer shall certify that sight distance requirements are in accordance with table (A) and so state on the preliminary plans at the time of submittal.



**TABLE (A)**  
**INTERSECTION SITE DISTANCE REQUIREMENTS**

7. A traffic impact study by the developer's engineer at the preliminary stage when any new road or street is created that abuts/adjoins a public road/street for all developments creating more than 50 trips per day.

### **Section 1721. Structures on Right-of-Way.**

*Right-of-way encroachment--mailboxes and other structures:* This section applies to all arterial, collector, and minor roads as defined by the Habersham County Comprehensive Land Development Ordinance.

#### **A. Mailboxes, County Right-of-Way:**

1. A mailbox that does not conform to the following provisions is an encroachment and shall be removed within 60 days of notification of the violation:



- a. For noncompliance mailbox structures not moved within the 60-day notification period, such removal shall be performed by Habersham County at the expense of the structure owner.
  - b. Habersham County will assume no liability for damage that may occur in normal maintenance operations for any mailbox not conforming to the standards stated in subsections 1 through 3.
2. No mailbox support shall be allowed to exist on Habersham County's right-of-way that interferes with the safety of the traveling public on the county road system. The mailbox shall be located in accordance with the rules and regulations set forth by the Highway Safety Administration.
  - a. The support or post shall not be made of a masonry nature or by any other material that will not readily yield upon impact.
  - b. Nor shall any other construction which could be classified as a hazardous fixed object be allowed, either as a support or as an encasement or housing for the box itself.
  - c. When using wood, the size shall be a maximum nominal four inch by four inch; or if round, the size will be a maximum of four inches in diameter.
  - d. If a metal post is to be used, no larger than three inches in diameter or equivalent shall be allowed and such posts shall be hollow.
  - e. When using other materials, the maximum size and configuration shall be determined and approved by the Administrative Officer prior to installation.
  - f. The face of the mailbox shall be no closer than three feet to the edge of the pavement on high-speed (establish threshold speed) routes.
3. Multiple mailbox installations shall meet the same criteria as single mailbox installations. Multiple support installations should have their supports separated a minimum distance equal to three-fourths of their heights above ground. This will reduce interaction between adjacent mailboxes and supports.

**B. Mailboxes--Subdivision Roads With Low Traffic Volume and Speed:** A mailbox that does not conform to the following provisions is an encroachment and shall be removed within 60 days of notification of the violation

1. Subdivision roads with low traffic volume and speed, shall comply with the following standard:
  - a. The supporting structure shall be as described in subsection 1821(A)2 above.
  - b. The face of the mailbox shall be no closer than two feet to the edge of the pavement or one foot from the back of the curb.
2. In the event that a request is made to place a subdivision road in the county maintenance system, all existing structures on right-of-way shall be brought into compliance with section 1821 of this appendix.

**C. Mailboxes--Existing Structures on County-maintained Roads:** Single-entrance subdivision roads with a rural minor road classification that have existing brick or masonry mailbox structures will be allowed so long as they meet the following requirements:

1. No portion of the mailbox or its structure shall be closer than two feet to the edge of pavement or one foot from the back of the curb.
2. The Planning Commission reserves the right to review all existing mailbox structures on a case-by-case basis as requested.
3. All undeveloped lots within a subdivision on a single entrance, low volume and low speed road shall conform to the specifications for mailbox structures defined in subsection 1821(A)(2) above.

**D. Other Structures:** Masonry or other type vertical walls that create a hazard will not be allowed on county rights-of-way. Existing masonry or other type walls built on driveways in the right-of-way will comply with the following regulations:

1. Single entrance subdivision roads with a rural minor road classification that have existing brick, rubble, or masonry driveway headwalls will be allowed so long as they meet the following requirements:
  - a. The wall shall not come within four and one-half feet of the edge of pavement.
  - b. The wall shall not extend above the existing driveway height without having adequate drain holes through the wall.
  - c. The overall height shall not exceed 18 inches above the driveway surface.
  - d. All undeveloped lots within a subdivision on a single entrance, low volume, low speed road shall conform to these same specifications.
2. Subdivision entrances with elaborate cosmetic structures of brick, masonry, or other materials forming an island shall conform to the following:
  - a. No structure shall extend beyond the right-of-way line of the adjoining street.
  - b. No structure shall extend vertically to a height that would impair visibility of adjacent vehicle traffic.
  - c. Structure walls must not lean or protrude over the adjacent pavement so as to hinder resurfacing or maintenance of the surface.
  - d. No structure shall be placed in conflict with utility facilities.
  - e. Structures placed in the middle of the cul-de-sac shall conform to all of the above specifications.
  - f. All structures must have some type of approved reflective device or be lit.
  - g. Any damage to existing structures during routine maintenance of the street will be the liability of the property owner.
3. Exemption for new construction: Masonry or other type vertical walls may be built on driveways that are located in a platted subdivision on a "rural minor" road, defined herein and classified as a low volume, low speed, residential road that primarily serves the residents of the subdivision. A subdivision road or street that may be used as a cut through or connector road to a main road may not be considered a "minor" road. These structures must conform to the regulations as stated in this section. Habersham County does not accept maintenance responsibility for these vertical wall structures. The Planning Commissioners reserve the right to review all structures on a case-by-case basis as requested.

#### **E. Enforcement:**

1. Existing structures: It shall be the responsibility of the Public Works Director to enforce the provisions of this section as it relates to existing structures. The Public Works Director shall notify, in writing, property owners found to be in violation of this section. If the property owners fail to remove the structure(s) in violation within the time allowed by this section, the Public Works Director is authorized to issue a citation to the property owner stating the nature of the violation, the cost to the property owner for removal, and the time and date the matter will be reviewed by the Board of Commissioners. A copy of the citation shall be sent to the Chief Building Inspector. The Public Works Director shall refer the citation to the Board of Commissioners at its earliest regularly scheduled meeting. The Board shall review the facts; and if the property owner is found in violation, the Public Works Director shall be authorized and directed to remove structures in violation and to bill the property owner the cost of removal.
2. Enforcement (new construction): It shall be the responsibility of the Administrative Officer to enforce the provisions of this section as it relates to all new construction. In addition, the Chief Building Inspector is directed and authorized to deny any and all construction permits for any property or to any property owner with a structure(s) in violation of this section as cited by the Public Works Director.

## **Section 1722. Required Improvements.**

**A. Performance and Specifications:** Every subdivider shall be required to make the improvements outlined in this article in accordance with the specifications herein or otherwise adopted by Habersham County. The necessity for storm drainage on each site will be determined by inspection.

**B. Monuments:** Monumentation shall be done as required by Georgia State Rules Section 108-7-05.

**C. Grading:** All streets, roads, and alleys shall be graded by the subdivider so that pavements and sidewalks, where required, can be constructed to the required cross section. The minimum width of grading shall be the pavement width as specified in section 1819 plus eight feet on each side. Deviation from the above will be allowed only when due to special topographical conditions.

1. Preparation: Before grading is started, that part of the right-of-way consisting of the area to be paved plus the shoulders shall be first cleared of all stumps, roots, brush, and other objectionable materials and all trees not intended for preservation.
2. Cuts: All boulders and other obstructions shall be removed to a depth of two feet below the subgrade. Rock, when encountered, shall be scarified to a depth of 18 inches below the subgrade. All vegetative debris, to include tree stumps and roots, must be removed from the site or may be burned in its entirety on site if burning complies with state rules and regulations.
3. Fill: All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. Excess materials including organic materials, soft clays, etc. shall be removed from the roadway. The fill shall be spread in layers not to exceed six inches loose and compacted by a sheepsfoot roller. The filling of utility trenches and other places not accessible to the roller shall be mechanically tamped.
4. Subgrade: The subgrade shall be properly shaped, rolled, and uniformly compacted to conform to the lines, grades, and typical cross-sections as shown on drawings approved by the Planning Commission. Unsuitable materials shall be excavated and replaced with acceptable compacted material.

**D. Storm Water Management Plan:** This section is to formulate a plan to manage storm water runoff so that storm water hazards are not created and existing runoff-related problems are not exacerbated either upstream or downstream from or within the boundaries of the development. The storm water management plan will consist of a storm water report and construction documents (if applicable) to meet the minimum requirements set forth in this section.

1. A storm water management plan shall be submitted with the request for land disturbance permit stage and shall contain the following information:
  - a. Location of proposed drainage-ways, streams, and sediment ponds within the development.
  - b. Location, size, and invert elevations of proposed drainage structure including culverts, bridges, pipes, drop inlets and top elevations of headwalls, diversion ditches, etc.
  - c. Area of land contributing runoff to each drainage feature.
  - d. Location of easements and right-of-way for drainage ways and maintenance accesses therefore.
  - e. Typical improvement around drainage features and culverts, if any.
  - f. Direction of water flow throughout the subdivision and computed velocities at those points deemed necessary by the review agency staff.
  - g. Detailed engineering drawings on all impoundment structures, dams, sediment ponds, etc.
2. A storm water management plan must be prepared for new development or redevelopment to any site that meets one or more of the following criteria:
  - a. A new development in which 5,000 square feet or greater of new impervious area is created or that involves the land disturbing activity of one acre of land or greater

- b. Land development activity on a redevelopment site that constitutes more than 50 percent of the site area for the entire site or increases the impervious area on site by more than 5,000 square feet
  - ~~e. Any commercial or industrial development (all commercial and industrial developments must have at least one storm water management facility)~~
- 3. The following development activities may be exempt from a storm water management plan:
  - a. Developments that do not create the addition of 5,000 square feet of impervious surfaces or disturb more than one acre of land
  - b. Individual single-family residential lots (single-family lots that are part of a subdivision or phased development project are not exempt)
  - c. Additions or modifications to existing single-family structures
  - d. Agricultural and silvicultural construction is exempt.

**E. Storm Water Report:** A storm water hydrology report shall be provided to ensure that the requirements and criteria in these regulations are being complied with and that opportunities are being taken to minimize post-development storm water runoff impacts from the development. The storm water hydrology report shall identify the locations and quantities of storm water runoff entering and exiting the site for both existing and developed conditions. The report at a minimum shall consist of pre- and post-developed topographic drainage maps delineating study points, drainage basins, soil types, runoff coefficients/curve numbers, and land cover. In addition, the report shall contain a brief narrative, a vicinity map, a chart summarizing the water runoff associated with the proposed development, and supporting design calculations for any proposed storm water management facility (such as and including stage-storage or outlet rating curves and inflow and outflow hydrographs, pre- and post-developed hydrographs). Pond discharge locations shall be in defined drainage ditches or piped systems. If this is not possible, the hydrology report shall address the creation of concentrated flows where none had occurred previously. The design professional shall ensure that the addition of any storm water management facility within its watershed basin does not adversely affect downstream property owners or storm water drainage systems and structures. Storm water hydrology reports shall be conducted in accordance with the criteria established in this section and must be submitted with the stamp and signature of a professional engineer (PE) or a registered land surveyor (RLS) licensed in the State of Georgia.

**F. Storm Water Management Facilities:** Storm water management facilities shall be implemented to control post-developed storm water runoff. The facility shall be designed so that the peak release rates (when combined with all detention bypass areas) are equal to or less than the pre-developed runoff rates at the same location. The facility will be designed to control the two to 50-year storm events. The facility shall also provide the safe passage of the 100-year storm event while providing one foot of free board between the 100-year pond elevation and the top of the dam. A proposed storm water management facility must be accompanied by a set of construction documents signed by a design professional, depicting the location and layout of the proposed facility and provide details for the construction of the facility (ex., outlet structures, dams, positive drainage, other structural controls, etc.). All storm water facilities shall be enclosed by fencing and an access gate where the sides of the facility adjacent to the water are steeper than 3:1 and the depth of the water in the pond is greater than three feet. The owner of the property on which the facility is located shall be responsible for maintaining all storm water management facilities. A clean-out marker showing two-thirds volume level of the pond shall be designated on the outlet structure to facilitate inspection of the facility. If it is determined that the facility is not hydraulically functioning as designed due to inadequate maintenance, the county may conduct inspections and maintenance on the facility; and the owner will be responsible for all expenses involved. A 25-foot easement measured from the elevation of the 100-year storm event within the facility and a 25-foot access easement to the facility shall be provided to the county. The county shall notify the owner 24 hours prior to any inspection or maintenance work which involves accessing

the easement. All storm water management facilities shall be designed in accordance with the criteria established in this section, and plans and reports must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Georgia.

1. The following may be exempt from storm water management facilities but must provide a hydrology report:
  - a. A residential subdivision that does not increase the runoff for the two to 50-year storm event by more than 0.1 cubic feet per second per acre. Designated open space areas, flood plains, wetlands, green space, and any other areas that are not buildable, with an exemption for stream or creek buffers, may not be included in the hydrological analysis in determining if the subdivision meets this exemption. In addition, the lot sizes must be uniformly sized throughout the subdivision development.
  - b. Where development does not increase the storm water runoff by more than one cubic feet per second (cfs) for the two to 50-year storm event.
2. Storm water conveyance pipes: All culverts, cross drain, storm sewers, or other drainage facilities under the county's jurisdiction shall be designed to accommodate all runoff from its entire upstream drainage area and be based upon the 50-year storm event.
3. An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc., shall be provided for the proper drainage of all surface water. Cross-drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full width roadway (roadway is defined as the portion of a road or street within the limits of construction) and the required slopes. The culvert pipe size to be provided shall be determined based on an engineering study. In no case shall the pipe diameter for cross drain pipe be less than 18 inches. Side drain pipe (driveway, etc.) shall not be less than 15 inches in diameter.
  - a. All pipe used for cross drains shall consist of one of the following:
    - i. Reinforced concrete pipe
    - ii. Metal pipe with paved invert and coated with bituminous material
    - iii. Aluminized coated pipe meeting ASSHTO Standard M274 and M36
    - iv. Smooth interior corrugated polyethylene pipe not to exceed 36 inches in diameter meeting ASSHTO Standard M294
  - b. Certificate executed as shown in Appendix A, Form 6

**G. Installation of Utilities and Driveways:** After grading is completed and approved and before any base is applied, all of the underground work, water mains, gas mains, etc., and all service ~~connections~~ crossings shall be installed completely and approved throughout the length of the road and across the flat section. All driveways for houses as they are built shall be cut and drained from the right-of-way.

**H. Water Supply System:** Water mains within the subdivision must be provided with connections to each lot from a community water system controlled by EPD or public water system. Minimum diameter of water pipes shall normally be six inches. Fire hydrants must be provided at not more than 1,000 feet intervals whenever community or public water system is used. Required fire hydrants shall be served with adequate water volume and pressure as required by the fire chief and the governing body of Habersham County. If a municipal water supply is not available to the subdivision at the time of development of the subdivision, then the developer should provide an adequate water source and an adequate water storage facility. This shall be accomplished by the use of individual wells for each housing unit or by a community water system. Individual wells are the responsibility of the lot purchaser; however, the community (subdivision) or municipal water system shall provide a minimum flow of 400 gallons per day per lot, shall be sanitary, and shall have a minimum adverse pressure of 30 pounds per square inch at each lot in the subdivision.

**I. The community water system** shall be approved by the Habersham County Health Officer or the Georgia Department of Natural Resources, Water Supply Section; and a letter of approval shall accompany the recording permit application.

1. Water distribution plan: A water distribution plan shall be provided for all developments providing a community water supply system, regardless of the provider/municipality. All designs shall meet the Habersham County Water Main Standards or the state requirements, whichever is more stringent.

It shall contain the following information:

- a. Location and size of water distribution system, including pipes, valves, fittings, hydrants, high pressure pumping equipment, pressure reducing valves, etc., complete to individual lots
- b. Location and size of all wells, storage tanks and lift stations
- c. A water supply system letter of approval from environmental health or the Department of Natural Resources, Water Supply Section, shall be attached.

**J. Sanitary Sewers:** If the sewage disposal facilities cannot be connected to a trunk line sewer at the time of the development of the subdivision, septic tanks, or another approved method of treatment of sanitary sewerage shall be installed by and at the expense of the subdivider or lot purchaser for interim use, in conformity with the requirements of the county health department. Plans shall be reviewed by the appropriate municipality or county facility accepting the waste. Further, approved sanitary sewage methods other than septic tanks shall include the maintenance and ownership agreements and requirements explained in detail. In addition, once the proposed plans are approved by a municipality, the Building and Planning Department shall review and approve the plans for installation on county right-of-way. A sanitary sewer plan shall be provided for those developments offering such service. See Appendix A, Form 2.

**K. Street and Alley Improvements:**

1. Required streets shall be either public streets or private streets, all platted with right-of-way specified in section 1818. All streets must be paved to meet specifications in sections 1819 and 1822 below in order to qualify for final plat approval by the Planning Commission or acceptance for maintenance by the county governing body as public streets.
2. Asphalt paving and curb and gutter required: All streets within subdivisions with any lot 1.5 acre or less in size or slope of five percent shall be paved with asphalt per subsection (M) below and provided with curbs and gutters constructed with either pre-cast concrete curb or integral concrete curb and gutter conforming to the dimensions and standards in the adopted standard drawings. Driveways shall require curb cuts.
3. ~~Street name markers required: Each street, at each street intersection, shall be marked with street name markers of single pole design being a two inches diameter metal post or U channel post standing no shorter than six feet or taller than nine feet. Marker plates shall be a standard grade metal with green reflectorized sheeting at least six inches high and lettered with four inch high or larger letters and attached not lower than ten inches from top of pole. Letters are to be white on green plates.~~  
Street signs, signals, markings or other traffic control devices: All street signs, signals, markings or other traffic control devices on public or private streets shall conform to the Manual for Uniform Traffic Control Devices (MUTCD) as adopted by the Georgia Department of Transportation, as required by OCGA 32-6-50(a).

**L. Base:** The base course shall consist of compacted and graded aggregated crushed stone or other approved material having a minimum thickness after being thoroughly compacted of six inches on all rural minor and residential streets regardless of the type pavement wearing surface used.

1. <sup>ii</sup>Base and pavement structure for collectors, rural major, other rural roads, arterial roads, and streets shall be designed based on projected traffic and use. Commercial and/or industrial streets and roads shall be designed by a registered engineer according to the projected loads and weight capacities for

the project but in no case shall be no less than eight inches compacted base course and two inches asphaltic concrete surface binder with a one and one-half inch asphalt concrete surface course. Residential streets and roads shall also consist of no less than six inches of compacted base course and two inches of asphaltic concrete surface course.

2. All materials shall be secured from an approved source and shall generally conform to minimum acceptable standards of the Georgia Department of Transportation.
3. All materials shall be mixed to the extent necessary to produce a thoroughly pulverized and homogeneous mixture.
4. As soon as the base material has been spread and mixed, the base shall be brought to approximate line, grade and cross-section and then rolled with a sheepsfoot or other approved roller until full thickness of the base course has been compacted thoroughly. Defects shall be remedied as soon as they are discovered.
5. The base course shall be maintained under traffic and kept free from ruts, ridge and dusting, true to grade and cross-section until it is primed.
6. No base material shall be deposited or shaped when the subgrade is frozen or thawing or during unfavorable weather conditions.

**M. Pavement:** Wearing surface shall conform to mixes found suitable by the Georgia Department of Transportation, Highway Division, or an independent testing laboratory and shall be applied after prime coat. Unless otherwise approved by the platting authority, pavement shall be constructed as follows:

1. Bituminous material used for prime coat shall be in accordance with the current edition of the Georgia Department of Transportation Standard Specifications Manual and shall be applied on clean slightly damp surface in the amounts of from 0.15 to 0.30 gallons/square yard, depending on the nature and condition of the surface.
2. Wearing surface shall consist of either an approved plant mix prepared in accordance with the standards in the current edition of the Georgia Department of Transportation Standard Specifications Manual and shall have a completed minimum compacted thickness of two inches or a triple surface treatment constructed in accordance with section 424 of the current edition of the Georgia Department of Transportation Standard Specifications Manual.
3. *Weather limitations.* Comply with the current edition of the Georgia Department of Transportation Standard Specifications Manual.
4. Care and precaution shall be taken that all joints between the surface mixture and such structures as manholes and curbs are well sealed.
5. Materials and installation of traffic control devices, such as striping or required signal devices and signage, shall be at the developer's expense and comply with Manual for Uniform Traffic Control Devices.

**N. Guarantee Against Faulty Material and Workmanship:**

1. Final approval: Public streets to be accepted by the county will be at the discretion of the governing body. Road acceptance and acceptance of any other dedicated easement to the county shall only be accomplished by written resolution adopted by the governing body at a public meeting; approval of the final plat does not indicate acceptance of roads or easements by the county. Final approval will be considered upon separate written request by the developer, subdivider, or any person or persons who own all fee simple interest in the subject road to the governing body and in accordance with one of the following:
  - a. The subdivider shall post with the county a guaranty bond or other surety in an amount equal to 15 percent of the street and utility improvement cost, verified by the county engineer and approved by the governing body for the street for which acceptance is sought. Said bond will guarantee the county that the street has been installed in a workmanlike manner, that it is free

from defects caused by faulty materials or workmanship, and that the street will remain in acceptable condition for a period of at least 18 months. This bond shall be effective for a period of at least 18 months.

- b. At the end of this period, if the street is found to have settled or be otherwise unacceptable because of faulty workmanship or material, the defective street shall be repaired at the expense of the subdivider up to the amount of the bond. Upon his failure or refusal to do so within 90 days after demand is made upon him by the governing body, the county shall make such repairs as are reasonably necessary and recover the cost thereof from the bond issuer.
2. Certificate of development conformance required: A certificate of development conformance is required for final approval of road system. The certificate will not be issued until all requirements of these and other applicable regulations have been met. It is also required that the ~~Building and~~ Planning Department receive a completed request for approval of development conformance, an executed development performance and maintenance agreement, and a final inspection report has been done. ~~Approval will be determined by published procedures entitled Procedures for Development Conformance to be given to applicant at time of request for final approval prior to final inspection.~~
3. Process of road inspection/acceptance: All roads will be inspected at time of construction pursuant to the published procedures as set forth by the ~~Building and~~ Planning Department. Published procedures will be included with the development application.
4. Warranty deed required: A warranty deed must be provided by the developer, subdivider, or any person or persons who own all fee simple interest in the subject road.

#### **O. Private Roads:**

1. Private roads may, upon application, be permitted by the Planning Commission within subdivisions, subject to the requirements of this section. The Planning Commission may impose conditions on the approval of private roads to ensure various public purposes and to mitigate potential problems with private roads. No final plat involving a private road shall be approved unless said final plat conforms to the requirements of this section.
2. It shall be unlawful for any person, firm, or corporation to construct a new private road or alter an existing private road or to cause the same to be done without complying with this section, provided, however, that this shall not be construed to apply to logging roads (trails) and roads (trails) serving agricultural purposes.
3. All private roads shall at minimum be constructed to all standards specified in this article except Section 1822.
4. Rights-of-way for private roads shall be designated on final plats as general purpose public access and utility rights-of-way, along with the name of said private road. Rights-of-way for private roads shall not be included in any calculation of minimum lot size established by this appendix. Private road rights-of-way shall be shown on the final plat as a discrete parcel to be dedicated to a private homeowners association or other appropriate group (i.e., not shown to be a part of any lot).
5. Habersham County shall have no responsibility to maintain, repair, resurface, rebuild, or otherwise improve private roads, signs, drainage improvements, or any other appurtenances within general purpose public access and utility rights-of-way established for private roads. A private maintenance covenant recorded with the office of the Clerk of the Superior Court of Habersham County shall be required for any private road and other improvements within general purpose public access and utility rights-of-way established for private roads. The covenants shall set out the distribution of expenses, remedies for noncompliance with the terms of the agreement, and other pertinent considerations.
6. The covenant shall specifically include the following terms:
  - a. The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments.



The covenant shall also specify that the funds from such assessments will be held by a homeowners' or property owners' association or other appropriate group.

- b. The covenant shall include a periodic maintenance schedule.
- c. The covenant for maintenance shall be enforceable by any property owner served by the private road.
- d. The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by private road.
- e. The covenant shall run with the land.
- f. The Planning Commission may, at its discretion, as a condition of approving private roads, require a performance bond and/or maintenance bond be submitted by the subdivider and held by a homeowners' or property owners' association; or the Planning Commission may require that the subdivider pay an amount of money as recommended by the county engineer into an escrow account or other suitable account for the maintenance and repair of private roads and storm water management improvements to be drawn from by the homeowners' or property owners' association as maintenance and repair needs may arise.

**P. No final plat involving a private road** shall be approved by the Planning Commission for recording unless and until it shall contain the following on the face of the plat:

- 1. Deed book and page reference to the recorded covenant required by this section
- 2. "Warning, Habersham County has no responsibility to build, improve, maintain, or otherwise service the private roads, drainage improvements, and other appurtenances contained within the general public purpose access and utility right-of-way or rights-of-ways for private roads shown on this plat."
- 3. Grant of right-of-way as displayed in Appendix A, Form 7.

### **Section 1723. Opening and Improving Public Streets.**

The governing body of Habersham County shall not accept, lay out, open, improve, grade, pave, or light any street or lay any utility lines in any street which had not attained the status of a public street prior to the effective date of this appendix, unless such street corresponds to the street location shown on an approved subdivision plat or on an official street map adopted by the Planning Commission.



## ARTICLE XVIII. LEGAL STATUS PROVISIONS

### **Section 1801. Conflict with Other Laws.**

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

### **Section 1802. Separability.**

Should any article, section, or provision of this appendix be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of this appendix as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional.

### **Section 1803. Repeal of Conflicting Ordinances.**

All ordinances and resolutions and parts thereof in conflict herewith are repealed, except that any violation of an ordinance or resolution repealed by this appendix shall not abate, and any enforcement action against such violation may be prosecuted as if the subject ordinance or resolution remained in full force and effect.

### **Section 1804. Effective Date.**

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

**Effective Date: July 1, 1992**

**Date of Last Amendment:**

*Attested:*

Chairman, Habersham County Commission

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