

**DRAFT**

**BURKE COUNTY  
LAND  
DEVELOPMENT  
CODE**

CODE OF ORDINANCES – DRAFT OF PROPOSED NEW CHAPTER 26  
(INCLUDING EXISTING CHAPTER 22)



JUNE 2015

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ARTICLE

**I**

# GENERAL PROVISIONS

*Article I TOC to be inserted here*

## **1.01.00 TITLE**

Chapter 26 of the Burke County Code of Ordinances shall be known as and entitled the "Burke County Land Development Code" and may be referred to as the "LDC."

## **1.02.00 AUTHORITY**

The LDC is enacted based on the authority vested in Burke County by the Georgia Constitution of 1983 (Article IX, Section 2, Paragraph 4) and the amendments thereto; and, the Zoning Procedures Law (O.C.G.A. 36-66).

## **1.03.00 SEPARABILITY**

Should any section or provision of the LDC 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.

## **1.04.00 APPLICABILITY**

### **1.04.01 Generally**

- A. The LDC shall apply only to the unincorporated areas of Burke 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 the LDC.
- C. A change of use shall conform to the standards, criteria, requirements, and procedures of the LDC.
- 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.

### **1.04.02 Exemptions and Exceptions**

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

- A. Buildings or structures that are legally under construction on the date of adoption of the LDC;
- B. Buildings or structures for which a building permit has been issued as of the effective date of the LDC, 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 the LDC, provided that development commences not later than one (1) year after the effective date of the LDC; or
- D. The proposed use of property lawfully approved as of the effective date of the LDC.

## **1.05.00 PURPOSE AND INTENT**

- A. The Burke 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. The LDC is intended to implement all provisions of the Plan for the development and use of land.
- 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) Protect agriculture; and
  - 18) Assure that land is developed in conformity with the Burke County Comprehensive Plan.

## **1.06.00 ADMINISTRATION OF THE DEVELOPMENT CODE**

### **1.06.01 Department of Planning, Permits and Inspections; Director.**

- A. There is created the Department of Planning, Permits and Inspections and the Office of Building Official, the director of the department. The Building Official shall be employed by the Board of Commissioners and shall report directly to the Board of Commissioners.

- B. Duties of the Building Official.
  - 1) The Building Official is authorized and directed to implement the terms, conditions and operations of this chapter and to undertake such activities as may be necessary to fulfill the duties and responsibilities imposed by this chapter on the Department of Planning, Permits and Inspections.
  - 2) The Building Official shall annually prepare and submit to the Board of Commissioners a proposed budget for the operation of the Department of Planning, Permits and Inspections, including the operation of the Planning Commission. In addition, the Building Official shall prepare and submit to the Planning Commission and the Board of Commissioners an annual report of the operations and activities of the Department of Planning, Permits and Inspections.
  - 3) The Building Official shall serve as secretary of the Planning Commission.

## **1.07.00 DOCUMENTS ADOPTED BY REFERENCE**

### **1.07.01 Official Zoning Map of Burke County**

The Official Zoning Map of Burke County, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of the LDC.

### **1.07.02 Burke County Functional Classification System Map**

The Official Burke County Functional Classification System Map as now or hereafter amended, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of the LDC

### **1.07.03 Building and Construction Codes**

- A. There are hereby adopted, for the purpose of establishing rules and regulations for the construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures in the unincorporated area of the county, including permits, the following state minimum standard codes, all and future amendments and future additions to those codes to the same extent and effect as if set forth verbatim in this article:
  - 1) Mandatory Codes:
    - a. Georgia State Minimum Standard Building Code (International Building Code with Georgia State Amendments)
    - b. Georgia State Minimum Standard One and Two Family Dwelling Code (International Residential Code for One- and Two-Family Dwellings with Georgia State Amendments)
    - c. Georgia State Minimum Standard Fire Code (International Fire Code with Georgia State Amendments)
    - d. Georgia State Minimum Standard Plumbing Code (International Plumbing Code with Georgia State Amendments)
    - e. Georgia State Minimum Standard Mechanical Code (International Mechanical Code with Georgia State Amendments)

- f. Georgia State Minimum Standard Gas Code (International Fuel Gas Code with Georgia State Amendments)
  - g. Georgia State Minimum Standard Electrical Code (National Electrical Code with Georgia State Amendments)
  - h. Georgia State Minimum Standard Energy Code (International Energy Conservation Code with Georgia State Supplements and Amendments)
  - i. Life Safety Code (NFPA 101)
- 2) Permissive Codes:
- a. International Property Maintenance Code
  - b. International Existing Building Code
- B. All land disturbing activities shall be conducted in accordance with the Georgia Soil Erosion and Sedimentation Control Act of 1975. Contact Environmental Protection Division, East Central District in Augusta by phone at (706) 792-7744.

#### 1.07.04 **Manual for Erosion and Sediment Control**

The *Manual for Erosion and Sediment Control in Georgia* (latest edition), published by the State Soil and Water Conservation Commission, is hereby adopted by reference and declared to be part of the LDC. The manual may be viewed at [http://www.gaepd.org/Documents/esc\\_manual.html](http://www.gaepd.org/Documents/esc_manual.html) (webpage maintained by the Environmental Protection Division of the Georgia Department of Natural Resources).

#### 1.07.05 **Areas of Special Flood Hazard**

The areas of special flood hazard identified by FEMA 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 the LDC. The current effective FIS may be viewed at <http://www.fema.gov/hazard/map/index.shtm> (webpage maintained by the Federal Emergency Management Agency).

#### 1.07.06 **Manual for On-Site Sewage Management Systems**

The Georgia Department of Human Resources' 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 the LDC. The manual may be viewed at the Burke County Health Department, 114 Dogwood Drive, Waynesboro, Georgia (706) 554-3456 or at <http://health.state.ga.us/programs/envservices/onsitemanual.asp> (webpage maintained by the Georgia Department of Human Resources, Division of Public Health).

#### 1.07.07 **Standard Specifications for Road and Bridge Construction**

The *Standards Specifications for Road and Bridge Construction* (latest edition), published by the Georgia Department of Transportation, is hereby adopted by reference and declared to be part of this LDC.

#### 1.07.08 **American Association of State Highway and Transportation Officials (AASHTO) Standards**

A Policy on Geometric Design of Highways and Streets (latest edition), published by the American Association of State Highway and Transportation Officials (AASHTO) is hereby adopted by reference and declared to be part of this LDC.

## **1.08.00 RULES OF INTERPRETATION**

### **1.08.01 Generally**

- A. Specific provisions of the LDC shall be followed in lieu of general provisions that may be in conflict with the specific provision.
- B. In the interpretation and application of the LDC 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 the LDC conflict with other regulations, the more stringent restrictions shall be applied.

### **1.08.02 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 the LDC, the Building Official shall be responsible for interpretation. In the interpretation of the LDC, the Building Official shall be guided by the Burke County Comprehensive Plan and applicable state or federal law. The Building Official may also refer to the County Attorney or to the Board of Commissioners for their determination.
- B. Responsibility for interpretation by the Building Official as set forth in this section shall be limited to standards, regulations, and requirements of the LDC, and shall not be construed to include interpretation of any technical codes adopted by reference in the LDC. Interpretation shall not be construed to override the responsibilities assigned by the Board of Commissioners to the Planning Commission or any commission, board, or official named in other sections or articles of the LDC.

### **1.08.03 Zoning District Boundary Interpretations**

Interpretations regarding boundaries of zoning districts described in Article II shall be made in accordance with the following:

- A. Boundaries shown as approximately following any street shall be construed as following the centerline of the street.
- B. Boundaries shown as approximately following any platted lot line or other property line shall be construed as following such line.
- C. Boundaries shown as approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.
- D. Boundaries shown as approximately following the shoreline of a river, stream, lake or other water body shall be construed as following such shoreline.

### **1.08.04 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 neuter.

- 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.

### 1.08.05 Computation of Time

When a number of days is prescribed for the exercise of any privilege or the discharge of any duty, the first or last day shall not be counted; and if the last day falls on Saturday or Sunday, the person having such privilege or duty shall have through the following Monday to exercise the privilege or to discharge the duty. When the last day prescribed for such action falls on a public and legal holiday as provided for in O.C.G.A., section 1-4-1, the person having the privilege or duty shall have through the following day to exercise the privilege or to discharge the duty; however, when the following day is a Saturday or Sunday, the person shall have through the following Monday to exercise the privilege or to discharge the duty.

## 1.09.00 ACRONYMS AND DEFINITIONS

Words and phrases shall be construed according to the common and approved usage of the language; but technical words and phrases and such others as may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning. The following terms are defined for purposes of the LDC.

### 1.09.01 Acronyms

- A-1 – General Agricultural District
- ADT – Average Daily Trips
- ANSI - American National Institute
- BFE – Base Flood Elevation
- BMP – Best Management Practices
- CABO – Council of American Building Officials
- CLOMA – Conditional Letter of Map Amendment
- CLOMR – Conditional Letter of Map Revision
- C-C – Crossroads Commercial District
- C-G – General Commercial District
- DBH – Diameter at Breast Height
- DNR – Georgia Department of Natural Resources
- DRI – Development of Regional Impact
- EIA – Electronic Industries Alliance
- 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  
GDOT – Georgia Department of Transportation  
I-1 – Light Industrial District  
I-2 – General Industrial District  
I-3 – Special Use Industrial District  
LDC – Land Development Code  
LIA – Local Issuing Authority  
LOMR – Letter of Map Revision  
LSC – Life Safety Code  
MRPA – Metropolitan River Protection Act  
NFPA – National Fire Protection Association  
NGVD – National Geodetic Vertical Datum  
NOI – Notice of Intent  
NTU – Nephelometric Turbidity Units  
OCGA – Official Code of Georgia Annotated  
O-I – Office Institutional District  
PCS – Personal Communications Services  
R-1 – Low Density Residential District  
R-2 – Medium Density Residential District  
R-3 – High Density Residential District  
R-4 – Manufactured Home Park District  
RV – Recreational Vehicle  
SMR – Specialized Mobile Radio  
SWCD – Soil and Water Conservation District  
TIA – Telecommunication Industry Association

### 1.09.02 Definitions

**Access corridor.** A strip of land which has been designated to connect a tract of land to a public or private road. An Access Corridor may be fee simple title or an easement

**Access drive.** A private road or way giving access from a public road to land abutting the right-of-way thereof; a vehicular entrance to or exit from such abutting property to a public road.

**Accessory.** A use or structure which is incidental and subordinate to the principal use or structure, and which is located on the same lot as the principal use or structure.

**Addition.** Any walled and roofed expansion to the perimeter of an existing 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 an independent perimeter load-bearing wall, shall be considered "new construction".

**Adult entertainment establishments.** Adult entertainment establishments shall be defined as the following terms, in addition to the definitions in the Burke County Adult Entertainment Ordinance:

**Adult bookstore.** An establishment having a substantial or significant portion of its stock in trade, magazines or other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas or an establishment with a segment or section comprising five (5) percent

or more of its total floor space, devoted to the sale or display of such materials or five (5) percent or more of its net sales consisting of printed materials which are for sale or rent, which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**Adult dancing establishment.** A business that features dancers displaying or exposing specified anatomical areas.

**Adult mini-motion picture theater.** An enclosed building with a capacity of less than fifty (50) persons used for commercially presenting material distinguished or characterized by an emphasis on matter depicting or relating to specified sexual *activities* or specified anatomical areas for observation by patrons therein.

**Adult motion picture arcade.** Any place to which the public is permitted or invited wherein coins or slug operated or electronically, electrically or mechanically controlled still or motion picture machines, projectors or other image-producing devices are maintained to show images to five (5) or fewer persons per machine at any one time and where the images so displayed are distinguished or characterized by an emphasis on depicting or describing specified sexual activities or specified anatomical areas.

**Adult motion picture theater.** An enclosed building with a capacity of fifty (50) or more persons used for presenting material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by patrons therein.

**Adult video store.** An establishment having a substantial or significant portion of its stock in trade, video tapes or movies or other reproductions, whether for sale or rent, which are distinguished or characterized by their emphasis on matter, anatomical areas or an establishment with a segment or section, comprising five (5) percent of its total floor space, devoted to the sale of display of such material or which derives more than five (5) percent of its net sales from videos which are characterized or distinguished by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas.

**Escort bureau; introduction services.** Any business, agency or persons who, for a fee, commission, hire, reward, or profit, furnish or offer to furnish names of persons, or who introduce, furnish or arrange for persons who may accompany other persons to or about social affairs, entertainments or places of amusement, or who may consort with others about any place of public resort or within any private quarters.

**Erotic dance establishment.** A nightclub, theater or other establishment which features live performances by topless and/or bottomless dancers, go-go dancers, strippers or similar entertainers, where such performances are distinguished or characterized by an emphasis or specified sexual activities or specified anatomical areas.

**Agriculture, commercial.** The raising, harvesting, or storing of crops; feeding, breeding, or managing livestock or poultry; producing or storing feed for use in the production of livestock, including but not limited to cattle, calves, swine, hogs, goats, sheep, and rabbits, or for use in the production of poultry, including but not limited to chickens, hens, ratites, and turkeys; producing plants, trees, fowl, or animals; or the production of aquacultural, horticultural, dairy, livestock, poultry, eggs, and apiarian products. Excludes animal feeding and animal containment facilities for poultry, swine, livestock, and dairy production.

**Agriculture, intensive commercial.** Animal feeding operations and animal containment facilities for poultry, swine, livestock, and dairy production.

**Airport.** A tract of land maintained for the landing and takeoff of aircraft, including facilities for the shelter, parking, supply and repair of aircraft.

Private Airport. An airport having restricted access based upon prior arrangements made with the airport sponsor. An example of a private use airport is a residential airstrip that is collectively owned, operated and utilized by adjacent residents (also known as a “residential fly-in” subdivision). A private airport may also be used for emergency purposes by aircraft used for life-saving or fire protection purposes.

**Alley.** See “Road.”

**Animal care facilities.** An establishment that provides animal and pet care services, including boarding, grooming, sitting, training, and veterinary services.

**Animal containment/animal feeding operation.** An agricultural facility (other than an aquatic animal production facility) where animals are stabled or confined and fed or maintained for a total of 45 days or more in any 12 month period, and the animal confinement areas do not sustain crops, vegetative, forage growth, or post-harvest residues in the normal growing season. Structures used for the storage of animal waste from animals in the operation also are part of the animal feeding operation. Two (2) or more animal containment facilities for livestock or poultry production under common ownership shall be considered to be a single operation if they adjoin each other or if they share a common system for the disposal/management of wastes.

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

**Appeal.** A formal review of an administrative decision regarding provisions of the LDC.

**Approach Surface.** The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the runway. The approach surface extends 5,000 feet from the end of the runway at an approach slope of 20 feet horizontally for each one foot vertically (20:1). The inner edge of the approach surface (beginning at each end of the runway) is 250 wide, and expands uniformly to a width of 1,250 feet at a distance of 5,000 feet from the end of the runway.

**Area of shallow flooding.** A designated AO or AH zone on a community's flood insurance rate map (FIRM) with base flood depths from one to three feet, and/or where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**Area of special flood hazard.** The land within the flood plain that is subject to a 1% or greater chance of flooding in any given year. In the absence of official designation by the Federal Emergency Management Agency, areas of special flood hazard shall be those designated by the local community and referenced in the Flood Damage Prevention section in Article III of this LDC.

**Assisted-living services.** Services that are provided by board-and-care establishments, such as adult foster care homes and adult care group homes (personal care homes) in accordance with the Rules of Georgia Department of Community Health, Healthcare Facility Regulation Chapter 111-8-62. Services include daily activity assistance, such as dressing, grooming, and bathing for ambulatory adults. Homes cited herein are categorized as follows:

**Congregate personal care home.** A home for adults which offers care to sixteen (16) or more persons.

**Family personal care home.** A home for adults in a residence, non- institutional in character, which offers care to two (2) through six (6) persons.

**Group personal care home.** A home for adults in a residence, or compatible building type that is non-institutional in character, which offers care to seven (7) through fifteen (15) persons.

**Back slope.** The slope (gradient) of a drainage ditch from the bottom of the ditch to or toward the closest right-of-way line of a road.

**Base flood.** See “Flood or flooding.”

**Basement.** That portion of a building having its floor subgrade (below ground level) on all sides.

**Bed and breakfast inn (B&B).** A private home with one (1) or more bedrooms that are rented for overnight lodging, where meals may be provided subject to applicable Burke County codes, Board of Health regulations, and Rules of the Department of Human Resources, Chapter 290-5-18. The operator of the inn shall live on the premises.

**Block.** A piece or parcel of land entirely surrounded by public streets, public lands, rights-of-way, watercourses or other well-defined and fixed boundaries.

**Board of Appeals.** Burke County Board of Zoning Appeals.

**Board of Commissioners.** Board of Commissioners of Burke County, Georgia.

**Board of Health.** Burke County Board of Health.

**Buffer.** A natural and/or landscaped area intended to visibly separate uses through distance to shield or block noise, light, glare, or other nuisances, or to protect natural features such as streams, rivers, or wetlands, or to protect natural or manmade reservoirs, or to provide for added green space, greenways and greenbelts within the county.

**Buffer, state waters.** An area along the course of any state waters to be maintained in an undisturbed and natural condition.

**Building.** Any structure having a roof supported by columns or by walls and intended for shelter, housing, or enclosure of persons, animals or chattels.

**Accessory building.** A detached, subordinate structure designed for a use which is clearly incidental to, customarily associated with, and related to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

**Building addition.** See “Addition.”

**Building frontage.** The linear feet of the exterior wall of a building that faces any road or street that provides a means of direct ingress and egress to the lot.

**Building façade.** The exterior surface or face of a building. The front facade is the building wall, which contains the primary entry of the building. The side facade means the exterior walls other than the main or front view.

**Building height.** The vertical distance of a building measured from the average elevation of the finished lot grade along the front of the building to the highest point of the building.

**Building line.** A line fixed at a certain distance from the front and sides of a lot beyond which the building may not project.

**Building story.** That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it and including basements used for the principal use.

**Elevated building.** A nonbasement building built to have the lowest floor of the lowest enclosed area elevated above the ground level by means of fill, solid foundation perimeter

walls, pilings, columns, piers, or shear walls adequately anchored so as not to impair the structural integrity of the building during a base flood event.

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

**Building Official.** The person appointed, employed or otherwise designated as the Director of Planning, Permits and Inspections; the county Building Official. Includes the term “Building Inspector.”

**Campground, commercial.** A plot of ground on which two or more campsites are located, established, or maintained for temporary occupancy by camping units for recreation or vacation purposes and which are rented out for such purposes. A commercial campground charges fees for camping units to occupy campsites, as contrasted to recreational campgrounds.

**Campground, recreational.** A plot of ground on which two or more campsites are located, established, or maintained for temporary occupancy by camping units for recreation or vacation purposes. A recreational campground does not charge fees for camping units to occupy campsites, as contrasted to commercial campgrounds.

**Camping unit.** Any tent, trailer, cabin, lean-to, recreational vehicle or similar structure established or maintained and operated in a campground as temporary living quarters for recreational or vacation purposes.

**Cemetery.** A place dedicated to and used, or intended to be used, for permanent interment of human remains. A cemetery may contain land or earth interments; mausoleum, a vault, crypt interments; a columbarium or other structure or place used or intended to be used for the inurnment of cremated human remains; or any combination of one or more of such structures or places.

**Centerline.** The succession of midpoints between the identifiable limits of any improvements within the right-of-way of a road.

**Certificate of occupancy.** A document allowing the use or occupancy of a building and certifying the building, structure, land and/or use conforms to the requirements of the LDC.

**Child day care.** Establishments that are licensed or commissioned by the Georgia Department of Human Resources to care for infants and preschool children for less than twenty-four (24) hours of day without transfer of legal custody. Some offer pre-kindergarten education programs or provide care services for older children. Child day care facilities are classified as follows:

**Child day care center.** Any place operated as day care for nineteen (19) or more children.

**Family day care home.** A private residence operated as day care for up to six (6) children.

**Group day care home.** Any place operated as day care for not less than seven (7) or more than eighteen (18) children.

**Clerk of the Superior Court.** The Clerk of the Superior Court of Burke County, Georgia.

**Club or lodge, private.** See “Private club.”

**Commercial.** Any use or activity involving the sale of goods or services carried out for profit.

**Commercial slaughterhouse.** An establishment for the killing, storage, dressing, manufacture, preparation, or processing of any animal, fowl or by-product thereof for human consumption. Includes the term “abattoir.”

**Comprehensive Plan.** The Burke County Comprehensive Plan, approved by the Board of Commissioners, including any amendments, extensions, or additions thereto as adopted by the Board of Commissioners.

**Condominium.** A building containing individually owned dwelling units and related, jointly owned common areas as defined by the laws of the State of Georgia.

**Conical Surface.** The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet. Height limitations for the surface range from 150 feet above the airport reference elevation at the inner edge of the conical surface to 350 feet at the outer edge of the conical surface.

**Construction.** The erection of a new building or structure; the alteration of an existing building or structure in connection with its repair or renovation; an addition to an existing building or structure.

**Existing construction.** For the purpose of the Flood Damage Prevention section of Article III in this LDC, any structure for which the start of construction commenced before September 18, 1989.

**New construction.** For the purpose of the Flood Damage Prevention section of Article III in this LDC, any structure for which the start of construction commenced on or after September 18, 1989 and includes any subsequent improvements to the structure.

**Start of construction.** For the purpose of the Flood Damage Prevention section of Article III in this LDC, the date a development permit was issued, provided the actual start of construction, repair, reconstruction, or improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of the structure such as the pouring of slabs or footings, installation of piles, construction of columns, or any work beyond the stage of excavation, and includes the placement of a manufactured home on a foundation. (Permanent construction does not include initial land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms; nor does it include the installation on the property of buildings appurtenant to the permitted structure, such as garages or sheds not occupied as dwelling units or part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**Conveyance.** Property that is deeded from one family member to another for the purpose of constructing one (1) single-family dwelling in accordance with the requirements of this LDC.

**Conventional built dwelling.** A dwelling unit constructed from building materials such as lumber, brick, or stone delivered to the site, where the building is intended to be situated. A conventional built may be construed to mean a modular home or industrialized housing. A conventional built dwelling shall not be construed to mean a manufactured home or mobile home.

**County.** The unincorporated area of Burke County, Georgia.

**County Administrator.** The person appointed, employed or otherwise designated as the county's chief administrative employee by the Board of Commissioners; the Burke County Administrator

**County Board of Health.** The Board of Health of Burke County, Georgia.

**County Commission.** The Burke County Board of Commissioners.

**County Health Officer.** The person appointed, employed or otherwise designated as the county sanitarian by the Burke County Board of Health.

**County Road Superintendent.** The person appointed, employed or otherwise designated by the Board of Commissioners as the county road superintendent. Includes the term “Public Works Director.”

**County vehicular service road.** See “Road.”

**Critical facility.** Any public or private facility, which, if flooded, would create an added dimension to the disaster or would increase the hazard to life and health. Critical facilities include:

- (1) Structures or facilities that produce, use, or store highly volatile, flammable, explosive, toxic, or water-reactive materials;
- (2) Hospitals and nursing homes, and housing for the elderly, which are likely to contain occupants who may not be sufficiently mobile to avoid the loss of life or injury during flood and storm events;
- (3) Emergency operation centers or data storage centers which contain records or services that may become lost or inoperative during flood and storm events; and
- (4) Generating plants, and other principal points of utility lines.

**Cross drain.** A device, usually constructed of reinforced concrete or consisting of concrete or corrugated aluminum pipe, whose function is to transfer or drain surface water from one side of a roadway to the other, and located beneath the surface of the roadway.

**Cross drain, size opening.** The interior vertical dimension, usually the diameter, of a cross drain.

**Cul-de-sac.** See “Road”.

**Curb cut.** The providing of vehicular ingress and/or egress between property and an abutting public street.

**Customary home occupation.** See “Home occupation.”

**Cut.** A portion of land surface or area from which earth has been removed or will be removed by excavation; the depth below the original ground surface to excavated surface. Also known as excavation.

**Dead-end road.** See “Road.”

**Decentralized wastewater management system.** A privately installed, operated and maintained wastewater system that is designed and built to collect, treat and disperse wastewater on a development site and that acts as an alternative to traditional septic systems or public sewerage facilities where permitted in the LDC. Includes the terms “package plant” and “community sewerage disposal system.”

**Department.** The Georgia Department of Natural Resources.

**Density.** The number of dwelling units per acre of land, with the exception that the term “density” as used in Article VI of this LDC is used as a measurement related to road construction.

**Developer.** Any person, corporation or duly authorized agent responsible for any undertaking that requires development approval.

**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, and permanent storage of materials or equipment.

**Drainage structure.** A device composed of a virtually nonerodible material such as concrete, steel, plastic or other such material that conveys water from one place to another by intercepting the flow and carrying it to a release point for stormwater management, drainage control, or flood control purposes.

**Dwelling or dwelling unit.** A building or portion thereof which is designed or used for non-transient residential purposes, constituting a separate, independent housekeeping establishment containing independent cooking, sleeping and toilet facilities, and which is physically separated from any other dwelling units or uses which may be in the same structure.

**Accessory dwelling.** A unit established within the principal building or in a separate structure, and on the same lot as the principal structure.

**Caretaker dwelling.** A freestanding accessory dwelling occupied by an employee of the property owner for the purpose of property maintenance, security or nighttime property management.

**Duplex or two-family dwelling.** A building containing two (2) dwelling units, designed for occupancy by not more than two (2) families living independent of each other.

**Multi-family dwelling.** A building either designed, constructed, altered, or used for more than two (2) adjoining dwelling units, with each dwelling unit having a party wall or party floor ceiling connecting it to at least one (1) other dwelling unit in the building. Includes the terms "apartments", "apartment building", and "condominium."

**Single-family detached dwelling.** A detached building used and either designed or constructed for one (1) dwelling unit.

**Tenant dwelling.** A residential structure located on a farm, said structure being owned by the farm owner/operator and occupied by a non-transient farm worker who is employed by the owner/operator of the farm. At least one of the occupants must be an employee of the farm operation or their presence must be necessary and essential for the orderly operation of the farm.

**Townhouse.** One (1) of a series of attached dwelling units on separate lots which are separated from each other by party wall partitions extending at least from the lowest floor level to the roof. Includes the term "townhome."

**Easement.** A grant of one (1) or more property rights by a property owner to the general public, a public utility, a governmental unit, or a private individual or corporation for the use of a portion of the owner's land for a specific purpose, or use as a means of access to other property. Easements shall be designated "public" or "private" depending upon the nature of the usage.

**Drainage easement.** An agreement allowing the owner of adjacent tracts or other persons to discharge stormwater runoff onto the tract or parcel of land subject to the drainage easement.

**Erosion.** The process by which land surface is worn away by the action of wind, water, ice or gravity.

**Erosion, Sedimentation and Pollution Control Plan.** A plan for the control of soil erosion, sedimentation and pollution resulting from a land-disturbing activity.

**Existing manufactured home park or subdivision.** For the purpose the Flood Damage Prevention section of Article III in this LDC, a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum the installation of utilities, the construction of streets, and final site grading or the pouring of concrete pads) is completed before September 18, 1989.

**Expansion to an existing manufactured home park or subdivision.** The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed, including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads.

**Extensive business use.** The use of land and structures for trade and services which are of low or moderate employment intensity, deal in large or bulky goods and equipment requiring considerable indoor or outdoor space or large and specialized equipment for display, handling, storage or service, and generate significant truck traffic, including:

(a) sales and storage of lumber, metal and wood fencing, ornamental grill work, and building, electrical, heating, plumbing, welding and similar contractors and industrial supplies (including sale of sand and gravel but excluding sales of asphalt and concrete from batch plant or transit-mix plant); sales and tank storage of bulk fuel or motor oil, gasoline, heating, and illuminating gas, and the like (but not the refining or processing thereof), and sales and storage of coal; cold storage services; sale and service of physician/surgeons, barber/beauty and restaurant/hotel food service supplies and equipment; catering services, amusement and vending machines sales and service; uniform supply service; laundry plant (without individual patron service desk); manufacture, sale and service of electric and neon signs and advertising structures; and monument sales (but not manufacture);

(b) New and used motor vehicle (of three-quarter ton or less rated capacity) and small nonvehicular engines and equipment sales, rental and such services as repair, reconditioning, painting, body and fender work, upholstering and seat covering, and tire retreading and recapping; motor vehicle (of whatever size), manufactured home, travel and other trailer, marine craft, and small aircraft, and small aircraft sales and rental (but not servicing as above) and exterminating, fumigating, septic tank pumping, furnace cleaning, well drilling and like services;

(c) sales and rental and maintenance (not involving heavy metal working) for motor vehicles of greater than three-quarter ton rated capacity and for large transportation, communications, utilities, industrial, commercial, agricultural, or contractors equipment;

(d) sale, storage or sorting (but not disassembly or processing) of junk, waste, discarded or salvaged equipment, machinery, vehicles, or other similar materials.

**Family.** One (1) or more persons occupying a single dwelling unit on a non-transient basis, where all members are related by blood, marriage, adoption, or foster care, provided that a related family may also have up to two additional unrelated individuals living with them. The term "family" shall also include a group of no more than four (4) unrelated persons occupying a single dwelling unit on a non-transient basis. The term "family" does not include any organization or institutional group, or persons occupying a boarding house, rooming house, or hotel, as herein defined.

**Fill.** A portion of land surface to which soil or other solid material has been added; the depth above the original ground.

**Final stabilization.** See "Stabilization."

**Finished grade.** See "Grade."

**Flood or flooding.** A general and temporary condition of partial or complete inundation of normally dry land areas from: (1) The overflow of inland or tidal waters; or (2) The unusual and rapid accumulation or runoff of surface waters from any source.

**Base flood.** The flood having a 1% chance of being equaled or exceeded in any given year.

**Base flood elevation.** The elevation shown on the flood insurance rate map for zones AE, AH, A1-A30, AR, AR/A, AR/AE, AR/A1-A30, AR/AH, AR/AO, V1-V30, and VE that indicates the

water surface elevation resulting from a flood that has a one percent chance of equaling or exceeding that level in any given year.

**Flood hazard boundary map.** An official map of a community, issued by the Federal Insurance Administration Federal Emergency Management Agency, where the boundaries of areas of special flood hazard have been defined as Zone A.

**Flood insurance rate map.** An official map of a community, issued by the Federal Insurance Administration, delineating the areas of special flood hazard and/or risk premium zones applicable to the community.

**Flood insurance study.** The official report by the Federal Insurance Administration evaluating flood hazards and containing flood profiles and water surface elevations of the base flood.

**Floodplain.** Any land area susceptible to flooding.

**Floodproofing.** 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

**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 a designated height.

**Frontage.** The distance for which the front boundary line of the lot and the street line are coincident. In the case of corner lots or through lots, all sides of a lot adjacent to streets shall be considered frontage.

**Front slope.** The slope (gradient) of a drainage ditch from the shoulder of a roadway to the bottom of the ditch.

**Funeral home.** The use of land or structures for the preparation of the dead for burial or cremation, for the viewing of the body, and for conducting observances before burial or cremation.

**Gasoline station.** An establishment (with or without a convenience store) with gasoline pumps means the use of land and structures for services that primarily involve the retail sale of gasoline and related vehicular fuel and additives, oil and related lubricants and additives, and minor accessories, batteries, packaged supplies, tires, tubes and the like and minor services such as lubrication, engine adjustments, minor parts adjustments, repair, replacement, polishing, tire and tube balancing, repair and replacement; washing, waxing, and the like for individual passenger vehicles and other vehicles of three-quarter ton or less rated capacity, but excluding steam cleaning, spray painting, engine overhaul; overnight vehicular storage; commercial parking, wrecker

**General industry.** See "Industrial."

**Governing authority.** The governing authority of Burke County, which is the Burke County Board of Commissioners.

**Grade, finished.** The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

**Grade, highest adjacent.** The highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

**Grading.** Altering the shape of ground surfaces to a predetermined condition; this includes stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

**Ground elevation.** The original elevation of the ground surface prior to cutting or filling.

**Ground anchor.** Any device at the manufactured house stand designed to secure a manufactured house to the ground.

**Guest house.** Accessory dwelling unit for use by a bona fide nonpaying guest or relative of the occupants of the premises, situated within a detached or semi-detached site-built structure located on the same premises with the principal residence.

**Height.** The vertical distance of any structure measured from the bottom of the base of the structure at ground level to the highest point of such structure. The following definitions shall be used to define "height" of wireless telecommunication towers and wind turbines, respectively:

**Height (when referring to a wireless telecommunication tower or structure).** The distance measured from the pre-existing grade level to the highest point on the tower or structure, even if said highest point is an antenna or lightning protection device.

**Height (when referring to a wind turbine).** The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

**Historic structure.** See "Structure."

**Home occupation.** An occupation, profession or trade customarily conducted by an occupant in a dwelling unit as a secondary use entirely within a principal dwelling, which use is clearly incidental and secondary to the use of the dwelling for residential purposes. Includes the term "customary home occupation."

**Horizontal Surface.** The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs of 5,000 feet in length from the center of each end of the runway surface and connecting the adjacent arcs by lines tangent to those arcs.

**Hotel.** See "Tourist accommodations."

**Impervious surface.** A manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples include buildings, roads, driveways, parking lots, decks, swimming pools and patios.

**Individual septic tank.** A general term referring to a means of sewage disposal, other than a public or community system, serving buildings or structures designed or used for human occupancy, congregation or employment.

**Indoor activity use.** The use of land structures for predominately indoor activities of a cultural, educational or recreational nature including auditoriums, exhibit halls, gymnasiums, theaters (except drive-in outdoor types), billiard parlors, bowling alleys, penny arcades, skating rinks or other recreation centers.

**Industrialized housing.** A factory fabricated dwelling or commercial unit built in one (1) or more sections designed to fit together on a permanent foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act and which bears the seal of approval issued by the Commissioner of the Georgia Department of Community Affairs. Includes the term "modular home." The term "industrialized housing" shall not be construed to mean "manufactured home" or "mobile home."

**Industry.** Any use of land or structures involving the manufacturing and/or processing of any material. Includes the term "industrial."

**Industry, extractive.** The use of land and structures for the preparation, distribution and processing of dust-producing mineral products such as gypsum, lime, abrasives, cement, fertilizer, plaster, crushed stone, monuments, sand, gravel and soil.

**Industry, light.** The use of land and structures for manufacturing limited to predominately indoor industrial activities involving only moderate quantities and sizes of production materials and finished products and involving those operations only that generate no significant particulate or gaseous emissions that could create harmful or unpleasant effects outside the immediate area of activity, including operations such as assembly, binding, bottling, ceramic firing, compounding, engraving, fabricating, freezing, optical goods, grinding, packaging, printing, physical processing, research, storage or testing, but not involving large mills or machines for grinding, stamping, punching or pressing metals or planing or sawing of lumber or kilns fired by other than gas or electricity from previously manufactured components or previously prepared materials, and the like.

**Industry, general.** The use of land and structures for manufacturing involving indoor and outdoor industrial operations characterized by some emissions, but are not inherently offensive, dangerous or hazardous to abutting property or operations or to the general public, including: (a) brick, tile or terracotta manufacture; (b) furniture, feed, flour or other mill; (c) Manufacturing, compounding, processing, packaging or treatment of bakery goods, beverages, candy, dairy products, feed, flour, and food products; (d) laundry plant (steam or wet wash); (e) barging, freight, or trucking yard or terminal; (f) manufacture of nongaseous or nontoxic or nonnoxious chemicals; (g) manufacture of concrete products (but not manufacture of cement); (h) fabrication plant, foundry, machine shop, or metal working plant for light nonferrous metals (not involving the use of machines for stamping, pressing, or punching weighing in excess of five tons); (i) blacksmith shop; (j) vocational or trade schools in which the above activities are taught or performed.

**Inoperable vehicle.** Any automobile, vehicle, trailer or any kind or type or contrivance, or a party thereof, the condition of which is one or more of the following: (a) wrecked; (b) dismantled; (c) partially dismantled; (d) inoperative; (e) abandoned; (f) discarded; (g) scrapped; or (h) does not have a valid license plate and current registration attached thereto.

**Intersecting angle.** The acute angle, measured in degrees, formed by the intersection of the centerlines of two roads.

**Jog, road.** See "Road."

**Jurisdictional control.** The primary responsibility for regulatory control by a unit of government.

**Land-disturbing activity.** Any activity which may result in soil erosion from water or wind and the movement of sediments into state waters or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting, and filling of land but not including agricultural practices as described in the state minimum standards for Soil Erosion, Pollution, and Sediment Control.

**Landfill.** Any disposal facility where any amount of waste (of any variety) is disposed of except permit by rule for inert material.

**Larger common plan of development.** A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale.

**Local issuing authority.** The governing authority of any county or municipality which is certified pursuant to O.C.G.A. § 12-7-8(a).

**Lot.** A measured parcel or tract of land having fixed boundaries and designated on a plat or survey.

**Lot by default.** A lot which was once whole but divided into parts through the acquisition of public property or construction of a public road. Each piece of the once whole lot shall henceforth be considered a separate and independent lot. The lots shall be governed by the Nonconforming Lots of Record section of this LDC.

**Lot, corner.** A lot having frontage on two (2) or more public streets at their intersection.

**Lot depth.** The average horizontal distance between the front and rear lot lines.

**Lot, double frontage or through lot.** A lot other than a corner lot, that has frontage upon two (2) or more streets that do not intersect at a point abutting the property.

**Lot, flag.** A lot having only its driveway fronting on a public street, with the result that only the width of the driveway is the frontage of the lot.

**Lot, interior.** A lot other than a corner lot or a through lot.

**Lot line (property line).** The property boundary, abutting a right-of-way line, or any line defining the exact location of a lot.

**Lot of record.** A lot which is part of a subdivision plat recorded in compliance with the LDC in the office of the Clerk of Superior Court after the adoption of the LDC. Also, a lot which was created either by a legally recorded metes and bounds description or a legally recorded subdivision plat before the adoption of the LDC.

**Lot width.** The distance between side lot lines measured at the building line, parallel to the street right-of-way line.

**Lowest floor.** The lowest floor of the lowest enclosed area, including basement. An unfinished or flood resistant enclosure, used solely for parking of vehicles, building access, or storage, in an area other than a basement, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of other provisions of this LDC.

**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 under the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401, et seq. The term "manufactured home" shall not be construed to mean "mobile home" or "modular home."

**Manufactured home park.** A contiguous parcel of land, which has been developed into individual lots for the installation of manufactured, industrialized or modular homes. Said lots may either be leased or for sale. Includes the term "Manufactured housing development or subdivision."

**Mean sea level.** The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of the National Flood Insurance Program, the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community's flood insurance rate map are referenced.

**Metropolitan River Protection Act (MRPA).** A state law referenced as O.C.G.A. § 12-5-440 et seq., which addresses environmental and developmental matters in certain metropolitan river corridors and their drainage basins.

**Mining.** The use of land and structures for the excavation of minerals, rock, dimension stone, gravel, topsoil or fill dirt for purposes of removal from the site on which extracted (not including the preparation of a site for a nonextractive 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. The term “mobile home” shall not be construed to mean “manufactured home” or “modular home.”

**Modular home.** A factory fabricated dwelling or commercial unit built in one (1) or more sections designed to fit together on a permanent foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act and which bears the seal of approval issued by the Commissioner of the Georgia Department of Community Affairs. Includes the term “industrialized housing.” The term “modular home” shall not be construed to mean “manufactured home” or “mobile home.”

**Motel.** See “Tourist accommodations.”

**National geodetic vertical datum.** As corrected in 1929, a vertical control used as a reference for establishing varying elevations within the floodplain.

**Natural ground surface.** The ground surface in its original state before any grading, excavation or filling.

**Nephelometric turbidity units (NTU).** Numerical units of measure based upon photometric analytical techniques for measuring the light scattered by finely divided particles of a substance in suspension. This technique is used to estimate the extent of turbidity in water in which colloiddally dispersed particles are present.

**New construction.** See “Construction.”

**New manufactured home park or subdivision.** A manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after April 12, 1989. May 7, 1991.

**Nonconforming use or nonconformity.** Any lawful use, whether of a building or other structure or of a tract of land, that does not conform to the regulations of this Code, either on the effective date of this Code or as a result of any subsequent amendment thereto.

**Nonresidential land service road.** See “Road.”

**Operator.** The party or parties that have: (A) operational control of construction project plans and specifications, including the ability to make modifications to those plans and specifications; or (B) day-to-day operational control of those activities that are necessary to ensure compliance with a storm water pollution prevention plan for the site or other permit conditions, such as a person authorized to direct workers at a site to carry out activities required by the storm water pollution prevention plan or to comply with other permit conditions.

**Outdoor activity use.** The use of land and structures for passive or active outdoor activities characterized by neither inherently hazardous types nor significantly high levels of emissions, including: golf and country club courses, golf driving range, playground, playfield, swimming, golf,

tennis courts, archery course, miniature golf, trampoline or other novelty area, arboretum, botanical garden, ornamental park, historical area, monument or sculpture.

**Outdoor amusement use.** The use of land and structures for outdoor activities characterized by significant levels of traffic hazards or emissions, including amusement park, amphitheater, ballpark, carnival, stadium, fairgrounds, drive-in theater, auto, go-cart or similar racetrack or drag, dog or similar competition course, rifle or other gun firing range.

**Outfall.** The location where storm water in a discernible, confined and discrete conveyance, leaves a facility or site or, if there is a receiving water on site, becomes a point source discharging into that receiving water.

**Outside or outdoor storage.** The keeping of any inventory, goods, junk, materials, merchandise, or commercial vehicles (includes raw, semi-finished and finished materials) in the same place for more than 24 hours.

**Overlay district.** A defined geographic area that applies supplementary regulations to land previously classified as belonging to a specific zoning district or land use category. An overlay district can share the same boundaries with existing zoning districts or can contain only parts of one (1) or more such districts.

**Owner.** The word "owner," applied to a building or land, shall include any part owner, joint owner, tenant in common or tenant in partnership, of the whole or of a part of such building or land.

**Parcel.** A piece of land formally described and recorded with block and lot numbers, by metes and bounds, by ownership, or in such manner as to specifically identify the dimensions and/or the boundaries.

**Permit.** The authorization necessary to conduct a land-disturbing activity under the provisions of this LDC.

**Person.** Any individual, partnership, firm, association, joint venture, public or private corporation, trust, estate, commission, board, public or private institution, utility, cooperative, state agency, municipality or other political subdivision of the State of Georgia, any interstate body or any other legal entity.

**Personal care home.** See "Assisted-living services."

**Planning Commission.** The Burke County Planning Commission.

**Plat.** A map, plan or layout, of a county, city, town, lot, section, subdivision or development indicating the location and boundaries of properties prepared by a licensed surveyor or engineer. Includes the term "sketch plat."

**Plat, final.** The plat of the subdivision, meeting the requirements of these regulations, for recording in the office of the clerk of the superior court of the county.

**Potable water.** Water suitable for drinking purposes.

**Pre-owned manufactured home.** Any manufactured home that has been previously used as a residential dwelling.

**Principal use.** The primary purpose for which land or a building is used.

**Private club.** A non-profit corporation organized and existing under the laws of the state or a fraternal or veterans organization associated with a part of a recognized national fraternal or veterans organization which is organized and operated exclusively for pleasure, recreation and other nonprofit purposes and which has (1) At least 100 members regularly paying dues; and (2) Tax

exempt status under the provisions of 501(a) of the U.S. Internal Revenue Code; and (3) Owns or leases a building or space for the reasonable use of its members; and (4) No members or officers, agents or employees of the club receiving compensation directly or indirectly in the form of commissions or other compensation based on the amount of profits from the sale of alcoholic beverages beyond the amount of such salary as may be fixed by its members at an annual meeting or by its governing body out of the general revenue of the club; and (5) No part of the net earnings inuring to the benefit of any shareholder or member; and (6) Been in continuous operation for at least one year prior to the application for a malt beverage and wine license.

**Private airport.** See "Airport."

**Project.** The entire proposed development project regardless of the size of the area of land to be disturbed.

**Public.** Any land or building owned, used or maintained by a federal, state, county or municipal government or their agencies, accessible to, supported or shared by all members of the community.

**Public road.** See "Road."

**Public sanitary sewerage.** A sanitary system for the collection and treatment of waterborne wastes, and is operated by a local unit of government or approved for operation by the local government.

**Public Works Director.** See "County Road Superintendent."

**Qualified surveyor.** A person licensed by the state to perform the duties of a land surveyor.

**Recycling center.** A facility with recycling areas where solid waste is separated or pretreated.

**Recreational vehicle.** A vehicle, which is: (1) built on a single chassis; (2) 400 square feet or less when measured at the largest horizontal projection (3) designed to be self-propelled or permanently towable by a light duty truck; and (4) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

**Registered engineer.** A person licensed by the state to perform the duties of an engineer.

**Religious facility.** Church, synagogue, temple, mosque or other facility that is designed for worship, ceremonies, and rituals pertaining to a particular system of beliefs.

**Residential.** Any building, structure or unit thereof intended for occupancy as a dwelling, but not including a tourist accommodation as defined in O.C.G.A. Chapter 31-28 or an institution. Portable storage buildings, office trailers, or classrooms shall not be used as dwelling units.

**Residential land service road.** See "Road."

**Restaurant, Custom Service.** An establishment where food and drink are prepared to individual order, ordered and served at the table, and consumed primarily within the principal building or in established outdoor dining areas, as contrasted to a fast food restaurant.

**Restaurant, Fast Food.** See "Restaurant, Limited Service."

**Restaurant, Limited Service.** Any establishment, building or structure where food or drink are served for consumption, either on or off the premises, by order from or service to persons either over an interior counter, outside the structure or from an outdoor service window or automobile service window, or by delivery. This definition shall not include otherwise permitted restaurants where outdoor table service is provided to customers in established outdoor dining areas or where drive-through or take-out service is provided incidental to a Custom Service Restaurant.

**Retail business.** A business consisting primarily of buying merchandise or articles in gross and selling to general consumers in small quantities or broken lots or parcels and not in bulk and not for resale.

**Rezoning action.** To change the zoning classification of a parcel of land. A proposed rezoning action requires review by the Planning Commission and review and approval by the Board of Commissioners.

**Right-of-way.** An area or strip of land, either public or private, on which an irrevocable right of passage has been recorded or otherwise established for the use as a public street, road, thoroughfare, crosswalk, pipeway, drainage canal and/or other similar uses and designated by means of right-of-way lines.

**Right-of-way line.** The dividing line between a lot, tract or parcel of land and a contiguous right-of-way.

**Road.** A right-of-way which provides vehicular access to abutting property. Includes the term "street."

**Alley.** A road which affords only a secondary means of access to the back or side of abutting property, and is not intended for general traffic.

**Collector road.** A road which is intended to collect traffic from local streets and direct it safely to minor or major arterial streets. A collector may also provide direct access to adjacent properties.

**County vehicular service road.** A public road or right-of-way therefor not under the jurisdictional control of the state and is considered to be significant to intracounty vehicular travel.

**Cul-de-sac.** A road with only one (1) outlet, closed and terminated with a permanent vehicular turnaround.

**Dead-end.** A road having only one (1) end open for access to another street, and other end being abruptly terminated with no turnaround.

**Local road.** A street which is intended to serve a limited area for local circulation and whose primary function is to provide direct access to adjoining properties.

**Major arterial road.** A road which is intended to provide swift and safe movement of traffic through the county. Includes the term "principal arterial."

**Minor arterial street.** A road which is intended to provide easy and convenient traffic movement within the county.

**Nonresidential land service road.** A public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and provides or is intended to provide access to land in use or intended for use primarily for commercial and industrial purposes, or accommodates or is intended to accommodate frequent vehicular traffic to land areas whose use or intended use is primarily for such purposes.

**Private road.** A road, or any designated right-of-way or easement therefor, or vehicular access routes from public rights-of-way to private property, not under the jurisdictional control of the county or the state, nor intended or acceptable for such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road.

**Public road.** A road or road right-of-way owned or maintained by a unit of government or an authorized agency thereof.

**Residential land service road.** A public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and which provided or is intended to provide vehicular access to land in use or intended for use primarily for residential purposes.

**Road jog.** The physical condition created when the centerline of a road, or two (2) roads having approximately the same horizontal alignment, intersects the centerline of another road at more than one (1) location.

**Shoulder.** That part of a road that extends from either edge of the travel or wearing surface to a drainage ditch.

**State route.** A public road or right-of-way therefor under the jurisdictional control of the state or is intended or acceptable of such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road.

**Stub street.** A dead-end street at adjoining property lines intended for future extension to serve the development of adjoining areas.

**Roadway drainage structure.** A device such as a bridge, culvert, or ditch, composed of a virtually nonerodible material such as concrete, steel, plastic, or other such material that conveys water under a roadway by intercepting the flow on one (1) side of a traveled way consisting of one (1) or more defined lanes, with or without shoulder areas, and carrying water to a release point on the other side.

**Rooming and boarding.** Temporary accommodations that serve a specific group or membership, such as a dormitory, fraternity or sorority house, or workers' camp and that may offer housekeeping, meals, and laundry services.

**Sediment.** Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity as a product of erosion.

**Sedimentation.** The process by which eroded material is transported and deposited by the action of water, wind, ice or gravity.

**Setback.** The minimum required distance between a street right-of-way or the property boundary lines of a lot and the front, rear, or side lines of a building located on that lot.

**Front setback.** See "Yard, front."

**Rear setback.** See "Yard, rear."

**Side setback.** See "Yard, side."

**Shoulder.** See "Road."

**Sign.** Any object, device, display, structure, or design that is used or intended to be used attract the attention of or to convey information to the public, and that is placed in such a way, whether out of doors or inside or near a window, as to be in the view of the general public.

**Site plan.** The development plan for one (1) or more lots or parcels on which is shown the existing and proposed conditions of the lot(s) or parcel(s) including all of the requirements set forth in the LDC.

**Soil and Water Conservation District Approved Plan.** An erosion and sedimentation control plan approved in writing by the Briar Creek Soil and Water Conservation District.

**Solar collection system.** An accessory panel or other solar energy device that is roof-mounted or ground-mounted,, the primary purpose of which is to provide the collection, inversion, storage, and distribution of solar energy for on-site electricity generation, space heating, space cooling or water heating. Includes the term “solar array.”

**Solar energy farm.** Property used in solar energy development; more specifically, land utilized in the construction and installation of an energy conversion system, including appurtenances, that converts solar energy to a usable form of energy to transfer to the public electric grid in order to sell electricity to a public utility entity. Also known as “solar farm.”

**Solar energy equipment.** Any device associated with a solar energy system, such as an outdoor electrical unit/control box, that transfers the energy from the solar energy system to the intended on-site structure.

**Solid Waste Management Facility.** Any facility for the collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid wastes.

**Special industry.** The use of land and structures for manufacturing activity involving industrial operations that, by their nature, are offensive or noxious, and generally incompatible with residential or other nonspecial industry use of property.

**Stabilization.** The process of establishing an enduring soil cover of vegetation by the installation of temporary or permanent structures for the purpose of reducing to a minimum the erosion process and the resultant transport of sediment by wind, water, ice or gravity.

**Final stabilization.** All soil disturbing activities at the site have been completed, and that for unpaved areas and areas not covered by permanent structures and areas located outside the waste disposal limits of a landfill cell that has been certified by EPD for waste disposal, 100% of the soil surface is uniformly covered in permanent vegetation with a density of 70% or greater, or equivalent permanent stabilization measures (such as the use of rip rap, gabions, permanent mulches or geotextiles) have been used. Permanent vegetation shall consist of: planted trees, shrubs, perennial vines; a crop of perennial vegetation appropriate for the time of year and region; or a crop of annual vegetation and a seeding of target crop perennials appropriate for the region. Final stabilization applies to each phase of construction.

**Start of construction.** See “Construction.”

**State general permit.** The National Pollution Discharge Elimination System general permit or permits for stormwater runoff from construction activities as is now in effect or as may be amended or reissued in the future pursuant to the state's authority to implement the same through federal delegation under the Federal Water Pollution Control Act, as amended, 33 U.S.C. Section 1251, et seq., and O.C.G.A. § 12-5-30(f).

**State waters.** Any and all rivers, streams, creeks, branches, lakes, reservoirs, ponds, drainage systems, springs, wells, and other bodies of surface or subsurface water, natural or artificial, lying within or forming a part of the boundaries of the State which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

**State route.** See “Road.”

**Stormwater management.** The collection, conveyance, storage, treatment and disposal of stormwater runoff in a manner intended to prevent increased flood damage, stream bank channel erosion, habitat degradation and water quality degradation, and to enhance and promote the public health, safety and general welfare.

**Structure.** Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground. For the purpose of the Flood Damage Prevention section of Article III in this LDC, a “structure” shall also include a gas or liquid storage tank.

**Historic structure.** Any structure that is (1) listed individually in the National Register of Historic Places (a listing maintained by the U.S. Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register (2) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district (3) individually listed on a state inventory of historic places and determined as eligible by states with historic preservation programs which have been approved by the Secretary of the Interior; or (4) individually listed on a local inventory of historic places and determined as eligible by communities with historic preservation programs that have been certified either: (a) by an approved state program as determined by the Secretary of the Interior, or (b) directly by the Secretary of the Interior in states without approved programs.

**Structural erosion and sedimentation control practices.** Practices for the stabilization of erodible or sediment-producing areas by utilizing the mechanical properties of matter for the purpose of either changing the surface of the land or storing, regulating or disposing of runoff to prevent excessive sediment loss. Examples of structural erosion and sediment control practices are riprap, sediment basins, dikes, level spreaders, waterways or outlets, diversions, grade stabilization structures, sediment traps and land grading, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

**Subdivider.** A person who subdivides or causes land to be subdivided.

**Subdivision.** Any division or redivision of a tract or parcel of land into two or more lots, parcels, or building sites; or other division or redivision for the purpose, whether immediate or future, of sale, lease, legacy or building development.

**Major subdivision.** A subdivision of land which results in the creation of six (6) or more lots.

**Minor subdivision.** A subdivision of land which results in the creation of five (5) or less lots and does not result in the creation of any public or private street.

**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% of the market value of the structure before the damage occurred.

**Substantial improvement.** Any combination of repairs, reconstruction, alteration, or improvements to a building, taking place during a five-year period, in which the cumulative cost equals or exceeds 50% of the market value of the structure prior to the improvement. The market value of the building should be (1) the appraised value of the structure prior to the start of the initial repair or improvement, or (2) in the case of damage, the value of the structure prior to the damage occurring. This term includes structures, which have incurred "substantial damage", regardless of the actual amount of repair work performed.

For the purposes of this definition, "substantial improvement" is considered to occur when the first alteration of any wall, ceiling, floor, or other structural part of the building commences, whether or not that alteration affects the external dimensions of the building. The term does not, however, include those improvements of a building required to comply with existing health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions, which have been pre-

identified by the code enforcement official, and not solely triggered by an improvement or repair project.

**Substantially improved existing manufactured home parks or subdivisions.** Where the repair, reconstruction, rehabilitation or improvement of the streets, utilities and pads equals or exceeds 50% of the value of the streets, utilities and pads before the repair, reconstruction or improvement commenced.

**Surety bond.** An agreement in which one person accepts legal liability for another's performance of a contract or obligation.

**Timber.** Softwood or hardwood trees harvested for commercial purposes

**Timber operations.** Buying, cutting, harvesting, loading and/or hauling timber.

**Timber operator.** Any person engaged in timber operations.

**Tourist accommodations.** Means a Tourist Court as defined in O.C.G.A. Chapter 31-28 as any facility consisting of two (2) or more rooms or dwelling units providing lodging and other accommodations for tourists and travelers and includes tourist courts, tourist cottages, tourist homes, motels, motor hotels, hotels, and any similar place by whatever name called and any food, beverage, laundry, recreational or other facilities or establishments operated in conjunction therewith, and as such shall be regulated in accordance with Chapter 290-5-18 of the Rules of the Department of Human Resources. This definition includes any facility consisting of two (2) or more rooms or dwelling units either joined together or separate on a common piece of property, furnished for pay. For the purpose of this LDC, this definition shall not include campgrounds, recreational vehicle parks, bed and breakfast inns, trailer parks, and trailer courts.

**Transitional surface.** The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the runway and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.

**Travel trailer/recreational vehicle.** A vehicular-type portable structure, whether self-propelled or pulled by a power unit, designed as a temporary dwelling for travel, recreation, and vacation uses, which is identified on the unit by the manufacturer as a "camper" or "travel trailer" or "recreational vehicle."

**Trout streams.** All streams or portions of streams within the watershed as designated by the Game and Fish Division of the Georgia Department of Natural Resources under the provisions of the Georgia Water Quality Control Act, O.C.G.A. § 12-5-20 et seq. Streams designated as primary trout waters are defined as water supporting a self-sustaining population of rainbow, brown or brook trout. Streams designated as secondary trout waters are those in which there is no evidence of natural trout reproduction, but are capable of supporting trout throughout the year. First order trout waters are streams into which no other streams flow except springs.

**Truck stop.** The use of land and structures for the rental and servicing of the en route sales of fuel, lubricants, minor accessories, and the like primarily to vehicles of greater than three-quarter ton rated capacity, but not sales of such vehicles.

**Use.** The purpose for which a building or other structure or a tract of land is designed, arranged, intended, maintained, or occupied; the activity, occupation, business or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

**Utility.** Any community service available to the public by means of an overhead or underground distribution or collection system such as electricity, telephone, water, gas, cable television and sewerage disposal.

**Public water and sewer system.** Refers to public water distribution and wastewater collection systems, and all component parts, equipment, and structures necessary to provide such services.

**Private water and sewage system.** A system owned and operated by an individual or a community corporation serving two (2) or more premises and approved by the Georgia Department of Natural Resources, Environmental Protection Division.

**Variance.** A grant of relief from the requirements of the LDC where specific enforcement would result in unnecessary hardship.

**Vegetative erosion and sedimentation control measures.** Measures for the stabilization of erodible or sediment-producing areas by covering the soil with (a) permanent seeding, sprigging or planting, producing long-term vegetative cover; or (b) temporary seeding, producing short-term vegetative cover; or (c) sodding, covering areas with a turf of perennial sod-forming grass. Such measures can be found in the publication Manual for Erosion and Sediment Control in Georgia.

**Warehouse.** An establishment that operates warehouse and storage facilities for general merchandise, refrigerated goods, and other warehouse products. These establishments provide the facilities to store goods but do not sell the goods they handle. They may also provide a range of services related to the distribution of goods, such as labeling, breaking bulk, inventory control and management, light assembly, order entry and fulfillment, packaging, pick and pack, price marking and ticketing, and transportation arrangement.

**Watercourse.** Any natural or artificial watercourse, stream, river, creek, channel, ditch, canal, conduit, culvert, drain, waterway, gully, ravine, or wash in which water flows either continuously or intermittently and which has a definite channel, bed and banks, and including any area adjacent thereto subject to inundation by reason of overflow or floodwater.

**Water supply, central.** A water supply system, including pumps and distribution lines and other facilities appurtenant thereto, serving or designed to serve more than two buildings or structures used or designed to be used for human occupancy.

**Wearing surface.** That portion of a road designed and improved for the purpose of conveying vehicles.

**Wetlands.** Those areas that are inundated or saturated by surface or ground water 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. Wetlands generally include swamps, marshes, bogs, and similar areas.

**Wholesale business.** A business primarily engaged in the selling of goods or articles in gross to retailers or jobbers for resale and not to the ultimate consumer.

**Wind energy facility.** An electric generating facility, whose main purpose is to supply electricity, consisting of one or more wind turbines and other accessory structures and buildings, including substations, meteorological towers, electrical infrastructure, transmission lines and other appurtenant structures and facilities. Definitions related to wind energy facilities include the following:

**Applicant.** The person or entity filing an application for a permit to install a wind turbine under this Ordinance.

**Environmental assessment.** A detailed examination of the applicant's proposal and its potential local environmental context with an emphasis on avoiding, minimizing, and mitigating adverse impacts.

**Facility operator.** The entity responsible for the day-to-day operation and maintenance of the Wind Energy Facility.

**Facility owner.** The entity or entities having equity interest in the Wind Energy Facility, including their respective successors and assigns.

**Non-participating landowner.** Any landowner not under an agreement with the facility owner or Operator.

**Occupied building.** A residence, school, hospital, church, public library or other buildings used for public gathering that is occupied or in use when the building permit application is submitted.

**Participating landowner.** A landowner under lease or other property agreements with the Facility Owner or Operator pertaining to the Wind Energy Facility.

**Shadow flicker.** The visible flicker effect when rotating turbine blades cast shadows on the ground and nearby structures causing the repeating pattern of light and shadow.

**Wind energy facility, class I system.** A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. An example of a Class I system is a small wind energy conversion system which is defined as a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of 20 kW or less.

**Wind energy facility, class II system.** A single system designed to supplement other electricity sources as an accessory use to existing buildings or facilities, wherein the power generated is used primarily for on-site consumption. A Class II System is a small wind energy conversion system consisting of a single wind turbine, a tower, and associated control or conversion electronics, which has a total rated capacity of more than 20 kW but no greater than 100 kW.

**Wind energy facility, class III system.** A wind energy conversion system consisting of one or more wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 100 kW but not greater than 2 MW.

**Wind energy facility, class IV system.** A wind energy conversion system consisting of one or more than one wind turbine(s), a tower(s), and associated control or conversion electronics, which has a total rated capacity of more than 2 MW.

**Wind power.** The conversion of wind energy into electricity.

**Wind turbine.** A wind energy conversion system that converts wind energy into electricity.

**Wind turbine height.** The distance measured from grade at the center of the tower to the highest point of the turbine rotor or tip of the turbine blade when it reaches its highest elevation.

**Wireless telecommunication 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 wireless telecommunication services. Also known as "wireless facility." Definitions related to wireless telecommunication facilities include the following:

**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, and storage sheds, shelters, or similar structures.

**Accessory facility or structure.** An accessory facility or structure serving or being used in conjunction with wireless telecommunications facilities, and located on the same property or lot as the wireless telecommunications facilities, including but not limited to, utility or transmission equipment storage sheds or cabinets.

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

**Application.** A formal request submitted to the local governing authority to construct, collate collocate, or modify a wireless support structure or a wireless facility.

**Camouflage (or Stealth or Stealth Technology).** Disguising a wireless support structure and facility so as to make it less visually obtrusive and not recognizable to the average person as a wireless telecommunications facility.

**Collocate or collocation.** The placement or installation of new wireless facilities on previously approved and constructed wireless support structures, including monopoles and towers, both self-supporting and guyed, in a manner that negates the need to construct a new freestanding wireless support structure. Such term includes the placement of accessory equipment within an existing equipment compound.

**Complete application.** An application containing all documents, information, and fees specifically enumerated in or required by the local governing authority's regulations, ordinances, and forms pertaining to the location, construction, collocation, modification, or operation of wireless facilities.

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

**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, provided such improvement, upgrade, expansion, or replacement does not increase the height of the wireless support structure or increase the dimensions of the equipment compound.

**Utility.** Any person, corporation, municipality, county, or other entity, or department thereof or entity related or subordinate thereto, providing retail or wholesale electric, data, cable, or telecommunications 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 telephone or electrical utility pole or any tower used for the distribution or transmission of electrical service. Includes the term "wireless telecommunication tower."

**Yard.** A required open space on the same lot with a principal building open, unoccupied, and unobstructed by buildings or structures from ground to sky except for vegetation and permitted encroachments and accessory buildings.

**Yard, corner.** An open, unoccupied space on the same lot with the principal building, situated between the building and the street right-of-way and extending from front yard setback to the rear yard setback.

**Yard, front.** An open, unoccupied space on the same lot with a principal building, extending the full width of the lot, and situated between the street right-of-way and the minimum front building line setback. Where a corner lot exists, the front yard shall be determined by that portion of the lot with the shortest road frontage.

**Yard, rear.** An open, unoccupied space on the same lot with the principal building, situated between the building and sideline of the lot and extending from the rear line of the lot and the rear line of the building projected to the sidelines of the lot.

**Yard, side.** An open, unoccupied space on the same lot with the principal building, situated between the building and the sideline of the lot and extending from the rear line of the front yard to the front line of the rear yard.

**Zoning decision.** The decision made by the Board of Commissioners to approve or deny a proposed rezoning action.

**Zoning district.** The use classification of parcels of land as generally defined under the LDC.

**Zoological park.** The use of land and structures for the keeping for purposes of exhibition of any native or exotic animal species, as approved and licensed by the Georgia Department of Natural Resources.

# ZONING DISTRICTS AND LAND USES



*Article II TOC to be inserted here*

## 2.01.00 GENERALLY

The use of buildings, structures, and land in accordance with the Burke County Comprehensive Plan shall comply with the use requirements for zoning districts set forth in Article II. 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.

## 2.02.00 ESTABLISHMENT AND PURPOSE OF ZONING DISTRICTS

### 2.02.01 Burke County Zoning Map

- A. Zoning districts for Burke County are hereby established as shown on the “Official Zoning Map of Burke County, Georgia.”
- B. The Official Zoning Map of Burke County, Georgia shall be identified by the signature of the chair of the Board of Commissioners, attested by the County Clerk, and shall include the date of adoption.
- C. The Official Zoning Map of Burke County, Georgia may be amended according to the procedures set forth in Article IX of the LDC.

### 2.02.02 Rural Zoning Districts

Single-family detached dwellings, including manufactured homes, and specified accessory structures and uses are permitted in all rural zoning districts established herein this section. Minimum lot area requirements are shown in Table 2.02.02. The following rural zoning districts are established: This district is intended to provide for agricultural activities, including those related to crops, livestock, and timber, protected from the effects of suburban residential development.

- A. **A-1, General Agricultural District.** This district is intended to provide for agricultural activities, including those related to crops, livestock and timber and other compatible uses. The intent of this district is to protect prime farmlands from the effects of suburban residential development, promote viable agricultural usage, and maintain the general rural character.

**Table 2.02.02 Lot Area Requirements, Rural Zoning Districts**

Zoning District	Minimum Lot Area*		
	Individual Well and Septic Tank System	Public/Community Water and Individual Septic Tank System	Public/Community Water and Public Sewer System
A-1	5 ac.	5ac.	5ac.

\* Unusual topographical or soil conditions may necessitate larger minimum requirements for properties utilizing septic systems. Installation of septic systems is subject to the approval of the Burke County Health Department.

### 2.02.03 Residential Zoning Districts

Conventional built dwellings shall be required in residential zoning districts, with the exception that only manufactured homes shall be allowed in the R-4 District. Minimum lot area requirements are shown in Table 2.02.03. The following residential zoning districts are established:

- A. **R-1, Low Density Residential.** This district is intended to provide for single-family detached dwellings on individual lots at a low density of development.
- B. **R-2, Medium Density Residential.** This district is intended to provide for single-family detached dwellings on individual lots at a moderate density of development.
- C. **R-3, High Density Residential.** This district is intended to provide for multi-family residential dwellings at a moderate to high density of development. Permissible uses are duplexes, townhomes, and apartments and condominiums.
- D. **R-4, Manufactured Home Park.** This district is intended to provide for housing developments consisting of detached manufactured homes within a planned residential community, with the exception that single-lot manufactured home development is permissible subject to the provisions of Section 4.03.24 of this LDC.

**Table 2.02.03 Lot Area Requirements, Residential Zoning Districts**

Zoning District	Minimum Lot Area*		
	Individual Well and Septic Tank System	Public/Community Water and Individual Septic Tank System	Public/Community Water and Public Sewer System
R-1	1 ac.	1/2 ac.	1/2 acre
R-2	1 ac.	1 ac.	15,000 sq. ft.
R-3	Duplex	1 ac.	0.5 ac.
	Townhome	N/A	N/A
	Apartment	N/A	N/A
R-4	10 ac. per development 1 ac. per lot	10 ac. per development ½ ac. per lot	10 ac. per development 8,000 sq. ft. per lot

\* Unusual topographical or soil conditions may necessitate larger minimum requirements for properties utilizing septic systems. Installation of septic systems is subject to the approval of the Burke County Health Department.

### 2.02.04 Commercial, Office, and Institutional Zoning Districts

The following commercial, office, and institutional zoning districts are established:

- A. **O-I, Office Institutional.** This district is intended to allow development of business and professional activities, medical and dental facilities, and the development and maintenance of publicly owned lands and structures, parks and recreation areas, public schools, and buildings used principally for government functions. Limited retail uses normally associated with office or institutional uses, accessory structures, and essential public services are also permissible.
- B. **C-C, Crossroads Commercial.** This district is intended to provide locations for limited retail and service uses to satisfy the common and frequent needs of residents

of nearby residential and agricultural areas. It is the intent of the district to locate businesses at major road intersections to discourage strip commercial development.

- C. **C-G, General Commercial.** This district is intended to provide locations for a wide variety of retail and service uses to satisfy the common and frequent needs of residents in large sections of the county. It is the intent of the district to concentrate businesses at major road intersections to discourage strip commercial development.

**Table 2.02.04 Lot Area Requirements, Commercial, Office and Institutional Zoning Districts**

Zoning District	Minimum Lot Area*		
	Individual Well and Septic Tank System	Public/Community Water and Individual Septic Tank System	Public/Community Water and Public Sewer System
O-I	1 ac.	1 ac.	10,000 sq. ft.
C-C	1 ac.	1 ac.	10,000 sq. ft.
C-G	1 ac.	1 ac.	10,000 sq. ft.

\* Unusual topographical or soil conditions may necessitate larger minimum requirements for properties utilizing septic systems. Installation of septic systems is subject to the approval of the Burke County Health Department.

### 2.02.05 Industrial Zoning Districts

The following industrial zoning districts are established:

- A. **I-1, Light Industrial.** This district provides for light industrial uses which do not create excessive noise, odor, smoke, or dust and do not produce, store, or handle hazardous wastes. Permissible uses include activities involved in warehousing, assembly, storage, and commercial services.
- B. **I-2, General Industrial.** This district provides for the manufacturing, assembling, storage, distribution, and sales activities that are generally high intensity. For those industries which may have negative impacts or nuisance factors associated with their use, supplemental standards shall apply within the district. I-2 Districts shall be located on arterial streets or on major collector streets having ready access to arterial streets.
- C. **I-3, Special Use Industrial.** This district provides for energy producing uses located at Plant Vogtle. The district includes the nuclear power plant, supporting infrastructure, and associated uses.

**Table 2.02.05 Lot Area Requirements, Industrial Zoning Districts**

Zoning District	Minimum Lot Area*		
	Individual Well and Septic Tank System	Public/Community Water and Individual Septic Tank System	Public/Community Water and Public Sewer System
I-1	1 ac.	20,000 sq. ft.	20,000 sq. ft.
I-2	1 ac.	1 ac.	1 ac.
I-3	N/A	N/A	N/A

\* Unusual topographical or soil conditions may necessitate larger minimum requirements for properties utilizing septic systems. Installation of septic systems is subject to the approval of the Burke County Health Department.

**2.02.06 Zoning Districts and Future Development Map Relationship**

Nine character areas are reflected on the Future Development Map for unincorporated Burke County, and each are implemented by individual zoning districts, as indicated in Table 2.02.06. The character areas listed below are further described in the Burke County Comprehensive Plan.

**Table 2.02.06 Potential Zoning Districts**

Character Area	A-1	A-2	R-1	R-2	R-3	R-4	O-1	C-C	C-G	I-1	I-2	I-3
Preserve	<i>Not applicable</i>											
Rural/Agricultural Reserve	✓	✓	✓									
Rural Village			✓	✓				✓				
Developing Suburban			✓	✓	✓	✓						
Suburban Neighborhood			✓	✓	✓	✓						
Gough Town Neighborhood			✓	✓		✓						
Liberty St. Commercial Corridor									✓			
Educational Institutional							✓					
Industrial & Employment Center							✓			✓	✓	
Energy Production District												✓

**2.03.00 LAND USES PERMITTED IN EACH ZONING DISTRICT**

**2.03.01 Land Use Table**

A. Generally

Table 2.03.01 (C) describes those uses that are permissible in each base zoning district. 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 they are located. The zoning districts for Burke County are shown on the “Official Zoning Map of Burke County, Georgia.”

B. How to Read the Land Use Table

- 1) Within the following table the letter “P” indicates that the land use is permissible, subject to compliance with the standards of the zoning district.
- 2) The letter “S” indicates that the land use is permissible, subject to compliance with the standards of the zoning district, and the site design standards specified for the use. Site design standards for specific uses are contained in Section 4.03.00.
- 3) A blank cell indicates the land use is prohibited.
- 4) Any land use that is not identified in Table 2.03.01 (C) is prohibited unless it is found to be substantially similar to an identified use in said table by the Building Official or designee.
  - a. A determination that a use qualifies as a similar and compatible use shall be made upon the Building Official’s finding that:
    - i. The characteristics of, and activities associated with the requested use is similar to one or more of the listed uses, and will not involve a greater intensity than the uses listed in the zoning district;
    - ii. The requested use will be consistent with the purpose of the applicable zoning district;
    - iii. The requested use will be compatible with the other uses allowed in the zoning district;
    - iv. The requested use will be consistent with the Comprehensive Plan and any applicable specific plan;
    - v. The definition of a requested use is comparable to that of a use identified in Table 2.03.01(C), as presented in Article I of this LDC; and
    - vi. The requested use is not allowable in another zoning district.
    - vii.
  - b. The administrative interpretation shall be subject to appeal, as set forth in Article IX.

**Table 2.03.01 (C). Land Use Table**

<b>P-Permissible S- Permissible, subject to site design standards for the use in Article IV Blank - Prohibited</b>	<b>A-1</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>O-I</b>	<b>C-C</b>	<b>C-G</b>	<b>I-1</b>	<b>I-2</b>	<b>1-3</b>
<b>Residential</b>											
Single-Family Detached Dwelling	<i>P</i>	<i>P</i>	<i>P</i>								
Duplex				<i>P</i>							
Townhome				<i>P</i>							
Multi-Family				<i>P</i>							
Manufactured Home	<i>S</i>	<i>S</i>			<i>S</i>						
Manufactured Home Park Development					<i>S</i>						
<b>Accommodations</b>											
Bed and Breakfast Inn	<i>P</i>					<i>P</i>	<i>P</i>				
Rooming and Boarding	<i>P</i>							<i>P</i>			
Tourist Court								<i>P</i>			
Commercial Campgrounds	<i>S</i>										
Recreational Campgrounds	<i>S</i>										
<b>Institutional or Community Facilities</b>											
Assisted-Living Services:											
Family Personal Care Home (2-6 residents)	<i>S</i>	<i>S</i>	<i>S</i>			<i>S</i>	<i>S</i>	<i>S</i>			
Group Personal Care Home (7-15 residents)	<i>S</i>	<i>S</i>				<i>S</i>	<i>S</i>	<i>S</i>			
Congregate Personal Care Home (16 or more residents)						<i>S</i>	<i>S</i>	<i>S</i>			
Hospital						<i>S</i>	<i>S</i>	<i>S</i>			
Child Day Care:											
Family Day Care Home (3-6 children)	<i>P</i>	<i>P</i>	<i>P</i>		<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>			
Group Day Care Home (7-18 children)	<i>P</i>	<i>P</i>				<i>P</i>	<i>P</i>	<i>P</i>			
Child Day Care Center, nursery school, preschool or Pre-K (19 or more children)						<i>P</i>	<i>P</i>	<i>P</i>			
Animal Care Facilities (hospitals, veterinary clinics, kennels and boarding facilities)	<i>S</i>						<i>S</i>	<i>P</i>	<i>P</i>		
Schools (private):											
K-12		<i>S</i>	<i>S</i>	<i>S</i>	<i>S</i>	<i>P</i>	<i>P</i>	<i>P</i>			
Colleges and Universities		<i>S</i>	<i>S</i>	<i>S</i>		<i>P</i>	<i>P</i>	<i>P</i>			
Business, Commercial								<i>P</i>	<i>P</i>		
Trade, Industrial								<i>P</i>	<i>P</i>	<i>P</i>	
Library Building							<i>P</i>	<i>P</i>			

<b>P-Permissible S- Permissible, subject to site design standards for the use in Article IV Blank - Prohibited</b>	<b>A-1</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>O-I</b>	<b>C-C</b>	<b>C-G</b>	<b>I-1</b>	<b>I-2</b>	<b>1-3</b>
Museum Building							P	P			
Exhibitions and Art Galleries							P	P			
Zoological Park	S										
Funeral Home								P	P		
Cemeteries, Mausoleums, and Memorial Gardens	S	S				S	S	S	S		
Private Club or Lodge							P	P			
<b>Public Assembly</b>											
Indoor Activity Uses								P	P		
Religious Facilities	P	P	P	P	P	P	P	P	P	P	
Outdoor Activity Uses, excluding outdoor amusements	S						S	S	P	P	
Outdoor Amusement Uses	S								S	S	
<b>Agriculture</b>											
Commercial Agricultural Production	P										
Intensive Agricultural Use	S										
Livestock Sales Pavilions	S										
Commercial Slaughterhouses	S										
Wholesale and Retail Sale of Agricultural Products	S										
Animal Containment (non-intensive agricultural use)	S										
Riding Stables	S										
Temporary and Portable Sawmills	S										
Timber Operations (excluding temporary and portable sawmills)	S										
<b>Commercial</b>											
Adult Entertainment Establishments									S	S	
Business Services such as Copying, Mailing, or Printing						P	P	P	P		
Car Wash								P	P	P	
Convenience Store							P	P			
Extensive Business Use								S	S	P	
Farmers Market and Outdoor Sales	P							P	P		
Financial Institutions, Banks and Credit Unions						P	P	P			
Gasoline Station							P	P	P		
Grocery Store							P	P	P		
Laundry, Self-Service								P	P		

<b>P-Permissible S- Permissible, subject to site design standards for the use in Article IV Blank - Prohibited</b>	<b>A-1</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>O-I</b>	<b>C-C</b>	<b>C-G</b>	<b>I-1</b>	<b>I-2</b>	<b>1-3</b>
Medical and Dental Clinics, Laboratories						P		P	P	P	
Mini-Storage or Self-Storage Facility								P	P	P	
Package Store (alcohol)								P			
Personal Services such as Barber, Beauty, Shoe Repair, Dry Cleaning Pick-Up						P	P	P			
Professional Offices						P	P	P	P	P	
Restaurants, Full Service (excludes drive-through windows)	P					P	P	P	P	P	
Restaurants, Limited Service, including Fast Food and Take-Out (with or without drive-through window)						P	P	P	P	P	
Retail Establishments						P	P	P	P		
Small Equipment or Appliance Repair Shops								P	P		
Specialty and Gift Shops such as antique, art, books, jewelry or stationers							P	P			
Studios such as art, dancing, music or photography schools						P	P	P	P		
<b>Industrial, Transportation and Utilities</b>											
Airport, private	S										
Junkyard									S	S	
Recycling Center									S	S	
Manufacturing											
Light Industry									P		
General Industry										P	
Industrial Uses with Nuisance Features										S	
Nuclear Power Plant											P
Solar Energy Farm	S								S	S	
Solid Waste Management Facility (includes landfill)										S	
Truck Stop										P	
Warehouse, not including self-storage									P	P	
Wholesale establishment									P	P	
Wind energy facility, principal use	S								S	S	

<u>P</u> -Permissible <u>S</u> - Permissible, subject to site design standards for the use in Article IV <u>Blank</u> - Prohibited	A-1	R-1	R-2	R-3	R-4	O-I	C-C	C-G	I-1	I-2	1-3
Wireless telecommunication tower	S					S			S	S	

## 2.03.02 Accessory Use Table

### A. Generally

Table 2.03.02 (B) describes those accessory uses that are permissible in each base zoning district. 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 they are located. The zoning districts for Burke County are shown on the “Official Zoning Map of Burke County, Georgia.”

### B. How to Read the Accessory Use Table

- 1) Within the following table the letter “P” indicates that the accessory land use is permissible, subject to compliance with the standards of the zoning district and the standards of Article V of this LDC.
- 2) A blank cell indicates the land use is prohibited.
- 3) Any land use that is not identified in Table 2.03.02 (B) is prohibited unless it is found to be substantially similar to an identified use in said table by the Building Official or designee.
  - a. A requested use shall be considered substantially similar when the characteristics of the requested use are equivalent in type, intensity, degree, or impact when compared to a use named in Table 2.03.02 (B).
  - b. The administrative interpretation shall be subject to appeal, as set forth in Article IX.

**Table 2.03.02 (B). Table of Accessory Uses**

<b>P-Permissible Blank - Prohibited</b>	<b>A-1</b>	<b>R-1</b>	<b>R-2</b>	<b>R-3</b>	<b>R-4</b>	<b>O-I</b>	<b>C-C</b>	<b>C-G</b>	<b>I-1</b>	<b>I-2</b>	<b>1-3</b>
Accessory Dwelling – Freestanding (not including caretaker and tenant dwellings)	<i>P</i>	<i>P</i>	<i>P</i>								
Caretaker Dwelling (for property security/maintenance)										<i>P</i>	
Tenant Dwelling	<i>P</i>										
Accessory Dwelling – within Principal Structure	<i>P</i>		<i>P</i>	<i>P</i>							
Business Office for a Farming Operation	<i>P</i>										
Dumpsters	<i>P</i>			<i>P</i>							
Garage or Carport - Detached	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>						
Intensive Agricultural Operation accessory buildings and uses	<i>S</i>										
Outdoor Storage of Machinery and Equipment for Agricultural Support	<i>P</i>										
Religious Use Accessory Buildings	<i>P</i>										
Swimming Pool	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>	<i>P</i>						
Solar Collection System	<i>P</i>										
Wind Energy Facility, Accessory Use	<i>P</i>										

ARTICLE

**III**

# PROTECTION OF NATURAL FEATURES AND RESOURCES

*Article III TOC to be inserted here*

### **3.01.00 GENERALLY**

The provisions set forth in Article III are intended to protect the natural features and natural resources within Burke County, and to implement policies in the Burke County Comprehensive Plan.

### **3.02.00 FLOOD DAMAGE PREVENTION**

#### **3.02.01 Statutory Authorization**

Article IX, Section II of the Constitution of the State of Georgia and Section 36-1-20(a) of the Official Code of Georgia Annotated have delegated the responsibility to local governmental units to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry. Therefore, the Burke County Board of Commissioners of Burke County, Georgia, does ordain as follows:

#### **3.02.02 Findings of Fact**

- A. The flood hazard areas of Burke County, Georgia are subject to periodic inundation which results in loss of life and property, health and safety hazards, disruption of commerce and governmental services, extraordinary public expenditures for flood relief and protection, and impairment of the tax base, all of which adversely affect the public health, safety and general welfare.
- B. These flood losses are caused by the occupancy in flood hazard areas of uses vulnerable to floods, which are inadequately elevated, flood-proofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

#### **3.02.03 Purpose**

It is the purpose of this section to promote the public health, safety and general welfare and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:

- A. Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;
- B. Restrict or prohibit uses which are dangerous to health, safety and property due to water or erosion hazards, or which increase flood heights, velocities, or erosion;
- C. Control filling, grading, dredging and other development which may increase flood damage or erosion;
- D. Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands; and
- E. Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

#### **3.02.04 Objectives**

The objectives of this section are to:

- A. Protect human life and health;
- B. Minimize damage to public facilities and utilities such as water and gas mains, electric, telephone and sewer lines, streets and bridges located in floodplains;
- C. Help maintain a stable tax base by providing for the sound use and development of flood prone areas in such a manner as to minimize flood blight areas;
- D. Minimize expenditure of public money for costly flood control projects;
- E. Minimize the need for rescue and relief efforts associated with flooding and generally undertaken at the expense of the general public;
- F. Minimize prolonged business interruptions, and
- G. Ensure that potential home buyers are notified that property is in a flood area.

### **3.02.05 Lands to Which Section Applies**

This section shall apply to all areas of special flood hazard within the county.

### **3.02.06 Basis for Establishing the Areas of Special Flood Hazard**

- A. The areas of special flood hazard identified by FEMA in its Flood Insurance Study (FIS), dated December 17, 2010 with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this section.
- B. For those land areas acquired by a municipality through annexation, the current effective FIS dated December 17, 2010, with accompanying maps and other supporting data and any revision thereto, for Burke County are hereby adopted by reference.
- C. Areas of Special Flood Hazard may also include those areas known to have flooded historically or defined through standard engineering analysis by governmental agencies or private parties but not yet incorporated in a FIS.
- D. The Repository for public inspection of the FIS, accompanying maps and other supporting data is located at: Burke County Planning, Permits and Inspections Office.

### **3.02.07 Development Permit Required**

A development permit shall be required in conformance with the provisions of this section prior to the commencement of any development activities.

### **3.02.08 Compliance**

No structure or land shall hereafter be located, extended, converted or altered without full compliance with the terms of this section and other applicable regulations.

### **3.02.09 Abrogation and Greater Restrictions**

This section is not intended to repeal, abrogate, or impair any existing ordinance, easements, covenants, or deed restrictions. However, where this section and another conflict or overlap, whichever imposes the more stringent restrictions shall prevail.

### 3.02.10 Interpretation

In the interpretation and application of this section, all provisions shall be:

- A. Considered as minimum requirements;
- B. Liberally construed in favor of the governing body; and
- C. Deemed neither to limit nor repeal any other powers granted under state statutes.

### 3.02.11 Warning and Disclaimer of Liability

- A. The degree of flood protection required by this section is considered reasonable for regulatory purposes and is based on scientific and engineering consideration.
- B. Larger floods can and will occur. Flood heights may be increased by manmade or natural causes.
- C. This section does not imply that land outside the areas of special flood hazard or uses permitted within such areas will be free from flooding or flood damages.
- D. This section shall not create liability on the part of the county or by any officer or employee thereof for any flood damages that result from reliance on this section or any administrative decision lawfully made hereunder.

### 3.02.12 Penalties for Violation

- A. Failure to comply with the provisions of this section or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation.
- B. Any person who violates this section or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$500 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case.
- C. Each day such violation continues shall be considered a separate offense.
- D. Nothing contained in this section shall prevent the county from taking such other lawful actions as is necessary to prevent or remedy any violation.

### 3.02.13 Designation of Floodplain Coordinator

The Building Official is hereby appointed to administer and implement the provisions of this section.

### 3.02.14 Permit Procedures

Application for a Development Permit shall be made to the Building Official on forms furnished by the community prior to any development activities, and may include, but not be limited to the following: plans in duplicate drawn to scale showing the elevations of the area in question and the nature, location, dimensions, of existing or proposed structures, earthen fill placement, storage of materials or equipment, and drainage facilities. Specifically, the following information is required:

- A. Application stage
  - 1) Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;

- 2) Elevation in relation to mean sea level to which any non-residential structure will be flood-proofed;
  - 3) Design certification from a registered professional engineer or architect that any proposed non-residential flood-proofed structure will meet the flood-proofing criteria in 3.02.18 (B) below;
  - 4) Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development.
- B. Construction stage
- 1) For all new construction and substantial improvements, the permit holder shall provide to the Building Official an as-built certification of the regulatory flood elevation or flood-proofing level immediately after the lowest floor or flood proofing is completed.
  - 2) The permit holder shall provide the Building Official sealed supplemental construction documents including, but not limited to foundation and structure anchoring details prepared by a licensed professional engineer and/or registered architect. Any lowest floor certification made relative to mean sea level shall be prepared by or under the direct supervision of a registered land surveyor or professional engineer and certified by same.
  - 3) When flood proofing is utilized for non-residential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.
  - 4) Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.
  - 5) The Building Official shall review the above referenced certification data submitted.
  - 6) Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed.
  - 7) Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

### **3.02.15 Duties and Responsibilities of Floodplain Coordinator**

The duties of the Building Official shall include, but not be limited to:

- A. Review proposed development to assure that the permit requirements of this section have been satisfied.
- B. Review proposed development to assure that all necessary permits have been received from governmental agencies from which approval is required by Federal or State law, including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. 1334. Require that copies of such permits be provided and maintained on file.
- C. When Base Flood Elevation data or floodway data have not been provided in accordance with Section 3.02.15, then the Building Official shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a Federal, State or other sources in order to administer the provisions of the LDC.

- D. Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- E. Review and record the actual elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all new or substantially improved structures in accordance with Section 3.02.15(B).
- F. When flood-proofing is utilized for a structure, the Building Official shall obtain certification of design criteria from a registered professional engineer or architect in accordance with Section 3.02.15 and Section 3.03.18.
- G. Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- H. Notify adjacent communities and the Georgia Department of Natural Resources prior to any alteration or relocation of a watercourse and submit evidence of such notification to FEMA.
- I. For any altered or relocated watercourse, submit engineering data/analysis within six (6) months to FEMA to ensure accuracy of community flood maps through the Letter of Map Revision process.
- J. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- K. Where interpretation is needed as to the exact location of boundaries of the Areas of Special Flood Hazard (for example, where there appears to be a conflict between a mapped boundary and actual field conditions) the Building Official shall make the necessary interpretation. Any person contesting the location of the boundary shall be given a reasonable opportunity to appeal the interpretation as provided in this section.
- L. All records pertaining to the provisions of this ordinance shall be maintained in the office of the Building Official and shall be open for public inspection.

### 3.02.16 **General Standards**

In all areas of special flood hazard, the following provisions are required:

- A. New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure.
- B. New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage.
- C. New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage.
- D. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, 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.
- E. 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.

- F. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
- G. 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.
- H. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
- I. Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this section, shall be undertaken only if the non-conformity is not furthered, extended or replaced.

### 3.02.17 Specific Standards

In all areas of special flood hazard the following provisions are required:

- A. **New residential construction and substantial improvements.**
  - 1) Where base flood elevation data are available, new construction and/or substantial improvement of any residential structure or manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate equalization of flood hydrostatic forces on both sides of exterior walls shall be provided in accordance with standards of subsection C of this section.
  - 2) All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other services facilities shall be elevated at or above one (1) foot above the base flood elevation.
- B. **Nonresidential construction.** New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to one (1) foot above the base flood elevation, with walls substantially impermeable to the passage of water, and 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 the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and in Section 3.01.16(G).
- C. **Elevated buildings.** All new construction or substantial improvements of existing structures that include any fully enclosed area located below the lowest floor formed by foundation and other exterior walls shall be designed so as to be an unfinished or flood resistant enclosure. The enclosure shall be designed to equalize hydrostatic flood forces on exterior walls by allowing for the automatic entry and exit of floodwater.
  - 1) Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
    - a. 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;

- b. The bottom of all openings shall be no higher than one foot above grade; and
    - c. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.
  - 2) So as not to violate the "Lowest Floor" criteria of this section, the unfinished or flood resistant enclosure shall only be used for parking of vehicles, limited storage of maintenance equipment used in connection with the premises, or entry to the elevated area; and
  - 3) The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- D. Standards for manufactured homes and recreational vehicles where base flood elevation data are available.
  - 1) All manufactured homes placed, and/or substantially improved:
    - a. On individual lots or parcels
    - b. In expansions to existing manufactured home parks or subdivisions
    - c. In new and/or substantially improved manufactured home parks or subdivisions, or
    - d. On a site in an existing manufactured home park or subdivision where a manufactured home has incurred "substantial damage" as the result of a flood, must have the lowest floor including basement, elevated no lower than one foot above the base flood elevation.
  - 2) All manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision must be elevated so that:
    - a. The lowest floor of the manufactured home is elevated no lower than one (1) foot above the level of the base flood elevation, or
    - b. The manufactured home chassis is elevated and 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. All manufactured homes must be securely anchored to an adequately anchored foundation system to resist flotation, collapse and lateral movement.
  - 3) All recreational vehicles placed on sites must either:
    - a. Be on site for fewer than 180 consecutive days,
    - b. Be fully licensed and ready for highway use, (a recreational vehicle is ready for highway use if it is licensed, on its wheels or jacking system, attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures or additions), or
    - c. The recreational vehicle must meet all the requirements of Section 3.02.18(A) including the anchoring and elevation requirements of 3.02.18(D)(2)(c), above.
- E. **Floodways.** Located within areas of special flood hazard established in Section 3.02.06 are areas designated as floodways. A floodway may be an extremely hazardous area due to velocity floodwaters, debris or erosion potential. In addition, the area must remain free of encroachment in order to allow for the discharge of the

base flood without increased flood heights. Therefore, the following provisions shall apply:

- 1) Encroachments are prohibited, including earthen fill, new construction, substantial improvements or other development within the regulatory floodway. Development may be permitted however, provided it is demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the encroachment shall not result in any increase in flood levels or floodway widths during a base flood discharge. A registered professional engineer must provide supporting technical data and certification thereof.
- 2) Only if subsection (E)(1) of this section is satisfied, then any new construction and substantial improvements shall comply with all applicable flood hazard reduction provisions of this section.

### **3.02.18 Standards for Areas of Special Flood Hazard (Zones AE) with Established Base Flood Elevations without Elevated Floodways.**

Located within the Areas of Special Flood Hazard established in Section 3.02.06 where streams with base flood elevations are provided but no floodways have been designated, (Zones AE) the following provisions apply.

- A. No encroachments, including fill material, new structures or substantial improvements 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.
- B. New construction or substantial improvements of buildings shall be elevated or flood-proofed to elevations established in accordance with Section 3.02.17.

### **3.02.19 Standards for Streams without Established Base Flood Elevation and/or Floodways (A-Zones)**

Located within the areas of special flood hazard established in Section 3.02.06, where streams exist but where no base flood data has been provided (A-Zones), or where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- A. When base flood elevation data or floodway data have not been provided in accordance with Section 3.02.06, then the Building Official shall obtain, review, and reasonably utilize any scientific or historic base flood elevation and floodway data available from a Federal, State, or other source, in order to administer the provisions of this section. ONLY if data are not available from these sources, then the following provisions (B & C) shall apply:
- B. No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or twenty feet, whichever is greater, measured from the top of the stream bank, unless certification by a registered professional engineer is provided demonstrating that such encroachment shall not result in any increase in flood levels during the occurrence of the base flood discharge.

- C. In special flood hazard areas without base flood elevation data, new construction and substantial improvements of existing structures shall have the lowest floor of the lowest enclosed area (including basement) elevated no less than three (3) feet above the highest adjacent grade at the building site. Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of Section 3.02.17(C).
- D. The Building Official shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

### 3.02.20 Standards for Areas of Shallow Flooding (AO Zones)

Areas of Special Flood Hazard established in Section 3.02.06 may include designated "AO" shallow flooding areas. These areas have base flood depths of one (1) to three (3) feet above ground, with no clearly defined channel. The following provisions apply:

- A. All new construction and substantial improvements of residential and non-residential structures shall have the lowest floor, including basement, elevated to the flood depth number specified on the Flood Insurance Rate Map (FIRM), above the highest adjacent grade. If no flood depth number is specified, the lowest floor, including basement, shall be elevated at least three feet (3) above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of Section 3.02.18(C), "Elevated buildings."
- B. The Building Official shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.
- C. New construction or the substantial improvement of a non-residential structure may be flood-proofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to the specified FIRM flood level plus one (1) foot, above highest adjacent grade, with walls substantially impermeable to the passage of water, and 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 the design and methods of construction are in accordance with accepted standards of practice for meeting the provisions above, and shall provide such certification to the official as set forth above and as required in Section 3.02.15(A)(3) and Section 3.02.15(B).
- D. Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

### 3.02.21 Standards for Subdivision Proposals

- A. All subdivision and/or development proposals shall be consistent with the need to minimize flood damage.
- B. All subdivision and/or development proposals shall have public utilities such as sewer, gas, electrical and water systems located and constructed to minimize flood damage.
- C. All subdivision and/or development proposals shall have adequate drainage provided to reduce exposure to flood hazards.

- D. For subdivisions and/or developments greater than 50 lots or five (5) acres, whichever is less, base flood elevation data shall be provided for subdivision and all other proposed development, including manufactured home parks and subdivisions. Any changes or revisions to the flood data adopted herein and shown on the FIRM shall be submitted to FEMA for review as a Conditional Letter of Map Revision (CLOMR) or Conditional Letter of Map Amendment (CLOMA), whichever is applicable. Upon completion of the project, the developer is responsible for submitting the “as-built” data to FEMA in order to obtain the final LOMR.

**3.02.22 Standards for Critical Facilities**

- A. Critical facilities shall not be located in the 100-year flood plain or the 500-year floodplain.
- B. All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

**3.02.23 Standards for Critical Facilities**

- A. The Planning Commission as established by the Board of Commissioners shall hear and decide requests for appeals or variance from the requirements of this section.
- B. The Planning Commission shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the Building Official in the enforcement or administration of this section.
- C. Any person aggrieved by the decision of the Planning Commission may appeal such decision to the Superior Court of Burke County, Georgia, as provided in Section 5-4-1 of the Official Code of Georgia Annotated.
- D. Variances may be issued for the repair or rehabilitation of historic structures upon a determination that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and the variance is the minimum to preserve the historic character and design of the structure.
- E. Variances may be issued for development necessary for the conduct of a functionally dependent use, provided the criteria of this section are met, no reasonable alternative exists, and the development is protected by methods that minimize flood damage during the base flood and create no additional threats to public safety.
- F. Variances shall not be issued within any designated floodway if any increase in flood levels during the base flood discharge would result.
- G. In reviewing such requests, the Planning Commission shall consider all technical evaluations, relevant factors, and all standards specified in this and other sections of this section.
- H. The conditions for the granting of variances shall be as follows:
  - 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 structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the structure.
  - 2) Variances shall only be issued upon:

- a. A showing of good and sufficient cause;
  - b. A determination that failure to grant the variance would result in exceptional hardship; and
  - c. 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 of the proposed lowest floor and stating that the cost of flood insurance will be commensurate with the increased risk to life and property resulting from the reduced lowest floor elevation.
  - 4) The Building Official shall maintain the records of all appeal actions and report any variances to FEMA upon request.
- I. Upon consideration of the factors listed above and the purposes of this section, the Planning Commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this section.

### **3.03.00 SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL**

*See State of Georgia minimum standards. Contact Local Issuing Authority for more information (Brier Creek Soil and Water Conservation District).*

ARTICLE

**IV**

# **SITE DESIGN STANDARDS**

*Article IV TOC to be inserted here*

## **4.01.00 GENERALLY**

### **4.01.01 Purpose**

- A. The purpose of Article IV is to provide design standards applicable to all development activity within the county. Article IV also provides design standards applicable in specific situations, such as development within overlay districts or development of specific uses that require additional standards to address potential impacts.
- B. This Code Section is intended to:
  - 1) Protect property owners and citizens of the county from adverse environmental and economic impact, from adverse health conditions, and from noxious, toxic or other substances or uses that could affect adjoining property owners or those in close proximity.
  - 2) Permit uses of land that will not have an adverse economic or environmental impact on adjoining property or property within close proximity thereto.
  - 3) Protect and preserve public health, safety, convenience, order and the general welfare of the people of the county. These standards and uses are adopted to allow uses of property consistent with these propositions and to allow users to perform particular functions compatible with adjoining property and property in close proximity thereto without adversely affecting same.
- C. Application of this Code Section
  - 1) Unless modified by grant of hardship variance, these standards shall apply, in addition to the standards of this LDC, and are hereby declared to be the minimum requirements for designated uses of land and structures within the county.
  - 2) No variance from these standards will be permitted unless authorized by the Planning Commission as provided for in Article VIII of this LDC.

## **4.02.00 SITE DESIGN STANDARDS FOR BASE ZONING DISTRICTS**

### **4.02.01 Design Standards for Lots**

- A. Only one (1) principal detached single-family residential building and its allowable accessory buildings shall hereafter be erected on any one (1) lot, parcel, or tract of land in any rural zoning district or single-family residential zoning district.
- B. No more than one (1) single-family residence may be served by a septic tank.
- C. Except as specifically provided in the LDC, no lot existing at the time of adoption of the LDC shall be reduced, divided, or changed so as to produce a lot or tract of land which does not comply with the minimum dimensional or area requirements of this section.
- D. Where the owner of a Lot of Record at the time of the adoption of the LDC, or their successor in title thereto, does not own sufficient land to enable him or her to conform to the lot dimensional or area requirements of the LDC, shall be allowed to

build upon said lot in accordance with all other regulations of the applicable zoning district and with the approval of the Board of Health when such lots utilize a septic tank waste water system.

- E. Land which is required, dedicated, and accepted for public use is exempt from the requirement of Section 4.01.01(C).
- F. Lot width shall be measured at the building line, parallel to the street right-of-way line.
- G. Impervious surface standards are expressed as the maximum percent of land coverage for each zoning district. The impervious surface ratio is calculated by dividing the total of all impervious surfaces on the lot by the lot area. Impervious surfaces include all buildings, structures, paving and water bodies.
- H. All lots shall front upon a dedicated public road or a private road meeting the requirements of this LDC, with the exception that an access corridor may be used in accordance with Section 6.02.06.(A) of this LDC.
- I. Side lot lines shall, as much as practical, be at right angles to straight street lines or radial to curved street lines and cul-de-sacs.
- J. All lots shall conform to the provisions of the LDC.
- K. Where individual septic tanks or other such on-site disposal facilities are to be used as a means of sewage disposal, the county health officer may require increases in the minimum lot size as necessary to conform to rules and recommendations of the state department of public health. In no case, however, shall the lot size be reduced to less than the required minimum as established in this section. Where extreme health hazards are indicated by site characteristics, the county health officer may disapprove the intended use of the lot or require special types of sewage disposal to be constructed as a prerequisite to a lot's being used.
- L. Cul-de-sac lots or eyebrows shall have a minimum width of lot frontage of 25 feet along the street right-of-way line and a minimum lot width of 75 feet.
- M. Access on all double frontage lots in residential subdivisions shall be restricted to the lesser used street or the street with the lowest hierarchy in the street classification system.
- N. Commercial uses on corner lots which have frontage on interior residential subdivision streets shall have access only from the higher level street.
- O. The owner of lots zoned commercial, office, and institutional shall grant an access easement to each adjoining property that is zoned such for the purpose of improving connectivity between compatible uses. Access design shall be prepared by a design professional for review and approval by the Planning Commission in accordance with the procedures of this LDC.
- P. Lots that are conveyed from one family member to another shall adhere to the standards of Section 4.04.04 *Specific Provisions for Family Ties Land Division*.
- Q. Standards for lot area, width, and impervious surface coverage are set forth in Table 4.02.01 (Q).

**Table 4.02.01 (Q). Standards for Lot Area, Width and Impervious Surface**

Zoning District	Minimum Lot Area*			Minimum Lot Width at Building Line and Minimum Lot Frontage (feet)		Maximum Impervious Surface Ratio	
	Individual Well/Septic Tank System	Public/Community Water and Individual Septic Tank System	Public/Community Water and Public Sewer System	Minimum Lot Width	Minimum Lot Frontage		
A-1	5 ac.	5 ac.	5 ac.	150 ft.	150 ft.	25%	
R-1	1 ac.	1 ac.	30,000 sq. ft.	150 ft.	150 ft.	50%	
R-2	1 ac.	1 ac.	15,000 sq. ft.	100 ft.	75 ft.	50%	
R-3	Duplex	1 ac.	0.5 ac.	12,000 sq. ft.	100 ft.	75 ft.	70%
	Townhome	N/A	N/A	1 acre	100 ft.**	100 ft.	70%
	Apartment	N/A	N/A	5 ac.	100 ft.	100 ft.	70%
R-4	10 ac. per development 1 ac. per lot	10 ac. per development ½ ac. per lot	10 ac. per development 8,000 sq. ft. per lot	100 ft.	60 ft.	50%	
O-I	1 ac.	1 ac.	10,000 sq. ft.	150 ft.	100 ft.	75%	
C-C	1 ac.	1 ac.	10,000 sq. ft.	150 ft.	100 ft.	75%	
C-G	1 ac.	1 ac.	10,000 sq. ft.	150 ft.	100 ft.	75%	
I-1	20,000 sq. ft.	20,000 sq. ft.	20,000 sq. ft.	150 ft.	100 ft.	85%	
I-2	1 ac.	1 ac.	1 ac.	150 ft.	100 ft.	85%	
I-3	N/A	N/A	N/A	N/A	N/A	N/A	

\* Unusual topographical or soil conditions may necessitate larger minimum requirements for properties utilizing septic systems. Installation of septic systems is subject to the approval of the Burke County Health Department.

\*\* Where minimum lot width requirement is 150 ft., a reduction to 100 ft. is permissible when building/structure is connected to an off-site central water supply (public or community water system)

\*\*\* Minimum individual width per townhome is 20 ft.

**4.02.02 Dimensional Standards for Building Height and 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 zoning 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 15 feet from the street right-of-way line. Such canopies shall provide a minimum 12 feet vertical clearance.

C. Lots with multiple frontage

- 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 and all remaining property lines shall be considered side yards for setback purposes.

D. Group projects

A group project two (2) or more commercial, industrial, educational, medical, religious, or civic buildings to be constructed on a plot of land two (2) acres, or more, such plot not to be subdivided) may be constructed provided:

- 1) Such uses are limited to those permitted within the district in which the project is located;
- 2) The overall density of land use is no higher, and the standard of open space is no lower than that permitted in the district in which the project is located;
- 3) The distance of every building from the nearest property line shall meet the front yard setback and side yard requirements of the district in which the project is located;
- 4) The building heights do not exceed the height limits permitted in the district in which the project is located.

E. 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 the LDC. 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.

F. Exemptions

- 1) The setback requirements of this LDC for dwellings shall not apply to any lot where the average existing building setback line on lots located wholly or in part within 100 feet on each side of such lot, within the same block and zoning district, and fronting on the same side of the street as such lot, is less than the minimum setback required. In such cases, the setback on such lots may be less than the required setback, but not less than the average of the existing setbacks on the aforementioned lots, and in no case less than 10 feet from the street right-of-way.

- 2) With the exception of height limitations identified in subsection G) below, the height limitations of this article shall not apply to church spires, belfries, cupolas and domes not intended for human occupancy; monuments, water towers, observation towers, transmission towers, chimneys, smokestacks, conveyors, flag poles, radio towers, television towers, masts, aerials, silos, granaries, windmills, barns, and other structures concurrent to the operation of a commercial agricultural use, and similar structures.
- G. Height limitations surrounding public or private airports
- 1) All structures are subject to the air space control height and use restrictions surrounding airports, whether public or private.
  - 2) All airports public and private airports registered with the FAA shall maintain safe and appropriate takeoff and landing pathways, and shall not be encroached upon due to the height or placement of any structure.
  - 3) Any proposed structure shall not be permitted to penetrate any airspace surfaces, as defined in this section, on or near a public or private airport.
  - 4) Special attention shall be given to the following airspace areas surrounding public or private airports:
    - a. Approach Surface. The approach surface is longitudinally centered on the extended runway centerline and extends outward and upward from the end of the runway. The approach surface extends 5,000 feet from the end of the runway at an approach slope of 20 feet horizontally for each one foot vertically (20:1). The inner edge of the approach surface (beginning at each end of the runway) is 250 wide, and expands uniformly to a width of 1,250 feet at a distance of 5,000 feet from the end of the runway.
    - b. Transitional Surface. The transitional surface extends outward and upward at right angles to the runway centerline and extends at a slope of seven feet horizontally for each one foot vertically (7:1) from the sides of the runway and approach surfaces. The transitional surfaces extend to the point at which they intercept the horizontal surface at a height of 150 feet above the established airport elevation.
    - c. Horizontal Surface. The horizontal surface is a horizontal plane located 150 feet above the established airport elevation and encompasses an area from the transitional surface to the conical surface. The perimeter is constructed by generating arcs of 5,000 feet in length from the center of each end of the runway surface and connecting the adjacent arcs by lines tangent to those arcs.
    - d. Conical Surface. The conical surface extends upward and outward from the periphery of the horizontal surface at a slope of 20 feet horizontally for every one foot vertically (20:1) for a horizontal distance of 4,000 feet. Height limitations for the surface range from 150 feet above the airport reference elevation at the inner edge of the conical surface to 350 feet at the outer edge of the conical surface.

A. Building setback and height standards are provided in Table 04.02.02 (H)

**Table 4.02.02 (H). Building Setback and Height Standards**

Zoning District	Min. Setback from ROW*	Min. Setback from Property Lines		Max. Building Height
		Side	Rear	
A-1	40 ft.	20 ft.**	50 ft.**	3 stories****
R-1	25 ft.	10 ft.***	30 ft.***	3 stories
R-2	25 ft.	10 ft.***	30 ft.***	3 stories
R-3	Duplex: 25 ft.	10 ft.***	30 ft.***	3 stories
	Townhome: 25 ft.	15 ft.***	30 ft.***	3 stories
	Apartments: 25 ft.	15 ft.***	50 ft.	4 stories
R-4	25 ft.	10 ft.***	30 ft.***	3 stories
O-I	25 ft.	10 ft.	20 ft.	4 stories
C-C	25 ft.	10 ft.	20 ft.	4 stories
C-G	25 ft.	10 ft.	20 ft.	4 stories
I-1	50 ft.	20 ft.	20 ft.	60 feet
I-2	50 ft.	20 ft.	20 ft.	60 feet
I-3	N/A			
* Min. setback is 100 ft. from centerline when no ROW exists.				
** Additional setback requirements may apply. See Article IV.				
*** Side yard shall be a minimum of 25 feet when abutting an A-1 zoning district. Rear yard shall be a minimum of 50 feet when abutting an A-1 zoning district				
**** Silos, granaries, windmills, barns, and other structures concurrent to the operation of a commercial agricultural use may exceed 3 stories in height.				

**4.02.03 Installation of Manufactured Homes**

A. All manufactured housing shall be erected, tied down, underpinned and have utilities connected thereto in accordance with the rules and regulations promulgated by the office of the state fire marshal, as amended or modified from time to time. A permit for a manufactured home will be issued only if the home meets the minimum standards, as set forth in Sec Section 4.02.04(B) and approved by the following method:

- 1) Manufactured homes located within Burke County
  - a. Shall be inspected by the building inspector and found to meet the minimum standards (Sec. 4.02.04(B)). The building inspector will create a report of deficiencies prior to permitting. Major deficiencies of these standards may be required by the Building Official to be repaired prior to the relocation of the home. After the initial inspection, applicants requesting a permit for a manufactured home must provide the building inspector the following:
    - i. Signed affidavit of condition.
    - ii. Signed land owner permission letter
    - iii. Verification of current Burke County tax registration
    - iv. Current year’s receipt of paid taxes (both land and home if applicable)

- v. Valid relocation certificate
  - vi. Written certification of on-site sewage disposal by county health inspector
  - vii. Guarantee of Condition Bond in the amount of \$1,000.00 (bond may be in the form of cash, cashier's check, or money order. Personal checks will not be accepted). Bonds are refundable upon final inspection and issuance of the Certificate of Occupancy.
- b. If the manufactured home does not meet these standards according to the building inspector, power will not be approved until the standards have been met. The "guarantee of condition" bond will be forfeited if these standards are not met within 90 days issuance of the permit. A re-inspection fee will be required for any subsequent inspection

2) Manufactured homes located outside of Burke County

- a. A collection of photographs may be submitted to the Building Official in-lieu of inspection. The building official may require any and/or all deficiencies of the standards (noted below) to be repaired prior to the relocation of the home. After the building official has deemed the house acceptable to be relocated into Burke County, applicants requesting a permit for a manufactured home must provide the building inspector the following:
- i. Signed affidavit of condition.
  - ii. Signed land owner permission letter
  - iii. Verification of current Burke County tax registration
  - iv. Current year's receipt of paid taxes (both land and home if applicable)
  - v. Valid relocation certificate
  - vi. Written certification of on-site sewage disposal by county health inspector
  - vii. Guarantee of Condition Bond in the amount of \$1,000.00 (bond may be in the form of cash, cashier's check, or money order. Personal checks will not be accepted). Bonds are refundable upon final inspection and issuance of the Certificate of Occupancy.
- b. If the manufactured home does not meet these standards according to the building inspector, power will not be approved until the standards have been met. The "guarantee of condition" bond will be forfeited if these standards are not met within 90 days issuance of the permit. A re-inspection fee will be required for any subsequent inspection

B. Manufactured home minimum standards:

- 1) Exterior. All components of the exterior, including siding, windows and exterior doors of the manufactured home shall be aesthetically uniform in appearance and free of any condition that may hinder operation as originally intended or might admit moisture.
- 2) Roof. The roof of the manufactured home shall be in sound condition with no obvious defects.

- 3) Interior. The flooring, interior wall and ceiling shall be in sound condition and appearance.
- 4) Egress Windows. Each bedroom of a manufactured home shall have at least one operable escape window.
- 5) Ventilation. Bathrooms and kitchens without a window must have an operable ventilation device.
- 6) Smoke Detectors. Each manufactured home shall contain one operable battery-powered smoke detector in each bedroom and in the kitchen area. The smoke detectors must be installed in accordance with the manufacturer's recommendations. Smoke detectors older than 10 years must be replaced.
- 7) Sanitary Facilities. Each manufactured home shall contain a kitchen sink. Each bathroom in the manufactured home shall contain a lavatory and water closet; at least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked when properly connected to ensure they are in good working condition.
- 8) Electrical. The distribution panels of each manufactured home shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. Connections shall be checked for tightness. The electrical panels shall be accessible. All electrical switches, receptacles and fixtures shall be properly and securely installed. All GFCI devices and over current protection devices older than 10 years shall be replaced.
- 9) Hot Water Supply. Each manufactured home shall contain a water heater in safe and working condition.
- 10) Heating Source. Each manufactured home shall have a safe central heating system in working condition. Un-vented heaters shall be prohibited.
- 11) Skirting. Installation of skirting shall be required. Installation shall be in accordance with the building inspector. Acceptable materials may include masonry, stone, metal or other materials manufactured for the purpose of skirting. Vinyl is prohibited.
- 12) HUD Certification. The home must meet HUD Manufactured Home Construction and Safety Standards.
- 13) Vapor barrier. All manufactured homes shall have a minimum 6 mil. Polyethylene vapor barrier applied directly to 90% minimum of exposed earth beneath the home.
- 14) Address. The 911 physical address must be posted at the service road and on the home if there is more than one structure on the property.

#### **4.03.00 SITE DESIGN STANDARDS FOR SPECIFIC USES**

##### **4.03.01 Intensive Agricultural Uses**

- A. Intensive agricultural uses, which include but are not limited to dairy farms, hog farms, farrowing houses, poultry houses (both broilers and layers), livestock feedlots

or holding lots are permissible in the A-1 zoning district subject to the standards of the zoning district and the site design standards set forth in this section.

- B. Accessory buildings and uses customarily incidental to intensive agricultural operation such as waste lagoons, basins or pits, stackhouses, barns, sheds, and storage structures directly related to the agricultural use are permissible in the A-1 zoning district subject to the standards of the zoning district and the site design standards set forth in this section.
- C. Site design standards for intensive agricultural uses are shown in the following table:

**Table 4.03.01 (C). Standards for Intensive Agricultural Uses**

Development Features	Standard
Minimum lot size	30 acres

**4.03.02 Livestock Sales Pavilions**

- A. Livestock sales pavilions are permissible in the A-1 zoning district subject to the standards of the zoning district and the site design standards set forth in this section.
- B. Site design standards for livestock sales pavilions are shown in the following table:

**Table 4.03.02 (B). Standards for Livestock Sales Pavilions**

Development Features	Standard
Minimum lot size	30 acres
Minimum setback from any property line	100 feet
Minimum setback from any adjacent residence under separate ownership	400 feet
Off-street parking	Adequate parking shall be provided Parking shall be provided out of the public right-of-way
Other operational requirements	Use shall not impede traffic or effect existing adjacent residential uses

**4.03.03 Commercial Slaughterhouses**

- A. Commercial slaughterhouses are permissible in the A-1 zoning district subject to the standards of the zoning district and the site design standards set forth in this section.
- B. Site design standards for commercial slaughterhouses are shown in the following table:

**Table 4.03.03 (B). Standards for Commercial Slaughterhouses**

Development Features	Standard
Minimum lot size	30 acres
Minimum setback from any property line	300 feet

Minimum setback from any adjacent residence under separate ownership	500 feet
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**4.03.04 Wholesale and Retail Sales of Agricultural Products**

- A. Wholesale and retail sales of agricultural products on property where the products were grown or produced are permissible in the A-1 district subject to the standards of the zoning district and the site design standards set forth in this section.
- B. Site design standards for structures used for the wholesale and retail sale of agricultural products are shown in the following table:

**Table 4.03.04 (B). Standards for Wholesale and Retail Sales of Agricultural Products**

Development Features	Standard
Minimum setback from any side or rear property line	100 feet
Minimum setback from any adjacent residence under separate ownership	200 feet
Off-street parking	Adequate parking shall be provided  Parking shall be provided out of the public right-of-way
Other operational requirements	Use shall not impede traffic or effect existing adjacent residential uses

**4.03.05 Animal Containment (with Non-Intensive Agricultural Uses)**

- A. Animal containment of farm animals, including horses, for the purpose of non-intensive agricultural uses is permissible in the A-1 zoning district subject to the standards of the zoning district and the site design standards set forth in this section.
- B. Site design standards for animal containment are shown in the following table:

**Table 4.03.05 (B). Standards for Animal Containment**

Development Features	Standard
Minimum setback for structures required for keeping of cattle and horses or storage or handling of odor or dust producing substances	400 feet from all property lines

**4.03.06 Riding Stables**

- A. Commercial or private riding stables and academies are permissible in the A-1 zoning districts subject to the standards of the zoning district and the site design standards set forth in this section.
- B. Site design standards for commercial or private riding stables and academies are shown in the following table:

**Table 4.03.06 (B). Standards for Riding Stables**

Development Features	Standard
Minimum lot size	20 acres
Minimum setback for structures for keeping horses	100 feet from side or rear property lines 400 feet from any existing adjacent residence
Minimum setback for other structures or facilities, including but not limited to show/training rings or jumps	50 feet from any side or rear property line
Off-street parking	Adequate parking shall be provided  Parking shall be provided out of the public right-of-way
Other operational requirements	Use shall not impede traffic or effect existing adjacent residential uses

**4.03.07 Animal Care Facilities**

- A. Animal care facilities, defined as animal hospitals, veterinary clinics, kennels or other animal boarding facilities, are permissible in the C-G and L-I zoning districts subject to the standards of the district.
- B. Animal care facilities are permissible in the A-1 and C-C zoning districts subject to the standards for the districts and the site design standards of this section.
- C. Site design standards for animal care facilities are shown in the following table:

**Table 4.03.07(C). Standards for Animal Care Facilities**

Development Features	Standard
Minimum setback for unenclosed structures used to house animals	400 feet from any existing adjacent residence under separate ownership

**4.03.08 Commercial Campgrounds**

- A. Commercial campgrounds, as defined in this LDC, are permissible in the A-1 zoning district subject to the standards of the zoning district, the rules of the department of human resources Chapter 290-5-18, Tourist Accommodations, the site design standards set forth in this section, and the plan submittal process described in this LDC.
- B. The submittal plan pack shall include: Site layout meeting specifications of table 4.03.08 (D), prepared by a design professional, written certification from EPD accepting the well system design, written certification from the county health officer accepting the septic sewage system design, and the appropriate fee as set forth in the fee schedule.
- C. Plans shall be reviewed for compliance with this LDC by the Building Official, with the exception that proposals for five or more campsites shall also be submitted to the Planning Commission for review and consideration of approval in accordance with the procedures in Section 9.02.03 of this LDC.

D. Site design standards for commercial campgrounds are shown in the following table:

**Table 4.03.08 (D). Standards for Commercial Campgrounds or RV Parks**

Development Features	Standard
Minimum setbacks for camper sites on lots adjoining public roads	60 feet from the right-of-way or 100 feet from the centerline, whichever is greater
Minimum camper site setbacks from side and rear property lines	15 feet
Minimum setback between camper sites, or any portion thereof	20 feet
Driveway construction	<ul style="list-style-type: none"> <li>• A 60-foot right-of-way.</li> <li>• A minimum of 18 inches of mixed and compacted subbase to 95% modified proctor.</li> <li>• Four (4) inches of graded aggregate compacted at 95% modified proctor.</li> <li>• Slope of road surface from the centerline shall be one-quarter inch per foot.</li> <li>• Shall extend to a Burke County-maintained roadway.</li> <li>• Open ditch sections shall be within the right-of-way of the road and designed with criteria for 25-year flood.</li> <li>• The Building Official may accept a site analysis from an independent third party registered Professional Engineer, soil engineer, or equivalent in lieu of the 25 year flood design. The analysis must show that the soils on the property are capable of absorbing the water from a 25 year rain event.</li> <li>• The design and construction of the roads shall be approved by the county road superintendent.</li> </ul>
Water (for each camper site)	<ul style="list-style-type: none"> <li>• Individual connection to a central water supply system.</li> <li>• Written certification must be obtained from the county health officer that the proposed location can satisfactorily accommodate the central water system and on-site sewage disposal.</li> </ul>
Electricity (for each camper site)	Individual electric power connection

**4.03.09 Recreational Campgrounds**

- A. Recreational campgrounds, as defined in this LDC, are permissible in the A-1 zoning district, subject to the standards of the district, the site design standards set forth in this section, and the plan submittal requirements described in Article IX.
- B. Recreational campgrounds shall not operate as a commercial business.
- C. Site design standards for recreational campgrounds are shown in the following table:

**Table 4.03.09 (C). Standards for Recreational Campgrounds**

Development Features	Standard
Minimum setbacks for camper sites on lots adjoining public roads	60 feet from the right-of-way or 100 feet from the centerline, whichever is greater
Minimum camper site setbacks from side and rear property lines	15 feet
Minimum setback between camper sites, or any portion thereof	20 feet
Water (for each camper site)	Individual connection to a central water supply system. Written certification must be obtained from the county health officer that the proposed location can satisfactorily accommodate the central water system and on-site sewage disposal.
Electricity (for each camper site)	Individual electric power connection

**4.03.10 Outdoor Activity Uses (excluding Outdoor Amusement Uses)**

- A. Outdoor activity uses include but are not limited to tracks for go-carts and paintball facilities, as well as less intensive uses including but not limited to golf and country club courses, golf driving ranges, playgrounds, playfields, swimming pools, tennis courts, archery courses, miniature golf, and trampoline or other novelty areas.
- B. Outdoor activity uses are permissible in the I-1 and I-2 zoning district subject to the standards of the district.
- C. Outdoor activity uses are permissible in the A-1, C-C and C-G zoning districts subject to the standards of the district and the site design standards set forth in this section.
- D. Site design standards for outdoor activity uses are shown in the following table:

**Table 4.03.10 (D). Standards for Outdoor Activity Uses**

Development Features	Standard
Minimum lot size	2 acres for less intensive uses, excluding golf driving ranges  10 acres for golf driving ranges  20 acres for all other uses
Minimum building setbacks	150 feet from any side or rear property line

**4.03.11 Outdoor Amusement Uses**

- A. Outdoor amusement uses, including but not limited to motorsport racetracks or strips, amusement parks, or rifle or other gun firing range, are permissible in the A-1, I-1, and I-2 zoning districts, subject to the standards of the district, the site design standards set forth in this section, and the plan review process in Article IX.
- B. Site design standards for outdoor amusement uses are shown in the following table:

**Table 4.03.11 (B). Standards for Outdoor Amusement Uses**

Development Feature	Standard
Minimum lot size for outdoor amusement uses, excluding rifle or other gun firing range	100 acres
Minimum setback for any building or structure, excluding a rifle or other gun firing range	500 feet from any property line
Minimum setback for a rifle or other gun firing range	800 feet from any property line  1,500 feet from any existing adjacent residence measured from the property line of the range site.
Additional requirements for a rifle or other gun firing range	All ranges shall comply with the minimum standards for range design, location, management, operation, noise abatement and safety listed in the most current <i>National Rifle Association Range Sourcebook</i> .  A site plan showing all proposed buildings, firing lines or stations, shooting related activity areas, fencing, landscape screening, and berms shall be submitted to the Planning Commission for review.

**4.03.12 Zoological Parks**

- A. Zoological parks are permissible in the A-1 zoning district subject to the standards of the district and the site design standards set forth in this section.
- B. Site design standards for zoological parks are shown in the following table:

**Table 4.03.12 (B). Standards for Zoological Parks**

Development Feature	Standard
Minimum setback for any building, structure or animal enclosure	300 feet from any property line
Facility and licensing requirements	Facilities (including buildings, structures and animal enclosures) shall be designed and provided in accordance with applicable state requirements.  A zoological park shall be licensed by the Georgia Department of Natural resources

**4.03.13 Private Schools (excluding facilities for pre-Kindergarten age)**

- A. Private primary, elementary, junior high (middle) or senior high schools, and private colleges and universities are permissible in the O-I, C-C, and C-G zoning districts, subject to the standards of the district.
- B. Private primary, elementary, junior high (middle) or senior high schools, and private colleges and universities are permissible in the R-1, R-2, R-3 and R-4 zoning districts, subject to the standards of the district and the site design standards of this section.
- C. Site design standards for private schools, excluding facilities for pre-Kindergarten age, are shown in the following table:

**Table 4.03.13 (C). Standards for Private Schools**

Development Feature	Standard
Minimum setback for outdoor recreation areas, excluding colleges and universities	75 feet from any property zoned or used for residential purposes
Minimum setback for outdoor recreation areas, colleges and universities	150 feet from any property zoned or used for residential purposes
Access requirements, excluding colleges and universities	Shall front a collector or arterial road
Access requirements, colleges and universities	Shall front an arterial road

**4.03.14 Family Personal Care Homes and Group Care Homes**

- A. Family personal care homes, as defined in State law, providing care for two (2) to no more than six (6) persons, are permissible in the A-1, R-1, R-2, O-I, C-C, and C-G zoning districts, subject to the standards of the district and the site design standards set forth in this section.
- B. Group personal care homes, as defined in State law, providing care for seven (7) to no more than fifteen (15) persons, are permissible in the A-1, O-I, C-C, and C-G zoning districts, subject to the standards of the district and the site design standards of this section.
- C. Site design standards for group personal care homes and family personal care homes are shown in the following table:
- D. Personal care homes may not be operated in manufactured home, unless evaluated by a registered architect, brought into current code compliance.

**Table 4.03.14(C). Standards for Family Personal Care Homes and Group Personal Care Homes**

Development Feature	Standard
Minimum building setback	50 feet from any side and rear yard
Outdoor activity area	Fully enclosed by a fence, a minimum of five (5) feet in height
Signs	Prohibited
Parking, Family Personal Care Homes	2 spaces are required and may be located in the driveway or garage or in the rear yard; additional spaces shall be located in the rear yard only and shall be screened from view from adjacent properties.

**4.03.15 Hospitals and Congregate Care Homes**

- A. Hospitals and congregate care homes, including assisted living and independent living facilities, are permissible in the O-I, C-C and C-G zoning districts, subject to the standards of the district and the site design standards of this section.
- B. The following are site design standards for hospitals and nursing homes:

**Table 4.03.15 (B). Standards for Hospitals and Nursing Homes.**

Development Feature	Standard
Site location	Shall front a collector or arterial road
Minimum building setback	100 feet from any side or rear property line
Minimum setback for outside storage of materials, equipment, hazardous materials and wastes, and tanks	100 feet from any property line

**4.03.16 Private Airport**

- A. Private airports are permissible in the A-1 zoning districts, subject to the standards of the zoning district and the design standards of this section.
- B. Site design standards for private airports are shown in the following table:

**Table 4.03.16 (B). Standards for Private Airports**

Development Feature	Standard
Minimum setback for runway surface	500 feet from any property line, excepting for that of parcels of the subject property owner or parcel(s) proposed in conjunction with or using the runway, as in a "residential fly-in" subdivision.
Minimum setback for buildings and structures used in conjunction with the airport	
Site configuration	Proposed site plan (including identification and location of proposed buildings and structures) subject to review and approval by the Planning Commission

Notice of landing area proposal	All property owners establishing a private airport shall file with the Federal Aviation Administration (FAA) a form 7480-1, "Notice of Landing Area Proposal" and subsequently receive a "Non-objectionable Determination Letter" from FAA prior to use of the facility by any aircraft.
Clear zone and transitional surface	See Section 4.02.02.G .

**4.03.17 Funeral Homes**

- A. Funeral homes are permissible in the C-G and I-1 zoning districts, subject to the standards of the zoning district and the design standards of this section.
- B. Site design standards for funeral homes are shown in the following table:

**Table 4.03.17 (B). Standards for Funeral Homes.**

Development Feature	Standard
Minimum setback for buildings, structures, and storage yards	100 feet from any side or rear property line

**4.03.18 Cemeteries, Mausoleums, and Memorial Gardens**

- A. Cemeteries are permissible in the A-1, R-1, O-1, C-C, C-G, and I-1 zoning districts, and any zoning district when an accessory use to a church or other place of worship, subject to the standards of the district and the site design standards of this section.
- B. Any person or persons establishing a cemetery, or mausoleum or combination thereof, for the purpose of selling any grave space, lot or crypt shall do so in accordance with the Georgia Cemetery and Funeral Services Act of 2000.
- C. Any person or persons establishing a private cemetery or mausoleum, or family burial plot shall comply with the following provisions:
  - 1) The cemetery, mausoleum or burial plot shall be platted, approved by the Planning Commission and recorded in the office of the clerk of superior court.
  - 2) All new grave sites in newly created private cemeteries shall be marked with a grave marker.
  - 3) The cemetery, mausoleum or burial plot shall be named and posted on the recorded property.
- D. Site design standards for cemeteries are shown in the following table:

**Table 4.03.18 (D). Standards for Cemeteries, Mausoleums, and Memorial Gardens.**

Development Feature	Standard
Minimum land area	1/4 acre
Minimum setback for structures, storage, materials, equipment, or interment lots (includes cemetery, mausoleum or burial plot)	250 feet from any side or rear property line 150 feet from a drinking water well
Location requirements	A cemetery shall not be located in a wetland, 100-year floodplain, floodway or flood hazard area

Enclosure	Chain link or masonry fence
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**4.03.19 Junkyard and Recycling Centers**

- A. Junkyards are permissible in the I-1 and I-2 districts subject to the standards of the district and the site design standards of this section.
- B. Site design standards for junkyards are shown in the following table:

**Table 4.03.19 (B). Standards for Junkyards.**

Development Feature	Standard
Minimum setback for the storage, placing or processing of inoperable vehicles or any other junk within a junkyard	350 feet from any property line
Enclosure	Junkyards shall be fully enclosed by an opaque wall or fence not less than 8 feet in height.  Materials and design shall be compatible with the use of adjoining and neighboring property.

**4.03.20 Industrial Uses with Nuisance Features**

- A. Industrial uses associated with nuisance features, such as odor, noise, vibration, or the use or storage of hazardous materials, in addition to extractive industrial uses and mining, are permissible in the I-2 zoning district, subject to the standards of the district and the site design standards of this section.
- B. Site design standards for industrial uses associated with nuisance features are shown in the following table:

**Table 4.03.20 (B). Standards for Industrial Uses with Nuisance Features.**

Development Feature	Standard
Minimum setback of buildings, structures or activities associated with the industry, with the exception of mining operations	100 feet from any property line
Minimum setback of buildings, structures or activities associated with mining operations	500 feet from any property line
Required minimum buffer yard (located on the outer perimeter of a property, extending to the property boundary line and excluding any portion of an existing, dedicated or reserved public or private street or right-of-way)	80 feet when adjacent to a rural or residential zoned property  60 feet when adjacent to a commercial, office or institutional zoning district
Buffer yard requirements	Shall consist of a minimum four (4) shade trees and twenty-five (25) shrubs per 100 linear feet.  Shrubs shall be at least eighteen (18) inches in height at the time of installation.

	<p>Buffer yards shall be maintained as green open space, consisting of sod or ground cover, along with required plantings and access drives only.</p> <p>The buffer shall be designed to avoid or minimize plantings within drainage, utility, or other easements.</p>
Outdoor storage	Screened from view from adjacent properties and from the public right-of-way with an opaque wall or fence not less than 8 feet in height
Refuse and solid waste containers	Fully enclosed, except for an access gate

**4.03.21 Manufactured Home Park**

- A. Manufactured home parks are permissible in the R-4 zoning district, subject to the standards of the district and the provisions of this section.
- B. Land subdivided and subsequently sold for the purpose of siting manufactured homes is not considered a manufactured home park by this section. Such subdivision of land is subject to the provisions of Section 4.04.00.
- C. This section does not apply to manufactured home parks in existence prior to the effective date of the ordinance from which this section derives except that all manufactured homes placed or replaced in grandfathered manufactured home parks after the effective date shall comply with all applicable provisions with the exception of the spacing and setback requirements.
- D. In the event of expansion, enlargement or establishment of additional lots in grandfathered manufactured home parks, all of the terms and conditions of this chapter shall apply to the additional lots thereby created.
- E. Individual lots within a manufactured home park shall have a minimum lot size of 0.5 acre each. The individual lots shall be exclusive of space required for access roads and the water supply system.
- F. Interior roadways shall be paved and constructed in accordance with the requirements of Article VI of this LDC except for the following:
  - 1) Wearing surface width shall be 24 feet.
  - 2) Shoulder width shall be five (5) feet.
  - 3) Total right-of-way to be determined by accommodating the storm drainage system with criteria for 25-year flood (minimum of 80 feet).
  - 4) Required property for interior roadways will be exclusive of the area required to provide 0.5 acres for each manufactured home.
- G. Manufactured homes shall be installed in accordance with Section 4.02.04.
- H. Each manufactured home or site designed to accommodate a manufactured home shall have an individual connection to a central water supply system.
  - 1) Written certification must be obtained from the county health officer that the proposed location can satisfactorily accommodate the central water system and the on-site sewage disposal.

- I. Each manufactured home within a park shall be provided with an individual electric power connection.
- J. Manufactured homes on lots adjoining public roads shall conform to the building setback requirements of section Table 04.02.02 (G) *Building Setback and Height Standards*.
  - 1) No manufactured home shall be closer to side or rear property lines than 15 feet and no closer to an adjoining manufactured home or portion thereof than 30 feet.
- K. Persons desiring to establish a manufactured home park shall submit plans for review by the Building Official as follows:
  - 1) The prospective manufactured home park owner should consult with the Building Official and the county health office to obtain advice and assistance prior to preparation of a development plan.
  - 2) The owner should provide:
    - a. A property plat
    - b. Sketches of the proposed layout
    - c. Soil analysis report.
  - 3) Submittal should include:
    - a. Two (2) copies of a plat (drawn to scale at no less than one inch = 100 feet) drawn in enough detail to show conformance to subsections D. through I. above
    - b. A check payable to the order of the Board of Commissioners in appropriate amount based on a review fee of \$5.00 per each lot in the proposed manufactured home lot.

**4.03.22 Manufactured Homes**

- A. Manufactured homes are permissible in the A-1 zoning district subject to the standards of the district and Section 4.02.03.
- B. Manufactured housing developments are permissible in the R-4 zoning district subject to the standards of the district and Section 4.02.22.
- C. Manufactured homes, not including manufactured home parks, are permissible in the R-4 zoning district subject to building setback and height standards of the district, the standards of Section 4.02.03, and the supplemental standards of this section.
- D. The site design standards for manufactured homes, not including manufactured housing developments, are shown in the following table:

**Table 4.03.22(D). Standards for Manufactured Homes**

Development Feature	Standard
Minimum land area	See standards for R-1 Zoning District, Table 4.02.01 (Q)
Minimum lot width	
Minimum lot frontage	

#### 4.03.23 **Solid Waste Management Facilities**

Solid Waste Management Facilities are permissible in the I-2 zoning district subject to the standards of the district and the Burke County Code of Ordinances, Part II, Chapter 34, Article III *Solid Waste Management Facilities*.

#### 4.03.24 **Timber Operations**

Timber operations are permissible in the A-1 zoning district subject to the standards of the district and the Burke County Code of Ordinances, Part II, Chapter 30, Article II *Timber Operations*.

#### 4.03.25 **Adult Entertainment Establishments**

Adult entertainment establishments are permissible in the I-1 and I-2 zoning districts subject to the standards of the district and the requirements of the Burke County Adult Entertainment Ordinance.

#### 4.03.26 **Solar Energy Farm**

1. **Minimum Lot Size.** A solar farm installation shall require a minimum of 5 acres in the A-1 District.
2. **Maximum Height.** The design of the solar farm shall adhere to existing structural height requirements in the underlying zoning district. If the solar farm requires roof mounting on buildings on the property, the roof mounted installation may not exceed the maximum principal building height or accessory building height specified for the building type in the underlying zoning district.
3. **Setback Requirements.** Solar panels and related equipment shall be located a minimum of 400 feet from all property lines, with the exception that the width may be reduced to 100 feet if a vegetative buffer is provided as a visual screen between the use and adjacent properties in accordance with Section 4.05.02. Equipment shall be screened from view from adjacent property and fenced to restrict unauthorized access. Screening shall consist of a minimum 8 foot opaque fence around the perimeter of the property with the addition of shrubbery, trees or an earthen berm as may be required to comply with glare requirements.
4. Solar panels shall not be placed in the vicinity of any airport in a manner that would interfere with airport flight patterns. Acknowledgement from the Federal Aviation Administration (FAA) may be necessary.
5. All power transmission lines from a ground mounted solar farm shall be located underground after connection from the solar panel combiners to the interconnection point.
6. A solar collection system shall not be used to display signage, streamers, pennants, spinners, reflectors, ribbons, tinsel, balloons, flags, banners or similar materials, with the exception that the manufacturers' or installers' identification and appropriate warning signage shall be posted at the site in a clearly visible manner.
7. The design of the solar electric system shall conform to applicable industry standards, including those of the American National Standards Institute. The applicant for a building permit and land use permit shall submit certificates of design compliance obtained by the equipment manufacturers from Underwriters Laboratories (UL), IEEE, Solar Rating and Certification Corporation (SRCC), ETL, or other similar certifying organizations.

8. Reflection angles for solar collectors shall be oriented such that they do not direct glare toward residential users on adjacent properties
9. Solar energy system components shall be designed with an antireflective coating. Verification shall be provided that verifies that the components of the solar energy system have this quality.
10. The solar farm shall be constructed to and comply with applicable local and state building codes.

The following requirements shall be met for building/development permit applications:

1. A descriptive plot plan including setbacks, solar panel sizes, locations of property lines, building footprints, and road rights of way.
2. Any other relevant studies, reports, certificates and approvals as may be reasonably requested by the Building Official.
3. A stormwater management study shall be provided to ensure compliance with local BMP's, if applicable.
4. A solar farm connected to the utility grid shall provide a "proof of concept letter" from the local utility company acknowledging the solar farm will be interconnected to the utility grid in order to sell electricity to the public utility entity.
5. Documentation of land ownership and/or legal authority to construct on the property.

The following requirements shall be met for decommissioning:

1. Solar energy farms which have not been in active and continuous service for a period of one year shall be removed at the owner's or operator's expense.
2. The site shall be restored to a natural condition within 6 months of the removal.

#### **4.03.27 Wind Energy Facilities**

A. The installation and design of the Wind Energy Facility shall conform to applicable industry standards, including those of the American National Standards Institute (ANSI).

B. All electrical and mechanical components of the Wind Energy Facility shall conform to relevant and applicable local, state and national codes, including but limited to: the Building Code, as amended by Burke County, the National Electrical Code, and Federal Aviation Administration (FAA) regulations.

C. The visual appearance of Wind Energy Facilities shall at a minimum:

- 1) Maintain a galvanized finish and be a non-obtrusive color such as white, off-white or gray;
- 2) Not be artificially lighted, except to the extent required by the Federal Aviation Administration or other applicable authority that regulates air safety; or otherwise regulates lighting,
- 3) Not display advertising (including flags, streamers or decorative items), except for identification of the turbine manufacturer, facility owner and operator.

D. Minimum Setback Requirements

Wind Energy Facility Type	Minimum Setback Requirements				
	Occupied Buildings on Participating Landowner Property	Occupied Buildings on Non-Participating Landowner Property	Property Lines on Non-Participating Landowner Property	Public Roads	Public/Private Right-of-Way
Class I	1.1	1.5	1.1	1.1	1.5
Class II	1.1	1.5	1.1	1.1	1.5
Class III	1.1	2.0	1.5	1.5	1.5
Class IV	1.1	2.5	1.5	1.5	1.5

Setbacks are measured from the center of the wind turbine base to the property line, public road, or nearest point on the foundation of an occupied building. Setbacks are calculated by multiplying the required setback number by the wind turbine height. (i.e. Setback (1.1) = 1.1 x ht. of Turbine). For example a 100 foot turbine should be at least 110 feet away from any public road line or to the edge of a building structure on the property or adjacent property.

If a wind energy facility is sited on multiple properties, the lot size is the sum of all participating landowners.

These setbacks are designed to reduce noise and shadow flicker impacts to any previously existing occupied buildings on adjacent properties.

E. Noise and Shadow Flicker

- 1) Audible sound from a Wind Energy Facility shall not exceed fifty-five (55) dBA at any time, as measured at the property line of a Non-Participating Landowner. The level, however, may be exceeded during short-term events such as utility outages and/or severe windstorms.
- 2) Shadow flicker at any Occupied Building on a Non-Participating Landowner’s property caused by a Wind Turbine Facility located within 2,500 ft of the Occupied Building existing at the time of initial operation of the facility shall not exceed thirty (30) hours per year.

F. Height

So long as the total extended height meets sound and setback requirements, there shall be no specific height limitation, except as imposed by Federal Aviation Administration regulations. See also standards in Article IV of the UDC pertaining to height limitations surrounding public or private airports.

G. Permit Requirements

- 1) Wind Energy Facility, or addition of a Wind Turbine to an existing Wind Energy Facility, shall not be constructed unless a building permit has been issued to the Facility Owner or Operator approving construction of the facility under this section. Permit application of the expansion shall be based on the total rated capacity, including existing facility but excluding like-kind replacements of equipment.
- 2) Any physical modification to an existing and permitted Wind Energy Facility that alters the size, type or number of Wind Turbines or other equipment shall require a permit modification under this section.
- 3) All wind turbines shall be built in accordance with the manufacturer’s specifications.
- 4) The permit application shall contain the following:

- i. A narrative describing the proposed Wind Energy Facility, including an overview of the project;
- ii. The proposed total rated capacity of the Wind Energy Facility;
- iii. The proposed number, representative types and height or range of heights of wind turbines to be constructed; including their generating capacity, dimensions and respective manufacturers, and a description of ancillary facilities;
- iv. Identification and location of the properties on which the proposed Wind Energy Facility will be located;
- v. A site plan showing the planned location of all wind turbines, property lines, setback lines, access roads and turnout locations, substation(s), electrical cabling from the Wind Energy Facility to the substation(s), ancillary equipment, building(s), transmission and distribution lines. The site plan must also include the location of all structures and properties, demonstrating compliance of the setbacks;
- vi. A narrative describing how the proposed project will address compliance with the noise and shadow flicker requirements of these standards for the life of the project. The narrative should include a statement that the Wind Energy Facility will be maintained according to the Facility manufacturer's recommendations if such recommendations exist.
- vii. Certification by the property owner of compliance with applicable local, state and federal regulations, such as the Endangered Species Act (ESA), Migratory Bird Treaty Act, United States Corps of Engineers (USCOE), FAA and FCC regulations. Evidence of compliance or non-applicability shall be submitted with the application.
- viii. An environmental assessment for Class III and Class IV Wind Energy Facilities will be provided to the County in order to show that the proposed project meets any relevant Federal, State and Local requirements, including but not limited to those identified under subsection vii) above.

The applicant shall have a third party, qualified professional conduct an analysis to identify and assess any potential impacts on the environment including wetlands, surface water and floodplain resources, wildlife and endangered species, historic or cultural sites, and adjacent agricultural uses such as rotating crops. The applicant shall take appropriate measures to minimize, eliminate or mitigate adverse impacts identified in the analysis. The assessment shall include correspondence with applicable agencies that documents consultation, applicable findings, and proposed mitigation measures. Such documentation shall include, but not be limited to, correspondence with the United States Fish and Wildlife Service (USFWS) regarding the potential presence of species of concern and associated Best Management Practices (BMPs) for site construction and operation, if applicable.
- ix. Other relevant information as may be reasonably requested by Burke County to ensure compliance with the requirements of this section, such as a topographical survey.
- x. Decommissioning plans that describe the anticipated life of the wind power project, the estimated decommissioning costs in current dollars, the method for ensuring that funds will be available for decommissioning and restoration of site property, and the anticipated manner in which the wind power project will be decommissioned and the site restored.

G. Decommissioning

- 1) The Wind Energy Facility Owner, Operator and/or Participating Landowner shall have 3 months to complete decommissioning of the Facility if no electricity is generated for a continuous period of 12 months.
- 2) Decommissioning shall include removal of wind turbines, buildings, cabling, electrical components, roads, and any other associated facilities. If other uses are proposed for the decommissioned turbines, the Wind Facility Owner, Operator or Participating Landowner must obtain an amended permit.
- 3). Disturbed earth shall be graded and re-seeded and subject to erosion and sedimentation control state and local regulations.

**4.04.00 CONVENTIONAL SUBDIVISION DESIGN STANDARDS**

**4.04.01 Generally**

- A. The provisions of this article shall apply to any division or redivision of a tract or parcel of land into two or more lots, parcels, building sites, or other divisions or redivisions for the purpose, whether immediate or future, of sale, lease, legacy, or building development; except the following is exempt from the platting requirements of this article:
  - 1) The combination or recombination of previously platted and recorded lots, parcels or building sites or portions thereof where the total number of lots, parcels or building sites is not increased and where the resultant lots, parcels or building sites are equal to the standards prescribed in this chapter.

**4.04.02 Subdivisions of Five Lots or Less**

- A. The Building Official may review and approve or disapprove subdivisions containing 5 or less tracts provided that no new roads are created and that the divisions meet of requirements of this LDC.
- B. The Planning Commission shall review and approve or disapprove all subdivision plats of 6 or more tracts or any subdivisions creating new roads.

**4.04.03 Subdivisions with Private Roads**

- A. The subdivision of land creating lots abutting on private roads shall be permitted provided that:
  - 1) The private roads and the rights-of-way therefore are constructed and maintained in accordance with the requirements of Sections 6.02.07 (O), and fee simple title to the rights-of-way for the roads are vested in a nonprofit state corporation of which all owners of lots having a right to use the roads are required by covenants running with the land to be members (hereinafter referred to as the "owners association"). The owners association shall, by covenants running with the land recorded in the office of the clerk of the superior court, have the obligation to maintain the private roads and rights-of-way therefore in a good, safe and well-kept condition, and shall be required to levy annual assessments on lots in the subdivision to pay the cost thereof and to establish and maintain reserves for future significant repair, rebuilding,

repaving and maintenance of those roads not required on an annual basis, which assessments if unpaid when due become and continue to be a lien on the lot against which they were levied until they are paid.

- 2) A subdivision of land creating lots fronting on private roads shall require approval of a preliminary plat and a final plat as set forth in this article for subdivisions using public roads, which shall be filed with the building official for processing by him and consideration by the Planning Commission. At the time of the filing of the plat for preliminary approval, the owner of the land shall also file all legal instruments, including but not limited to grants of easements, declarations of covenants and articles of incorporation and bylaws of the owners association to be reviewed by the Planning Commission to determine if all of the requirements of subsection (1) have been met. At the time of requesting final plat approval, a copy of the signed documents with all exhibits attached, along with a certificate of incorporation for the owners association from the secretary of state must be furnished to the Planning Commission for review.
- 3) An appropriate permanent sign identifying the roads in the subdivision as private roads must be erected by the developer and maintained in good condition by the owners association or the developer at all locations where the private roads intersect with a public road.
- 4) Subdivisions developed with the use of private roads must, except as specifically provided otherwise in this article, comply with all other requirements of this article dealing with or relating to the subdivision of land and the construction of improvements thereon.
- 5) Each deed conveying a lot or lots in a subdivision with private roads shall contain a recitation in the deed that the property being conveyed is not served by a public road or public access.
- 6) Private road subdivisions shall file in recordable form, in the office of the clerk of the superior court, covenants running with the land in perpetuity providing that the roads within such subdivision shall not be dedicated or deeded to the county unless they are improved to meet the public road requirements of this chapter and are accepted by the Board of Commissioners.
- 7) No plat of a subdivision of land utilizing private roads for ingress and egress to the lots contained in the subdivision shall be approved unless it is in full compliance with the requirements of this chapter or unless a variance from any such requirement is granted.
- 8) A minimum lot size of 3.5 acres shall be required for subdivisions with private roads.

#### **4.04.04 Specific Provisions for Family Ties Land Division**

- A. Applicability
  - 1) The provisions of this section apply to land divisions in the A-1 zoning district.
- B. Exemptions from Platting Requirements

- 1) Lots created as a result of the Family Ties Land Division are exempt from the subdivision standards set forth in Section 4.04.00 and the platting requirements set forth in Article IX , provided that the lots are conveyed to a grandparent, parent, stepparent, adopted parent, sibling, child, stepchild, adopted child, or grandchild of the owner of the parcel to be divided (parent parcel).
  - 2) Applications to create lots under the Family Ties Land Division process shall be processed by the Building Official as set forth in Article IX.
- C. Design Standards for Lots to be Conveyed
- 1) All lots created under the Family Ties Land Division process shall comply with all design standards for the zoning district in which the lots are located, except as specifically provided in this section.
  - 2) The minimum lot area is two (2) acres.
  - 3) All lots created under the Family Ties Land Division process shall meet one (1) of the following requirements for access:
    - a. Have a minimum of fifty (50) feet of frontage on a paved public right-of-way and meet the lot width requirements set forth in Table 4.02.01 (Q) Standards for Lot Area, Width and Impervious Surface; or
    - b. Provide one (1) access driveway as follows:
      - i. The access driveway easement shall be a minimum of 30 feet wide and shall be recorded as an all purpose easement.
      - ii. The access easement may serve a total of two (2) family ties lots.
      - iii. There may be only one access easement every 250 lineal feet of public road frontage.
  - 4) The remainder of the parent parcel, after creation of lots under the Family Ties Land Division process, shall meet the minimum site design requirements of the zoning district in which the parent parcel is located.
- D. Limitations on Number of Conveyances
- 1) The parent parcel may be divided to create up to five (5) lots for conveyance to family members as described in Section 4.04.04(B).
  - 2) All lots created under the Family Ties Land Division process shall have a recorded survey prior to the issuance of any building permit.

## **4.05.00 LANDSCAPE BUFFER STANDARDS**

### **4.05.01 Generally**

- A. Landscape buffers are intended to separate incompatible land uses and zoning districts from each other and are intended to eliminate or minimize potential nuisances such as dirt, litter, noise, glare of lights, signs, and unsightly buildings or parking areas.
- B. Buffers shall be required between uncomplimentary uses in accordance with the provisions of LDC.

- C. Buffer planting requirements shall be guaranteed for the lifetime of the development. Necessary trimming and maintenance shall be performed to maintain the health of the plant materials, to provide an aesthetically pleasing appearance, and to ensure that the buffer serves the purpose for which it is intended.
- D. Required buffers shall not contain any parking, structures, buildings or portion thereof.
- E. Required buffers and proposed methods of complying with this Code Section shall be submitted to the Building Official as part of the subdivision plat process.

#### 4.05.02 **Buffer Location, Measurement and Design**

- A. Buffers shall be located on the outer perimeter of a lot or parcel, extending to the lot or parcel boundary line.
- B. Buffers shall not occupy any portion of an existing, dedicated, or reserved public or private street, or right-of-way.
- C. Buffer width is normally measured from the property line; however, design variations are allowed. Average width shall be measured at the two (2) end points of the buffer and two (2) additional points which are each approximately one-third (1/3) of the total linear distance from the end point.
- D. Buffer yards shall be located on private property between the property line and any required fence or wall.
- E. Buffer yards shall be maintained as green open space, consisting of sod or ground cover, along with required plantings and access drives only. However, vegetation and/or topography or other conditions existing at the site that contribute to or create an effective barrier may be used to meet buffer requirements.
- F. Buffer landscaping and/or structural buffers (opaque fences, walls and/or earthen berms) shall be installed if existing vegetation or topography cannot provide an opaque visual height of eight (8) feet on a continuous, year-round basis. Landscaping shall consist of a minimum eight (8) shade trees (two-inch minimum caliper at the time of planting) and twenty-five (25) shrubs per 100 linear feet. Shrubs shall be at least eighteen (18) inches in height at the time of installation. Structural buffers shall be located no closer to the property line than two (2) feet, shall be made of rot-resistant material or protected from deterioration with waterproofing materials, shall present a finished and decorative appearance to the abutting property, and shall be no less than eight (8) feet in height,
- G. The buffer landscaping shall be designed to avoid or minimize plantings within drainage, utility, or other easements.
- H. Buffer landscaping shall be designed taking into consideration the site's soils conditions, topography, and natural resources. Native vegetation shall be used for landscaping and buffering unless the applicant demonstrates that the use of non-native, drought-resistant plants would best serve the site.
- I. Buffer landscaping shall be established and maintained by the owner of the proposed development site.

4.05.03 **Buffer Area Standards**

**Table 4.05.03 Buffer Area Standards**

<b>Proposed Land Use</b>	<b>Adjacent Zoning District</b>	<b>Minimum Buffer Area</b>
Extensive business or Industrial/Transportation/Utilities	A-1, R-1, R-2, R-3, R-4	100 feet
Commercial (excluding "extensive business" and office uses), Institutional/Community Facilities, Public Assembly, Accommodations (excluding B&B inn), and Multi-Family	A-1, R-1, R-2, R-3, R-4	50 feet*
Office Uses	A-1, R-1, R-2, R-3, R-4	20 feet*

**4.06.00 ALTERNATIVE SUBDIVISION DESIGN STANDARDS**

(Reserved)

ARTICLE

**V**

# **ACCESSORY AND TEMPORARY USE STANDARDS**

*Article V TOC to be inserted here*

## **5.01.00 GENERALLY**

The provisions of Article V apply to accessory uses, accessory structures, and temporary uses. Table 2.03.02 (B) in Article II of this LDC identifies accessory uses that are permissible in each zoning district. Home occupations are considered accessory uses to residential development. Standards for home occupations are set forth in Section 5.02.00. Standards pertaining to accessory structures are set forth in Section 5.03.00. Standards for temporary structures and uses are set for in Section 5.04.00. Standards for signs, which may be either accessory structures, or the principal use on a parcel, are provided in Section 5.05.00.

## **5.02.00 HOME OCCUPATIONS**

### **5.02.01 Generally**

- A. A home occupation is permissible in a lawfully established dwelling unit in any zoning district where residential uses are permissible.
- B. The following and similar uses shall be considered home occupations:
  - 1) Office for professionals, such as attorneys, drafters, realtors, insurance agents, engineers, architects, and other consultants;
  - 2) Instruction or teaching, such as, but not limited to, academic tutoring, performing arts, fine arts, or culinary arts provided that no more than two (2) students are instructed at any one (1) time;
  - 3) Administrative or clerical support services, such as transcription, court reporters, stenographers, notary public, or addressing services;
  - 4) Personal services, such as beauty or barber shop, nail technician, dress-making or tailoring, provided that the service is limited to one (1) station;
  - 5) Pet grooming;
  - 6) Day care for six (6) or fewer children;
  - 7) Licensed medical practitioner (excluding veterinarians);
  - 8) Manufacturers' representative; and
  - 9) Studios for artists, photographers, or artisans.
- C. An interpretation that a use not listed in Section 5.02.01(B) is similar shall be based on the tasks and activities normally associated with the proposed use and the similarity of those tasks and activities with the tasks and activities normally associated with a listed use.

### **5.02.02 Standards for Customary Home Occupations**

- A. Customary home occupations shall meet the following standards:
  - 1) The occupation, profession or trade is carried on wholly within the principal building.
  - 2) No merchandise or articles are displayed in such a way as to be visible from outside the dwelling.

- 3) There is no alteration of the residential character of the building or premises.
- 4) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood.
- 5) Any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- 6) No sign shall be erected that exceeds six square feet, is illuminated, or is closer than five feet to any road right-of-way line.

## **5.03.00 ACCESSORY USES AND STRUCTURES**

### **5.03.01 Generally**

- A. It is the intent of this section to regulate the installation, configuration, and use of accessory structures on property in residential zoning districts with the exception of provisions for property in non-residential zoning districts that are identified herein. Regulation is necessary in order to ensure that accessory structures are compatible with the surrounding neighborhood and are consistent with the character and intent of the zoning district in which the accessory structures are located.
- B. Permissible accessory uses and structures are identified in Table 2.03.02 (B) in Article II of this LDC.
- C. Accessory structures shall be on the same lot and subordinate to the principal use or structure.
- D. Accessory use of open land shall comply with the following standards:
  - 1) The accessory use of open land shall include recreation, water access, and similar activities, whether or not such activities are provided for compensation.
  - 2) The accessory use of open land shall be prohibited except where a principal structure has been located on the parcel.
- E. All accessory structures shall comply with the standards set forth below:
  - 1) Unless otherwise provided, accessory structures shall be located only in a rear yard of the lot on which the principal building is located;
  - 2) Accessory structures shall not be located on or within any recorded or required easement;
  - 3) Accessory structures shall be included in all calculations for impervious surface ratio standards and for stormwater management standards;
  - 4) Accessory structures, other than fences, shall not be located within any required buffer or landscaping area, parking lot, protected resource area, or stormwater management area;
  - 5) Accessory structures located in any residential zoning district shall not be used for any type of commercial operation, except as provided in Section 5.03.02;
  - 6) Accessory structures shall not be used as a dwelling unit, except as provided in Section 5.03.02 which sets forth standards for accessory dwellings; and
  - 7) Accessory structures shall comply with the following setbacks:

- a. In all residential zoning districts accessory structures shall be a minimum of fifteen (15) feet from all property lines which do not abut a street right-of-way and shall observe the front yard setback requirements of the district along all property lines which do abut a street right-of-way, with the exception that a detached garage or carport may be allowed in a side yard and shall be required to comply with the principal building setback requirements of the district;
  - b. In all non-residential zoning districts, accessory structures shall meet the setback requirements for a principal building.
- F. An accessory building may be permitted on a separately platted lot provided that the following standards are met:
- 1) The lot on which the accessory building is proposed shall abut the lot on which the principal building is located;
  - 2) The lot on which the accessory building is proposed and the lot on which the principal building is located shall have the same ownership;
  - 3) The lot on which the accessory building is located shall comply with the standards for lots within the zoning district as set forth in Section 4.02.01;
  - 4) The accessory building shall be located in compliance with the setback standards for the zoning district, as set forth in Section 4.02.02; and
  - 5) The accessory building shall otherwise comply with all standards set forth in Section 5.03.01.

### 5.03.02 Accessory Dwellings

- A. Accessory dwellings include, but are not limited to, basement apartments, garage apartments, caretaker, tenant or other employee quarters, guesthouses, and other accessory dwellings.
- B. Accessory dwellings shall not include tents, boats, manufactured storage buildings and mobile structures including RV's and travel trailers, with the exception that RV's and travel trailers may be allowed for occupancy in a campground or travel trailer park as permitted in the LDC.
- C. Accessory dwellings contained within a principal dwelling shall comply with the following standards:
  - 1) There shall be no more than one (1) accessory dwelling in a principal dwelling unit;
  - 2) The accessory dwelling shall be accessible from the interior of the principal building;
  - 3) The accessory dwelling shall have no more than one (1) bedroom;
  - 4) The accessory dwelling shall not exceed 50% of the habitable floor area of the principal dwelling or 1200 sq. ft., whichever is less;
  - 5) One (1) additional off-street parking space shall be provided to serve the accessory dwelling; and
  - 6) The accessory dwelling shall comply with all building and health code standards.

- A. Freestanding accessory dwellings shall comply with the following standards:
- 1) There shall be no more than one (1) accessory dwelling unit per lot on any residentially zoned property. The dwelling shall be occupied only by family members, guests, or individuals employed full-time by the family residing in the principal building for the purposes of elderly or child care;
  - 2) There shall be no more than one (1) accessory dwelling unit per lot on any industrially zoned property. The dwelling (“caretaker dwelling”) shall be occupied only by individuals employed for the purpose of providing on-site security for the business and grounds;
  - 3) There shall be no more than five (5) accessory dwelling units per lot on any agriculturally zoned property. The dwelling(s) (“tenant dwelling”) shall be occupied only by individuals employed full-time for the agricultural production of the property;
  - 4) The accessory dwelling unit may be located in a second floor over a detached garage or may be a separate structure;
  - 5) The accessory dwelling unit on any residentially zoned property shall have no more than two (2) bedrooms;
  - 6) The accessory dwelling shall be located only within the rear yard;
  - 7) The lot shall comply with the minimum lot area standards set forth in Table 4.02.01 (Q) *Standards for Lot Area, Width and Impervious Surface*;
  - 8) One (1) additional off-street parking space shall be provided to serve the accessory dwelling unit; and

#### 5.01.01 Uses Accessory to Religious Facilities

Uses and activities other than the principal use of worship, which is a form of religious practice together with its creed and ritual, shall be considered accessory uses and shall be clearly ancillary to the primary use. Such uses and activities shall be limited to:

- A. Religious instruction (such as “Sunday School,” Bible school, or similar instruction or study typically associated with the religion);
- B. Offices to support the establishment;
- C. Child or adult day care, subject to state regulations and licensing requirements;
- D. Private academic school, including nursery school or preschool, subject to the standards of Section 4.03.14(C);
- E. A fellowship hall, with or without a kitchen, (which may be known as a community center, activity hall, or life center);
- F. Recreation facilities;
- G. Individual meeting spaces;
- H. A parsonage; and
- I. Outdoor play or activity areas, which shall be no closer than fifty (50) feet from any property that is zoned or used for residential purposes.

### 5.01.02 Outside Storage

Outside storage used in connection with agricultural, commercial or industrial activities shall comply with the following requirements, with the exception that outside storage in the A-1 zoning district is exempt from the requirements of Section A below:

- A. Outside storage in the C-G, I-1, or I-2 zoning districts must be located in a side or rear yard and screened from all rights-of-way and residential districts that abut a permitted outside storage area.
  - 1) Stored materials in the C-G, I-1, or I-2 zoning district shall be screened by a fence, hedge, durable masonry wall, or stand of trees of sufficient opacity to provide a visual blind designed to be compatible with the character of adjoining properties. Said fence or wall shall be a minimum of five (5) feet. Hedges, trees, or comparable natural plantings shall be of a rapid growth evergreen species and be a minimum height of three (3) feet at time of planting.
  - 2) Stored materials C-G, I-1, or I-2 zoning district shall not exceed the height of the fence enclosing the outside storage area.
- B. Stored materials shall not be stored within any required buffer area, stormwater management area, or easement.
- C. No vehicle, trailer, industrialized building (modular), mobile home, or manufactured home shall be used as storage buildings. This requirement shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, tractor trailer rigs, and railroad box cars, modular classrooms, with the exception that tractor trailer rigs and trailers may be used for temporary storage on properties zoned A-1, I-1 or I-2 where there are businesses operating on the same property.
- D. The outdoor storage of more than two inoperable vehicles at a filling station or convenience store with gasoline pumps shall be prohibited unless said vehicles are stored wholly within the building.
- E. The outdoor storage or parking of more than two inoperable vehicles at filling stations, truck stops, or any other business or industrial use is declared to be a junkyard.
- F. No more than two inoperable vehicles may be parked, stored, or maintained on any property which is residentially zoned.

### 5.01.03 Dumpsters

Dumpsters shall comply with the following requirements, with the exception that properties in the A-1 and A-2 zoning districts shall be exempt:

- A. Dumpsters shall be screened with a solid masonry wall or opaque fence. The fence shall be a minimum of six (6) feet in height.
- B. A gate shall be provided for access.
- C. Dumpsters shall be located on a paved surface of sufficient size to accommodate the dumpster.
- D. Dumpsters for food service establishments shall provide a drain and a grease trap.

- E. Dumpsters shall be located to the rear of the principal building. A location in the side of the principal building shall be permissible only where rear yard locations cannot provide adequate access for pick-up.
- F. Dumpsters shall not be located within any required buffer area, stormwater management area or easement.

#### 5.01.04 **Solar Collection System**

Solar collection systems shall be considered an accessory use in all Zoning Districts in accordance with the following requirements:

- A. Freestanding solar panels shall only be permitted in the rear and side yard in commercial and industrial zoning districts, and in the rear yard only of agricultural and residential zoning districts.
- B. Freestanding solar panels located on the ground or attached to a framework located on the ground shall not exceed 20 feet in height above the ground.
- C. Freestanding solar panels shall meet the setback requirements of the districts in which they are located, or be set back 20 feet, whichever is greater.
- D. The total coverage of a lot by freestanding solar panels cannot exceed the greater of 50% lot coverage or the maximum allowable coverage for the district in which they are located.
- E. Roof-mounted solar panels installed on a building or structure with a sloped roof shall not project vertically more than the height requirements for the district in which they are located. The panels shall not be located within three (3) feet of any peak, eave, or valley of the roof to maintain pathways of accessibility. Combined height of the solar energy system and structure to which it is mounted may not exceed the maximum building height allowed in that zoning district for the type of structure to which it is attached.
- F. Owners of solar collection systems located on the roof shall provide, as part of the building permit application, evidence of structural certification if the slope of the panel differs from the roof pitch. All panels on commercial roofs shall provide this information regardless of slopes, as well as any residential roof with greater than 50% coverage.
- G. The manufacturers' or installers' identification and appropriate warning signage shall be posted on or near the panels in a clearly visible manner.
- H. No solar energy system shall be installed until evidence has been presented to the Building Official that the electric utility company has been informed of the customer's intent to install an interconnected customer-owned generator or alternative power producing equipment. Off-grid systems shall be exempt from this requirement.
- I. For any solar collection system installed for use by someone other than the owner of the property, an affidavit or evidence of agreement between the property owner and system owner or operator must be provided to the County to confirm the facility owner or operator has permission of the property owner to install and utilize the solar collection system.

#### 5.01.05 **Wind Energy Facility**

Class I wind energy facilities, as defined in this LDC, are allowed as an accessory use in all zoning districts in accordance with the requirements set forth in Article IV of this LDC.

Class II wind energy facilities, as defined in this LDC, are allowed as an accessory use in the A-1, I-1 and I-2 zoning districts in accordance with the requirements set forth in Article IV.

Class III and Class IV wind energy facilities, as defined in this LDC, are allowed as an accessory use in the A-1 zoning district in accordance with the requirements set forth in Article IV.

## **5.02.00 TEMPORARY STRUCTURES AND USES**

### **5.02.01 Temporary Structures and Uses During Construction**

A temporary building or use in connection with a construction project shall be permitted during the construction period. The following standards shall be met by temporary uses established during construction:

- A. A building permit shall be required.
- B. Temporary offices may be located on a construction site to be used for administrative functions during construction, sales functions or sales offices allowing for the sale, resale, or marketing of dwellings, structures, or property within the development in which it is located, or adjacent developments under the same control.
- C. The proposed construction building shall meet tie-down requirements for mobile structures, and have a contract for sewage pump-out if approved by the Department of Natural Resources, Environmental Protection Division. Construction buildings, equipment, machinery, and materials shall be removed within 30 days of completion of the construction site for which they are permitted.
- D. On-site outdoor storage of equipment and construction materials shall be allowed during the period of construction.
- E. Portable toilet facilities shall be provided.
- F. Construction and demolition debris dumpsters are allowable and are not required to be screened.
- G. On-site temporary use of structures and equipment for the building of roads, public utilities, and government projects shall be allowed.

## **5.03.00 SIGNS**

### **5.03.01 Permanent Signs**

The use and placement of signs shall be in accordance with the following:

- A. No sign shall be erected or maintained whereby reason of its position, working, illumination, size, shape or color it may obstruct, impair, obscure or interfere with the view of or be confused with any authorized traffic control sign, signal or device.
- B. No billboard or ground sign shall be erected to exceed 30 feet above the ground level or 50 feet in length. The bottom coping of every ground sign shall be at least three (3) feet above the ground or roadway level.
- C. Billboards shall be erected or placed in conformity with the side, front and rear building setback requirements of the zoning district in which the sign is proposed to be located.

- D. Signs may not be located on any road right-of-way.
- E. Flashing or intermittently illuminated signs shall be located not closer than 200 feet to any residential dwelling or closer than 50 feet of the right-of-way line of any public road. All such signs must be approved by the Building Official, must not conflict with any traffic control device, nor interfere with vehicular traffic.
- F. Ground signs, with the exception of billboards, may be installed within the required front yard setbacks. No portion of the sign shall overhang any public right-of-way.

### 5.03.02 Temporary Signs

Temporary signs may not be located on any road right-of-way.

### 5.03.03 Property Numbering

#### A. Numbers Assigned

Every dwelling unit and places of business shall be assigned a number for the purposes of a designated address to which all dwelling units and places of business on all public and private roads shall be assigned by the property numbering project in accordance with the procedures adopted by the Board of Commissioners.

#### B. Numbering Project

- 1) The property numbering project, as designates of the Board of Commissioners, shall assign numbers to all dwelling units and places of business and shall keep a record of all numbers or addresses assigned under this section.
- 2) The property numbering project is a temporary committee by authority of the Board of Commissioners to initiate and maintain this system until a permanent agency be named by the authority.

#### C. Assignment of Numbers

- 1) All properties, lots and parcels of land occupied by dwelling units or places of business within the unincorporated limits of the county shall be identified by reference to the uniform numbering system adopted in this section. All existing numbered buildings on lots or parcels not in conformity with this system shall be changed within six (6) months from the adoption of the ordinance from which this section derives so as to conform with this system.
- 2) Every principal business and dwelling unit shall bear the number assigned to it by the property numbering project; and where more than one business or dwelling unit occupies a single structure, each unit shall bear, in addition to the basic number assigned to the structure, the supplementary numerals and/or letters assigned to it.
- 3) Numbers and/or letters indicating the official property number shall be posted at the entrance in such a manner as to provide an unobstructed sighting from the street or road in which the building is located.
  - a. Numbers and/or letters indicating a designated address shall be posted with numbers and/or letters with a height of not less than two (2) inches and no more than eight (8) inches.

- b. Because of the rural characteristics of lots and parcels of land, where dwelling units or places of business exist, the assigned number(s) should be displayed in the following manner:
  - i. On a plate perpendicular to the street or road and parallel to the driveway with numbers on both sides as to be viewed from either direction; or
  - ii. The assigned number may be displayed on a shingle-type base perpendicular to the street or road and parallel to the driveway. The post for the assigned number, whether plate or shingle, shall be a minimum of one (1) foot from the ground and no more than a height of three (3) feet.

- 4) So as to maintain uniformity in the system, all numbers must be posted on the street at the entranceway of the designated building. The posted number shall not occupy a place on the right-of-way of the road as to interfere with the scheduled maintenance of the road. It shall be the duty of the property owner or the occupant to affix the number. It shall also be the duty of the property owner or occupant to remove all other numbers that might be mistaken for or confused with the number assigned.
- 5) Upon receipt of notification of a new number, the property owner or occupant, within 60 days, shall affix the assigned number in the aforementioned manner.
- 6) No person shall adopt, assign, display or cite any number other than that assigned as provided in this section for the purpose of property identification or for the purpose of designating location of property.

D. New Structures

- 1) No certificate of occupation or permit shall be issued to any subdivisional plat until the owner has procured from the Board of Commissioners or its designee an official number for the proposed development site.
- 2) Final approval for any building erected on this site will be withheld until numbers have been assigned to every dwelling unit or places of business in accordance with requirements of this article.
- 3) Numbers will be assigned to each proposed lot or tract upon the erection of a dwelling unit or place of business.
- 4) No building permit shall be issued for any principal building until the owner, builder, contractor or developer has procured from the Board of Commissioners or its designee the official number of the premises.
- 5) Final approval for a certificate of occupancy will be withheld until permanent and proper numbers have been displayed in accordance with the requirement of this section.

E. The System

- 1) United States Highway 25 (US 25), Georgia Highway 56 (Ga. 56), Georgia Highway 24 (Hwy. 24) are used as primary reference roads. All roads intersecting these roads will be measured from the primary reference roads as the beginning point.

- 2) Georgia Highway 80 (Ga. 80) is not used as a primary road; however all roads intersecting Ga. 80 will be measured from Ga. 80 as the starting point. All secondary paved county roads will be used as the starting point for all intersecting roads.
- 3) Numbers are to be assigned to or reserved for each 20 feet of distance.
- 4) Odd numbers are to be assigned to property on the south and west sides of the street (left sides) and even numbers assigned to property on the east and north sides of the streets (right sides).

F. Penalty

- 1) Violators of this section shall, upon conviction, be punished as provided in Part II, Chapter 1, Section 1-11 of the Burke County Code of Ordinances.

## 5.01.00 WIRELESS TELECOMMUNICATION TOWERS

### 5.01.01 Wireless Telecommunication Towers

Placement Limitations The tract of land on which a wireless telecommunications tower or antenna is proposed to placed shall be sufficient in size to have a lineal dimension from the base of the tower or antennas, or any structure on which the tower or antennae are located, to all property lines equal to or greater than the height of the tower or antenna.

B) Height limitations surrounding public or private airports.

- 1) All wireless telecommunications facilities and towers are subject to the air space control height and use restrictions surrounding airports, whether public or private.
- 2) All public and private airports registered with the FAA shall maintain safe and appropriate takeoff and landing pathways, and shall not be encroached upon due to the height or placement of any wireless telecommunication facility.
- 3) Any proposed communications tower or antennae shall not be permitted to penetrate any airspace surface, as defined in this chapter, of a public or private airport. Airport surfaces are listed as follows:
  - i. Approach Surface
  - ii. Transitional Surface
  - iii. Horizontal Surface
  - iv. Conical Surface

C) Application requirements.

The applicant for any wireless telecommunications facility or tower must file with the Building Official on an application accompanied by the following documents, if applicable. If any of these materials represents proprietary information, the applicant must so designate those materials. Proprietary information will not be disclosed.

- 1) Specifications. One copy of typical specifications for proposed structures and antenna, including description of design characteristics and material.

- 2) Site Plan. A site plan drawn to scale showing property boundaries, existing structures, tower location, tower height, guy wires and anchors, and existing land uses and structures on adjacent property.
- 3) Antenna Capacity/Wind Load. A report from a structural engineer registered in Georgia showing the tower antenna capacity by type and number, and a certification that the tower is designed to withstand winds in accordance with ANSI/EIA/TIA 222 (latest revision) standards.
- 4) Antenna Owners. Identification of the owners of all antenna and equipment to be located at the site as of the date of the application.
- 5) Owner Authorization. Written authorization from the site owner for the applications.
- 6) FCC License. Copy of valid FCC license for the proposed activity, or proof that the applicant is the winning bidder for an FCC license at auction and that the final issuance of the FCC license purchased at auction is pending.
- 7) Safety Codes. Applicant must show that all applicable health, nuisance, fire and safety codes are met.
- 8) Airport Location. Applicant must show that the proposed facility is not located in any airspace surface as defined in this section.

D) Action on application

- 1) An application for a proposed collocation or modification to an existing wireless facility or tower ( a “modification” is defined as a proposal to: increase the overall height or width of the wireless support structure to which the wireless facilities are to be attached; increase the dimensions of the equipment compound initially approved by Burke County; or, exceed the applicable weight limits for the wireless support structure, as demonstrated by a letter from a structural engineer licensed to practice in this state) shall be reviewed by the Building Official within the following timeframe:

Within 90 calendar days of the date an application for modification or collocation of wireless facilities is filed with the Building Official, unless another date is specified in a written agreement between the Building Official and the applicant, the Building Official shall:

- a. Make his or her final decision to approve or disapprove the application; and
- b. Advise the applicant in writing of his or her final decision.

Within 30 calendar days of the date an application for modification or collocation is filed with the County, the Building Official shall determine if it is a complete application and, if he or she determines the application is not a complete application, notify the applicant in writing of any information required to complete such application.

To the extent additional information is required to complete the application, the time required by the applicant to provide such information shall not be counted toward the 90 calendar day review period set forth in subsection 1) of this Code section.

- 2) Application for a New Wireless Telecommunications Tower. A proposed new wireless telecommunications tower shall be reviewed by the Zoning Official within the following timeframe:

Within 150 calendar days of the date an application for a new wireless support structure is filed with the Building Official, unless another date is specified in a written agreement between the Building Official and the applicant, the Building Official shall:

- a. Make his or her final decision to approve or disapprove the application; and
- b. Advise the applicant in writing of his or her final decision.

Within 30 calendar days of the date an application for a new wireless support structure is filed with the County, the Building Official shall determine if it is a complete application and, if he or she determines the application is not a complete application, notify the applicant in writing of any information required to complete such application.

To the extent additional information is required to complete the application, the time required by the applicant to provide such information shall not be counted toward the calendar day review period set forth in subsection 2) of this Code section.

- 3) Written Decision. Any decision by the Building Official to deny a request to place, construct, or modify personal wireless service facilities or towers shall be in writing and supported by substantial evidence, contained in a written record, or reasons therefor reduced to writing.

ARTICLE

**VI**

# INFRASTRUCTURE IMPROVEMENTS

*Article VI TOC to be inserted here*

## **6.01.00 GENERALLY**

The purpose of Article VI is to establish standards and requirements for the provision of infrastructure by all development. This article contains requirements for the transportation system, set forth in Section 6.02.00. Board of Health requirements and provided in Section 6.03.00, and potable water and sanitary sewer requirements are included in Section 6.04.00. Draining and stormwater management requirement are set forth in Section 6.05.00.

## **6.02.00 DEVELOPMENT STANDARDS FOR PUBLIC AND PRIVATE ROADS**

### **6.02.01 Generally**

- A. The standards given in this section shall apply to the design and construction of all new or extended public and private roads within the county.
- B. The design, plans and specifications of all roads to be, or intended to be, dedicated to the county shall be prepared and sealed by a professional engineer or land surveyor licensed by the state and shall meet the minimum requirements of the applicable portions of the then current edition of the Standard Specifications for Road and Bridge Construction, Georgia Department of Transportation.

### **6.02.02 Road Classifications**

Roads within the county are classified according to their inherent and relative function:

- A. Residential land service road means a public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and which provided or is intended to provide vehicular access to land in use or intended for use primarily for residential purposes.
- B. Nonresidential land service road means a public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and provides or is intended to provide access to land in use or intended for use primarily for commercial and industrial purposes, or accommodates or is intended to accommodate frequent vehicular traffic to land areas whose use or intended use is primarily for such purposes.
- C. County vehicular service road means a public road or right-of-way therefor not under the jurisdictional control of the state and is considered to be significant to intracounty vehicular travel.
- D. State route means a public road or right-of-way therefor under the jurisdictional control of the state or is intended or acceptable of such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road.
- E. Private road means a road, or any designated right-of-way or easement therefor, or vehicular access routes from public rights-of-way to private property, not under the jurisdictional control of the county or the state, nor intended or

acceptable for such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road.

### 6.02.03 Acceptance of Roads

- A. The Planning Commission shall have the authority to review and recommend to the Board of Commissioners approval or disapproval of the location and character of all new roads, rights-of-way, and drainage facilities to be constructed in new subdivisions and intended for public ownership and maintenance and to recommend acceptance or rejection of such facilities, roads and rights-of-way for public ownership and maintenance.
- B. No deed for land designated as or containing the right-of-way of any new or proposed public road or extension thereto shall be filed or recorded in the office of the clerk of the superior court until approval has been recommended by the Planning Commission and the Board of Commissioners has agreed to accept same into the public road system. The clerk of the superior court shall not file or record a property deed for land designated as or containing such a right-of-way that has not been approved and accepted by the county.
- C. No person shall represent, for the purpose of transferring by lease, sale or bequest, or by agreement or negotiation for such transfer, that a road or right-of-way is a public road or right-of-way until the road or right-of-way shall have been classified, approved and accepted as a public road or right-of-way by the county and property deeds to that effect have been properly and lawfully recorded in the office of the clerk of the superior court.
- D. Prior to any road being accepted for ownership and maintenance by Burke County, the criteria of Section 6.02.07(N) shall be met.

### 6.02.04 Installation of Underground Public Utility Lines

- A. The following minimum specifications shall govern the installation of underground public utility lines on county road rights-of-way. They are the minimum specifications for installation of underground utilities including lines for electricity, water, natural gas, telephone, cable television, and street lights on county road rights-of-way:
  - 1) All of the above shall be located a minimum of two (2) feet from the edge of the pavement and shall be located a minimum of two (2) feet below the existing grade.
  - 2) Public utility lines shall be located underground along all new roads, and, at the discretion of the Public Works Director, on all existing roads when serving new construction, excluding single-lot residential development.
  - 3) Where practical, paved roads shall be bored rather than cut for the location of utilities.
  - 4) The cutting of all paved county roads shall be cleared through the road superintendent prior to the cut being made except in the case of extreme emergency.
  - 5) Any paved road which is cut to a width of more than 12 inches shall be filled with a compacted base material to within eight (8) inches of the riding surface

and with concrete to within two (2) inches of the riding surface. The remaining two (2) inches shall be filled with asphaltic concrete to allow for a smooth riding surface.

- 6) Any paved road which is cut to a width of 12 inches or less shall be filled with a compacted base material to within two (2) inches of the riding surface. The remaining two (2) inches shall be filled with asphaltic concrete to allow for a smooth riding surface.
- 7) Any dirt road which is cut shall be filled with a compacted base material.

B. Private Roads (Reserved)

**6.02.05 Right-of-Way (ROW) Protection**

A. County Road System

- 1) All new or extended roads shall be designed and constructed to complement the existing or planned systems of county roads. To this end, the county shall have the authority to approve the location, width and alignment of all new roads or rights-of-way therefore as may be proposed or offered for public ownership, development and/or maintenance.
- 2) The county may also require the reservation or dedication of right-of-way within lands proposed for subdivision development, as provided for in this section, as the county deems necessary to extend, widen or otherwise improve an existing public road or right-of-way therefor, or to provide for the future extension of a new public road to serve properties abutting or adjacent to the land to be subdivided.

B. Fencing

Fencing shall not be located in the right-of-way or on a property line. See also Article IV for locational requirements for zoning buffers in relation to right-of-way.

**6.02.06 Access**

A. Lot Access and Ingress or Egress Easements

- 1) Access to each lot resulting from a subdivision is provided by frontage on a public road or a private road meeting the requirements of this article, or by fee simple title.
- 2) An access corridor easement (“access corridor”) may be used in lieu of requirements listed in 1) above. Access corridors must meet the following conditions:
  - a. The designated ~~land strip~~ access corridor must be a minimum of 80 feet in width, with the exceptions that property zoned R-1 may have a minimum width of 30 feet if the subject lot cannot be further subdivided, and any landlocked parcels in existence at the date of adoption of this LDC shall be allowed a minimum access corridor width of 20 feet.
  - b. The designated access corridor must be located a minimum of 500 feet from any other access corridor, measured from the center of one corridor to the center of the other.

- c. Any access corridor may only be utilized for ingress and/or egress for up to two (2) principal residential ~~building~~ dwellings upon meeting the conditions of subsection 2) a) above.
- d. The designated access corridor must be shown and included on the plat recorded in the office of the clerk of the superior court.
- e. Prior to further division of land or the issuance of any building permit for the construction of additional residences on lots which access a public or private road by access corridor, a road conforming to the requirements of this LDC must be constructed through the access corridor and service all further divisions or development.
- f. Lots with less than 680 feet of frontage shall be allowed one (1) access corridor, provided that the minimum 680 feet distance between adjacent corridors is maintained.
- g. All lots with a designated access corridor must meet the requirements of Article IV of this LDC.

B. Street Access Control.

In order to promote the safety of the motorists and pedestrians and to minimize traffic congestion and conflict, the following regulations shall apply:

- 1) Vehicular access from properties to public roads shall not exceed 30 feet in width.
- 2) Not more than two points of vehicular access (ingress/egress) from any lot to an abutting public road shall be permitted for each 400 feet of lot frontage or fraction thereof; however, lots with less than 100 feet of frontage shall have not more than one point of access to each abutting public road.
- 3) No point of access shall be allowed within 35 feet of the right-of-way line of any public road intersection, measured from the closest point of the access drive.
- 4) No access drive shall be located closer than 30 feet to another such access drive on the same lot.
- 5) No access to a state or federal route shall be permitted without the prior approval of the state department of transportation.

**6.02.07 Road Design Requirements**

A. Width of Roads and Rights-of-Way

The minimum width of new or extended public road rights-of-way, wearing surfaces, and shoulders shall be as follows in Table 6.01.07 (A):

**Table 6.01.07 (A). Road and ROW Width Requirements**

Road Classification	ROW	Wearing Surface	Shoulder
Residential Land Service Road	80 ft.	24 ft.	5 ft. (each)
Non-residential Land Service Road	80 ft.	24 ft.	5 ft. (each)
County Vehicular Service Road	80 ft.	24 ft.	5 ft. (each)
State Route	As required by the Georgia Dept. of Transportation		
Private Road	80 ft.	24 ft.	5 ft. (each)

**B. Vertical Alignment of Roads**

In no case shall roadway grades exceed 10% nor be less than 0.5%. The Board of Commissioners may reduce the maximum gradient for nonresidential land service roads.

**C. Horizontal Alignment of Roads**

The radius of road curvature shall be not less than 90 feet, except the Board of Commissioners may increase this minimum radius for nonresidential land service roads. Curve radii shall be measured from the road centerline.

**D.** A tangent of at least 200 feet shall be provided between reverse curves.

**E. Intersections**

- 1) All roads shall intersect at right angles unless prevented by unusual site characteristics. In such cases, the Board of Commissioners may approve a lesser intersecting angle or require the relocation of the intersection.
- 2) Road jogs with centerline offsets of less than 150 feet shall not be permitted.
- 3) Islands at intersections shall meet sight distance requirements established by AASHTO and shall be subject to individual approval by the Board of Commissioners. Anything extending more than three (3) feet above the top of the curb within the right-of-way of the intersecting streets shall require approval by the county road superintendent.
- 4) Utility Easement  
Reserved
- 5) Visibility
  - a. In order to provide a clear view of intersecting rights-of-way and/or private driveways, there shall be a triangular area of clear visibility formed by the two (2) intersecting rights-of-way, driveways, or combination thereof.
  - b. The horizontal dimensions of sight areas are defined as triangular areas formed by the intersecting right-of-way lines and a straight line joining the right-of-way lines twenty (20) feet from the point of intersection of the right-of-way lines.
  - c. The vertical dimensions of sight areas are defined as that vertical space between the heights of three (3) feet and twelve (12) feet in elevation above the nearest edge of the street pavement of a paved

street or above the nearest edge of the riding surface of an unpaved street.

F. Preparation of Right-of-Way

- 1) The full width of all rights-of-way shall be shaped to approximate required grades, alignment and other specifications such that base and wearing surfaces can be constructed, improved or extended in a manner that will not damage abutting property. Abutting property shall be suitably sloped to the right-of-way line. Due regard shall be shown for desirable trees and other vegetative matter not impairing visibility.
- 2) Before grading is started, the entire area of the right-of-way shall be cleared of all exposed stumps, logs, grass, weeds, roots, rubbish, loose boulders, and other debris or otherwise objectionable material protruding through the ground surface.
- 3) All tree stumps, boulders and other obstructions shall be removed to a minimum depth of two feet below the finished surface of all slopes and the area of which base material is to be applied. Rock whenever encountered shall be scarified or removed to a depth of 12 inches below the subgrade.
- 4) In all areas to be graded or filled, the subdivider shall stockpile the topsoil later to be spread over all disturbed areas that are not to be paved.
- 5) All suitable material from roadways may be used in the construction of fills, approaches or at other places as needed. Excess materials, including organic materials, soft clays, and similar materials, shall be removed from the development site. The fill shall be spread in layers not to exceed 12 inches loose and compacted by a sheepsfoot roller. The filling of utility trenches and other places not accessible to a roller shall be mechanically tamped.

G. Embankments and Erosion Control

- 1) Immediately after grading and filling and respreading the topsoil, all shoulders and slopes within the right-of-way shall be stabilized to retard erosion and drainage facilities opened or temporary slope drains constructed to accommodate and direct acceptable surface water runoff.

H. Ditches and Drains

- 1) Each road and road right-of-way shall have a drainage system adequate to provide for the proper drainage of all surface water.
- 2) Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit the full width of the required roadway, including shoulders and ditch slopes. Size and openings of all cross drains shall be as required by the county road superintendent. Cross drains shall be built on straight line and grade, and shall be laid on a firm base, but not on rock. Pipes shall be laid with spigot ends pointing in the direction of the water flow. Ends shall be properly fitted and matched to provide tight joints and a smooth, uniform invert. Drains shall be placed at sufficient depth below the road bed to avoid dangerous pressure of impact, and in no case shall the top of the drain pipe be less than one foot below the roadway base.

- 3) Drainage ditches shall be constructed along both sides of the roadway. All ditches shall be two feet deep and have an invert of two feet. The front slope of the ditch shall have a horizontal-to-vertical slope ratio of not less than 3:1, and a back slope of not less than 2:1. All ditches shall be stabilized to retard erosion.
  - 4) Concrete side drains with size openings of not less than 15 inches shall be installed to provide for surface water drainage under all driveways. Installation shall be as required for cross drains.
- I. Roadway Base and Shoulder
- 1) The minimum type of roadway base and shoulder material allowed shall be topsoil, sand-clay or chert, which shall have physical properties equivalent to that required for class B material gradation contained in the applicable state department of transportation specifications.
  - 2) Base material shall be spread in a manner such that right-of-way slopes and ditches will not be damaged, such that a smooth and uniform surface will be produced.
  - 3) Base material shall be applied consistent with the procedures set forth in the applicable state department of transportation specifications.
  - 4) For residential land service roads the roadway and shoulder base shall have a minimum compacted depth of six inches. For nonresidential land service roads the corresponding minimum compacted depth shall be eight inches.
- J. Prime Coat
- 1) All finished base surfaces shall have a bituminous prime coat applied before surface treatment material is spread. The minimum acceptable prime coat material shall be cutback asphalt of a grade as required by the county road superintendent based on temperature and the texture of the base surface.
  - 2) The prime coat shall be applied at the rate of 0.25 gallon per square yard of base. Application of the prime coat shall be consistent with the applicable state department of transportation specifications.
- K. Surface Treatment
- 1) After the prime coat has been properly cured, a permanent wearing surface shall be applied to the roadway base.
  - 2) For residential land service roads, the minimum acceptable wearing surface shall consist of a type I bituminous treatment using stone, size 5, aggregate with a bituminous seal using stone, sizes 7 and 89, aggregate. All materials and construction methods shall conform to the provisions of the applicable state department of transportation specifications.
  - 3) In lieu of this bituminous treatment, the wearing surface of residential land service roads may consist of hot mix asphaltic concrete, type E or F, including bituminous material, rolled and compressed to a thickness of not less than 1 1/2 inches. All materials and construction methods shall conform to the provisions of the applicable state department of transportation specifications.
  - 4) For all nonresidential land service roads, the minimum acceptable wearing surface shall consist of a type I bituminous surface treatment using stone, size

6, aggregate with a seal of hot asphaltic concrete, type E, including bituminous material, rolled and compressed to a minimum thickness of 1 1/2 inches. All materials and construction methods shall conform to the applicable provisions of state department of transportation specifications.

L. Control of Work and Inspections

- 1) The county road superintendent shall have the authority to control the construction of all residential and nonresidential land service roads. In exercising such authority, the county road superintendent shall decide all questions concerning the acceptability of materials and construction methods.
- 2) The county road superintendent shall have the authority to inspect all construction work done and materials used to determine compliance with the provisions of this article.
- 3) Whenever the county road superintendent finds that materials and/or work performed are not in compliance with this article, he may require the removal or replacement, or otherwise require the correction of the nonconformity.
- 4) The county road superintendent however may not waive or reduce the requirements of any provisions of this article.

M. Guarantee in Lieu of Completed Improvements

- 1) No new or extended residential or nonresidential land service road shall be approved and accepted by the county for public ownership and maintenance, and no subdivision plat containing such a road shall be given final approval until one of the following conditions shall have been met:
  - a. All roads, rights-of-way and drainage facilities are designed and constructed consistent with the provisions of this article and so approved by the county road superintendent.
  - b. The professional engineer who designed the roads and rights-of-way shall opine to the county that the improvements were constructed in accordance with the plans and specifications therefor.
- 2) The Planning Commission shall require a surety bond in an amount equal to 150% of the estimated cost of all required road, right-of-way and drainage facility improvements, such that in the event of default by the owner or developer, the required improvements may be made by the Board of Commissioners.
- 3) In addition to the requirements of this section, the owner or developer shall remain liable to the county for any repairs or maintenance of such road and drainage facilities for a period of one year from date of acceptance by the county.

N. Subdivisions with Private Roads

- 1) The roads in private road subdivisions shall be constructed with the following minimum design criteria:
  - a. A 80-foot right-of-way.
  - b. A minimum of 18 inches of mixed and compacted subbase to 95% modified proctor.
  - c. Four (4) inches of graded aggregate compacted at 95% modified proctor.

- d. Slope of road surface from the centerline shall be one-quarter (0.25) inch per foot.
    - e. Open ditch sections shall be within the right-of-way of the road and designed with criteria for 25 year flood.
  - 2) A soil analysis report shall be submitted to the county.
  - 3) The design and construction of the roads shall be approved by the Planning Commission and the Public Works Director.
- O. Cul-de-Sacs
  - 1) All permanent dead-end streets shall be constructed as cul-de-sacs with a turnaround provided at the closed end.
  - 2) Residential cul-de-sacs shall have a right-of-way radius of at least sixty (60) feet, and pavement radius of at least forty-five (45) feet, as measured to the back of the curb or edge of pavement if not curbed.
  - 3) Nonresidential cul-de-sacs shall have a right-of-way radius of at least seventy-five (75) feet, and a pavement radius of at least sixty (60) feet, as measured to the back of the curb.
  - 4) If a street is planned to be terminated as a cul-de-sac the subdivider may not utilize a vacant lot to extend the street to an adjacent property without proper notification to affected property owners. Such a change in the construction plans shall be considered a variance and must be submitted to the Planning Commission for review and approval.
  - 5) Streets that terminate in a cul-de-sac shall be a maximum of 1,200 feet in length.
  - 6) Cul-de-sacs may have central landscaped islands with a minimum pavement radius of fifty (50) feet and a minimum twenty (20) feet wide paved area in the radius.
- P. Development entrances  
(Reserved)
- Q. Temporary Turn-arounds
- R. (Reserved)
- S. Traffic Control Devices  
(Reserved)
- T. Blocks  

The County may require the reservation of an easement through a block to accommodate utilities or drainage facilities.
- U. Sidewalks  

Where installed, sidewalks shall meet the following requirements:

  - 1) Sidewalk construction shall follow a logical design approved by the Public Works Director. The design shall be in accordance with the American Association of State Highway and Transportation Officials (AASHTO) "A Policy on Geometric Design of Highways and Streets," Georgia Department of

Transportation (GDOT) specifications and with design and location standards required herein.

- 2) Sidewalks shall be a minimum width of five (5) feet.
- 3) Access ramps are to be placed at all drives, intersections, and all curb encroachments; all ramps and be constructed/installed in compliance with the Americans with Disabilities (ADA) Act.
- 4) Maintenance of sidewalks shall be the responsibility of the developer or property owner.

#### 6.02.08 **Parking Standards and Design**

(Reserved)

#### 6.02.09 **Drive-Through Facilities and Stacking Lanes**

(Reserved)

### **6.03.00 BOARD OF HEALTH REQUIREMENTS**

#### 6.03.01 **On-Site Sewage Management Systems**

- A. Where individual septic tanks or means other than connection to a public sanitary sewerage system are to be employed temporarily or permanently as a method of sewage disposal for one or more lots within a subdivision, evidence of the tentative approval of such methods by the county health officer shall be submitted with the subdivision plat.
- B. Acceptable evidence of such tentative approval shall be a written statement bearing the signature of the county health officer and specifying that the subdivider has consulted the county board of health as to the suitability of such methods within the subdivision and each lot therein and that the tentative approval of the board of health has been granted for the use of such methods or that the subdivider has been apprised of subdivision design modifications to be made to render proposed lots suitable for septic tank use. Such modifications shall be specifically stated in the health officer's certification statement.

### **6.04.00 SANITARY SEWER, POTABLE WATER, AND OTHER UTILITIES**

#### 6.04.01 **Sanitary Sewer**

- A. The developer shall be responsible for installing adequate public sanitary sewer facilities when such sewerage lines are available for connection to serve all existing and proposed buildings in the subdivision.
- B. Any residential dwelling, commercial establishment or industrial establishment shall be connected to public sewer when sewerage lines are available within two hundred (200) feet for connection. Connection shall be at the cost of the property owner and in accordance with the policies and procedures of the applicable water and sewer utility provider.

- C. Where public sanitary sewer systems are not available, on-site sewage disposal systems (i.e., septic tank) shall be installed, subject to approval by the Board of Health and provided that the lots conform to all requirements of this LDC.

**6.04.02 Potable Water**

- A. Domestic water supply shall be provided in accordance with the rules and regulations of the Georgia Department of Community Health, Environmental Health Division.
- B. All public water facilities shall be installed subject to the policies and procedures of the applicable water and sewer utility provider.
- C. No building permit shall be issued by the Building Official without the approval of EPD for a proposed private well, if applicable.

**6.04.03 Fire Protection**

(Reserved)

**6.04.04 Street Lights**

(Reserved)

**6.05.00 DRAINAGE AND STORMWATER MANAGEMENT**

**6.05.01 Drainage**

Drainage systems shall meet the requirements of Section 6.02.07 (H) of this LDC.

**6.05.02 Stormwater**

All proposed stormwater management structures shall be designed and certified by an appropriate state approved professional, and shall be subject to the approval of the county.



# **BOARDS AND AGENCIES**

*Article VII TOC to be inserted here*

## **7.01.00 GENERALLY**

The boards and commissions described in Article VII are established for the purpose of implementing the provisions of this LDC. The boards and commissions described in this chapter shall have the powers and duties described necessary to achieve the purpose of this LDC.

## **7.02.00 BOARD OF COMMISSIONERS**

### **7.02.01 Duties and Responsibilities Specifically Related to this LDC**

The Board of Commissioners may amend, delete, supplement, or change by resolution the provisions of this LDC or the official zoning map, in accordance with the requirements of Section 9.01.07 of this LDC.

## **7.03.00 PLANNING COMMISSION**

### **7.03.01 Established**

The Burke County Planning Commission, herein referred to as the Planning Commission, is hereby established to be organized and empowered as provided herein.

### **7.03.02 Membership**

- A. The Planning Commission shall consist of five (5) members, all of whom shall be residents of Burke County, Georgia.
- B. Each member of the Board of Commissioners shall nominate one (1) member to the Planning Commission, who shall be residents of the district of residence of the appointing Board of Commissioner member. The Board of Commissioners shall vote upon the nominations and appoint the five (5) members of the Planning Commission.
- C. The terms of the members shall be for four (4) years. Said members shall be allowed to succeed themselves at the discretion of the Board of Commissioners. Each member shall serve until a successor has been appointed and taken office.
- D. The Board of Commissioners shall have the authority to remove any member for cause, on written charges, after a public hearing.
- E. Any member of the Planning Commission who does not attend three (3) successive meetings without reasonable cause shall be deemed to have resigned from the commission, and the Board of Commissioners shall accept nominations pursuant to subsection (A) of this section and appoint a new member to serve the balance of the term of the resigned member.

### **7.03.03 Quorum**

- A. A quorum of the Planning Commission shall consist of three (3) voting members. Any official decision of the Planning Commission provided herein shall require a quorum. Official action may be taken by the Planning Commission by a majority vote of those present.

- B. The chairman and vice-chairman shall be eligible to vote on all issues pending before the Planning Commission.
- C. "Official action may not be taken by the PC unless a majority of the members are present. Official action may be taken by the PC by a majority vote of those present.

#### 7.03.04 **Officers**

- A. Chair  
The Planning Commission shall elect its chair from among its members. The term of chair shall be one (1) year with eligibility for re-election. The chair shall be eligible to vote on all issues pending before the Planning Commission.
- B. Vice-chairman  
The Planning Commission shall also elect a vice-chair from among its members. The term for the vice-chair shall be one (1) year with eligibility of re-election. The vice-chair shall serve as chair in absence of the chair. The vice-chair shall be eligible to vote on all issues pending before the Planning Commission.
- C. Secretary  
The Building Official shall serve as secretary of the Planning Commission.

#### 7.03.05 **Meetings, Rules and Procedures, and Records**

- A. The Planning Commission shall make its own By-Laws and Rules of Procedure.
- B. The Planning Commission shall keep accurate minutes and records of its activities.
- C. The Planning Commission shall set a regular monthly meeting time.
- D. All meetings of the Planning Commission shall be open to the public and shall comply with O.C.G.A. § 50-14-1, et. seq. and all records of the Planning Commission shall be public records.
- E. The expenditures of the Planning Commission, exclusive of gifts, shall be within the amounts appropriated for the purpose by the Board of Commissioners.
- F. Notice of each meeting shall be given to each member of the Planning Commission at least 72 hours prior to any meeting.

#### 7.03.06 **Duties and responsibilities**

The Burke County Planning Commission shall:

- A. Hear and make recommendations on applications for zoning changes and amendments to the text of this LDC.
- B. Review and approve or disapprove of subdivision plats in accordance with the requirements of this LDC.
- C. Review and approve or disapprove of plans for specific proposed uses, as may be required in the Site Design Standards for Specific Uses Section of Article IV of this LDC.
- D. Have responsibility for final decision on the following types of applications in accordance with Section 7.04.00:
  - a. Appeals of administrative decisions; and

- b. Variances.
- E. To carry out such other duties, responsibilities or activities as may be requested by the Board of Commissioners.

### 7.03.07 **Indemnification and Defense of Members**

- A. All present and future members of the Planning Commission shall be defended by the county, by the counsel of its choice, against any civil action arising out of the performance of any member's duties as a member of the Planning Commission except that no such defense shall be furnished to any member charged with a criminal offense involving theft, embezzlement or other like crime with respect to the property or money of or in which the county has an interest.
- B. The county shall pay all of any judgment rendered against any member of the Planning Commission after defense of any civil action by the county except for a judgment rendered in any civil claim or judgment where the member of the Planning Commission acted in an intentionally reckless or harmful manner and beyond the scope of said member's authority in creating the cause of action for which the civil claim was instituted.

## **7.04.00 BOARD OF ZONING APPEALS**

### 7.04.01 **Authority**

The Planning Commission shall have the authority to hear and decide appeals and authorize variances in the terms of this LDC and in the decisions and orders of the Building Official in the administration of this LDC.

### 7.04.02 **Powers of the Board of Zoning Appeals**

- A. Duties and Power
  - 1) The Planning Commission shall have the power and exercise of duty to hear and decide the following types of appeals and applications in accordance with Section 9.03.00 of this LDC, and to such end shall have the necessary authority to ensure continuing compliance with its decision.
    - a. Interpretation. To render an interpretation of this LDC and the manner of its application where it is alleged that there is an error in any order, requirement or determination made by the Building Official in the administration of such provisions.
    - b. Variance. To authorize upon an appeal in specific cases such variance from this LDC as will not be contrary to the interest of this chapter, nor detrimental to the public interest and welfare. Variances from the terms of this LDC may be granted on appeal by the Planning Commission if it finds that:
      - i. The literal enforcement of this LDC will create an unnecessary hardship or practical difficulty in the development of the affected property, except mere loss in property value shall not justify a variance; there must be a deprivation of a reasonable, beneficial use of land.

- ii. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties within the general vicinity.
- iii. The relief sought will not injure the permitted use of adjacent conforming property.
- iv. The granting of the variance will be in harmony with the spirit and purposes of this LDC.

# VARIATIONS



*Article VIII TOC to be inserted here*

## **8.01.00 GENERALLY**

The purpose of Article VIII is to provide mechanisms for obtaining relief from the provisions of the LDC. Section 8.02.00 addresses relief through requirements regarding nonconforming development. Section 8.03.00 addresses relief through the grant of a variance in a particular situation due to the characteristics of the land to be developed based on the required site design standards. Section 8.04.00 addresses relief through the grant of an administrative waiver in specific situations.

## **8.02.00 NONCONFORMING LOTS, STRUCTURES AND USES**

### **8.02.01 Generally**

It is the intent of this article to avoid any unreasonable invasions of established private property rights; however, this article recognizes that the elimination of existing structures and uses that are not in conformity with the provisions of the LDC is as much a purpose of this article as is the prevention of new uses that would, if established, be contrary to the purpose and intent of this chapter.

- A. Within the zoning and overlay districts established by the LDC there may exist lots, structures, or uses of land which were lawfully established before the LDC was adopted but which do not comply with the requirements set forth in the LDC.
- B. It is the intent of Section 8.02.00 to allow these nonconformities to continue until they are removed or discontinued. It is further the intent of this section that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for adding structures or uses prohibited elsewhere in the same district.
- C. Nonconforming uses are declared to be incompatible with permitted uses in the district where the nonconforming use is located.

### **8.02.02 Damage to Structures**

- A. A non-conforming structure or a structure containing a non-conforming use that is damaged or destroyed by fire, explosion, Act of God, or other cause (excluding neglect or dilapidation) to an extent of more than 60% of its fair market value at time of the damage or destruction shall be reconstructed only in conformity with the provisions of the LDC.
- B. A structure that is damaged to an extent less than 60% of the fair market value may be restored and occupied as before the damage, provided the following standards are met: The Building Official may require additional upgrades to electrical system of the structure if found not to be in compliance with current building regulations
  - 1) Restoration shall be commenced within six (6) calendar months from the date damages were incurred.
  - 2) If reconstruction is not commenced within six (6) months, the reconstruction and use of the land or structure shall thereafter conform to the provisions of the LDC.
- C. Fair market value, where required, shall be determined by reference to current statutory provisions pertaining to the valuation of real property for ad valorem tax purposes.

- D. A nonconforming structure or a structure containing a nonconforming use that is declared by the Building Official to be physically unsafe or unlawful due to neglect or dilapidation from a lack of repairs and maintenance shall not thereafter be restored, repaired, or rebuilt except in conformity with the regulations of the zoning district in which it is located.

### 8.02.03 Nonconforming Lots of Record

- A. Any lot of record for which a plat or legal description has been legally recorded in the Office of Clerk of Superior Court of Burke County at the time of adoption of the LDC and was in compliance with all county development regulations at the time of recording but which fails to comply with the dimensional requirements or lot area requirements for the district in which it is located may be used for any of the uses permitted within the district by the LDC, provided that:
  - 1) The minimum requirements of the district for front, side, and rear yard, open space, height, and floor area shall be complied with.
  - 2) The lot is approved by the Board of Health for the use of a private waste water system.
- B. No permit for the use of any lot which is substandard in terms of the provisions of the LDC shall be issued unless said lot was legally and properly recorded prior to the passage of the LDC. In all cases, construction on any substandard lot of record after the adoption of the LDC shall be required to meet all requirements of the district in which it is located.
- C. If two (2) or more adjoining lots with continuous frontage are in a single ownership at any time after the adoption of this LDC and such lots individually are too small to meet the yard, width, and area requirements of the district in which they are located, such groups of lots may be considered as a single lot or several lots of minimum permitted size and the lot or lots in one (1) ownership shall be subject to the requirements of this LDC. A plat and deed depicting the combined lots shall be recorded with the Clerk of Court. An exception to this subsection C) is as follows: any individual lot that does not meet the area requirements of the district in which it is located upon adoption of this UDC may be utilized if it meets the minimum lot size required by the Department of Health; however, all other requirements of the zoning district shall be met.
- D. No lot, even though it may consist of one or more adjacent lots of record, shall be reduced in size so that the lot frontage or depth; front, side or rear yard; lot area; or other requirements of the LDC, are not maintained. This requirement shall not apply when a portion of a lot is required for public purposes.
- E. Allowed modification of setback requirements

When a building is proposed on a lot and when on either or both lots which adjoin such lot at the street right-of-way line there exists a principal building which does not conform to the setback requirements of the LDC, the required setback for such building shall be as follows:

  - 1) Where only one (1) said adjoining lot contains a principal building with a nonconforming setback, the setback shall be the computed average of the normal setback requirement and the nonconforming setback, or

- 2) Where both adjoining lots contain a principal building each with a nonconforming setback, the minimum setback shall be the computed average of the two (2) nonconforming setbacks.

#### 8.02.04 Nonconforming Structures

A lawfully established structure that becomes nonconforming at the time of adoption of the LDC may continue subject to the following requirements:

- A. Any existing use of a nonconforming structure may be changed to another use upon the finding by the Building Official that the proposed use:
  - 1) Is similar in its operation and effect on surrounding properties;
  - 2) Will not generate more automobile or truck traffic, create more noise, vibration, smoke, dust or fumes, is not a more intensive use of structures than the existing use, and is not in any way a greater nuisance to the adjoining properties than the existing; and
  - 3) Will not have a negative impact on the public health, safety, and welfare.
- B. The nonconforming structure shall not be enlarged.
- C. The structure or portion thereof may be altered to decrease its degree of nonconformity.
- D. If a nonconforming structure is moved for any reason for any distance, it shall be brought into conformance with the site design standards of the zoning district to which it is moved.
- E. When any use of a nonconforming structure is discontinued for a continuous period in excess of 12 months, any future use of the structure is permissible only when the structure has been brought into compliance with the provisions of the LDC.
- F. If a building or structure that is conforming as to use but nonconforming as to required building setbacks, performance standards, and applicable supplementary regulations, the building or structure may be enlarged or added to, provided that the addition or enlargement fully complies with all applicable requirements.
- G. On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring or plumbing, to an extent not exceeding 10% of the current replacement cost of the nonconforming structure or nonconforming position of the structure provided the total floor area existing when it became nonconforming shall not be increased.

#### 8.02.05 Nonconforming Uses

A lawfully established use of structures or open land that becomes nonconforming at the time of adoption of the LDC may continue subject to the following requirements:

- A. A structure containing a nonconforming use shall not be enlarged, extended, constructed, reconstructed, moved, or structurally altered except to change the use to a use permitted in the zoning district in which it is located.
- B. A nonconforming use of a structure shall not be extended to occupy any land outside the existing structure devoted to the use. Any nonconforming use of a structure may

be extended throughout any parts of a building which were manifestly arranged or designed for such use at the time of adoption or amendment of the LDC.

- C. A nonconforming use of a structure or open land which is superseded by a permitted use shall not thereafter be resumed.
- D. Discontinuance of Use
  - 1) After a nonconforming use shall have been discontinued for a period of one year, it shall not be reestablished or changed to any use except a conforming use.
  - 2) No nonconforming use may be discontinued for any period and changed to any other type of nonconforming use.
  - 3) Electrical service to a mobile home which does not meet HUD housing regulations may not be permitted or reconnected after an interruption of service for a period exceeding 12 months.
- E. A nonconforming use of open land shall meet the following standards:
  - 1) There shall be no expansion of the quantity of land devoted to the nonconforming use;
  - 2) There shall be no expansion of the activity on the land to occupy a greater amount of land within the nonconforming parcel; and
  - 3) No structure shall be established, installed, erected, or constructed so long as the nonconforming use exists.

#### 8.02.06 Nuisances

- A. Findings
 

It is found and declared that in the county there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial or business occupancy or use and are dangerous and injurious to the health, safety and welfare of the people of this county; and that a public necessity exists for the repair, closing or demolition of such dwellings, buildings or structures.
- B. Adoption of State Law; Designation of Code Enforcement Officer
  - 1) O.C.G.A. §§ 41-1-1 through 41-2-16 of that title known as "Nuisances" are hereby adopted as the public nuisance ordinance of the county. The O.C.G.A. sections shall be a part of this section as fully as if quoted verbatim herein.
  - 2) The board designee shall serve as the county public nuisance officer as contemplated by the above-referenced O.C.G.A. sections. Such public nuisance officer shall serve at the pleasure of the Board of Commissioners.
- C. Complaints; Investigation; Notice of Hearing
 

Whenever a written request is filed with the public nuisance officer (hereinafter referred to as "the officer") by a public authority, or by at least two (2) residents of the unincorporated area of the county, charging that any dwelling, building or structure in such area is unfit for human habitation or for commercial, industrial or business use or whenever it appears to the officer (on his own motion) that any dwelling, building or structure is unfit for human habitation or is unfit for its current

commercial, industrial or business use or is vacant, dilapidated and being used in connection with the commission of drug crimes, the officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and any parties in interest in such dwelling, building or structure a complaint stating the charges in that respect and containing a notice that a hearing will be held before the officer (or his designated agent) at a place within the county, fixed not less than 10 days nor more than 30 days after the serving of the complaint; that the owner and any parties in interest shall be given the right to file an answer to the complaint and to appear in person or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the officer.

D. Determination After Hearing; Issuance of Order

If after notice and hearing pursuant to this section the officer determines that the dwelling, building or structure under consideration is unfit for human habitation or is unfit for its current commercial, industrial or business use or is vacant, dilapidated and being used in connection with the commission of drug crimes, he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order:

- 1) If the repair, alteration or improvement of the dwelling, building or structure can be made at a reasonable cost in relation to the value of the dwelling, building or structure, requiring the owner or parties in interest, within the time specified in the order, to repair, alter or improve such dwelling, building or structure so as to render it fit for human habitation or for current commercial, industrial or business use or to vacate and close the dwelling, building or structure as a human habitation; or
- 1) If the repair, alteration or improvement of the dwelling, building or structure cannot be made at a reasonable cost in relation to the value of the dwelling, building or structure, requiring the owner or parties in interest, within the time specified in the order, to remove or demolish such dwelling, building or structure.

E. Basis for Requiring Removal, Demolition of Nuisance Structure

In no event shall the Board of Commissioners require the removal or demolition of any dwelling, building or structure except upon a finding that the cost of repair, alteration or improvement thereof exceeds 60% of the value of such dwelling, building or structure will have when repaired to satisfy the minimum requirements of this section.

F. Failure of Owner to Comply with Order; Duties of Officer, Placarding of Structure

If the owner or parties in interest fail to comply with an order issued under this section to vacate and close or demolish the nuisance dwelling, building or structure, the officer may cause such dwelling, building or structure to be repaired, altered or improved or to be vacated and closed or demolished; and the officer may cause to be posted on the main entrance of any building, dwelling or structure so closed a placard with the following words: "This building is unfit for human habitation or commercial, industrial or business use; the use or occupation of this building for human habitation or for commercial, industrial or business use is prohibited and unlawful."

G. Ordinance Authorizing Abatement Action

If the owner fails to comply with any order to remove or demolish the dwelling, building or structure, the officer may cause such dwelling, building or structure to be removed or demolished; provided, however, that the duties of the officer set forth in the LDC and in O.C.G.A. § 41-2-9(b)(4) and (5) shall not be exercised until the Board of Commissioners has by ordinance ordered the officer to proceed to effectuate the purpose of O.C.G.A. §§ 41-2-7 through 41-2-17 with respect to the particular property or properties which the officer has found to be unfit for human habitation or unfit for its current commercial, industrial or business use, which property or properties shall be described in the ordinance.

H. Creation of Lien; Sale of Property, Use of Funds

- 1) The amount of the cost of vacating and closing or removal or demolition by the officer pursuant to this section shall be a lien against the real property upon which such cost was incurred.
- 2) The lien shall attach to the real property upon the payment of all costs of demolition by the county and the filing of an itemized statement of the total sum of the costs by the officer in the office of the clerk of the superior court for the county and in the office of the clerk of the Board of Commissioners on a lien docket maintained by the clerks for such purposes.
- 3) If the dwelling, building or structure is removed or demolished by the officer he shall sell the materials of such dwellings, buildings or structures and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the superior court by the officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court.

I. Enforcement of Collection of Amount Due

The Board of Commissioners may enforce the collection of any amount due on a lien for removal or demolition of dwellings, buildings or structures only in the following manner:

- 1) The owner or parties at interest shall be allowed to satisfy the amount due on such lien by paying to the county, within 30 days after the perfection of the lien, a sum of money equal to 25% of the total amount due and by further paying to the county the remaining balance due on such lien, together with interest at the rate of seven (7)% per annum, in three (3) equal annual payments, each of which shall become due and payable on the anniversary date of the initial payment made as hereinabove prescribed.
- 2) Should the property upon which such lien is perfected be sold, transferred or conveyed by the owner or parties at interest at any time prior to the termination of the three-year period, the entire balance due on such lien shall be due and payable to the county.
- 3) Should the amount due on such lien or any portion thereof be unpaid after the passage of the three-year period, or upon the occurrence of the contingency provided for in subsection (2) above, the county may enforce the collection of any amount due on such lien for alteration, repair, removal or demolition of dwellings, buildings or structures in the same manner as provided in O.C.G.A. §

48-5-358 and other applicable state statutes. This procedure shall be subject to the right of redemption by any person having any right, title or interest in or lien upon the property, all as provided by Article 3 (§ 48-4-40 et seq.) of Chapter 4 of O.C.G.A. Tit. 48.

J. Physical Conditions Constituting Nuisance

The officer may determine that a dwelling, building or structure is unfit for human habitation or is unfit for its current commercial, industrial or business use if he finds that conditions exist in such building, dwelling or structure which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling, building or structure; of the occupants of neighborhood dwellings, buildings or structures; or of other residents of the county. Such conditions may include the following (without limiting the generality of the foregoing):

- 1) Defects therein increasing the hazards of fire, accidents or other calamities;
- 2) Lack of adequate ventilation, light or sanitary facilities;
- 3) Dilapidation;
- 4) Disrepair;
- 5) Structural defects; and
- 6) Uncleanliness.

K. Use of Structure in Connection with Drug Crimes Deemed Nuisance

The officer may determine, under existing ordinances, that a dwelling, building or structure is vacant, dilapidated and being used in connection with the commission of drug crimes upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.

L. Powers of Officer

The officer shall have all powers of investigation, examination, appointment and delegation, etc., as set out in O.C.G.A. § 41-2-11.

M. Enforcement

The county ordinance officer shall be authorized, empowered, and directed to enforce compliance with all provisions of this section in the unincorporated areas of the county, and on or in county-owned or operated facilities or property, in accordance with all applicable laws of the state.

## 8.03.00 VARIANCES

### 8.03.01 Variances from the LDC

The Planning Commission shall hear and decide all appeals and requests for variances from the requirements of this LDC as specified in Article IX, Section 9.05.03.

## **8.04.00 ADMINISTRATIVE WAIVER**

### **8.04.01 Authority and Limitations**

The Building Official is authorized to reduce specific site design and development standards of the LDC where the intent of the LDC can be achieved and equal performance obtained by granting a waiver of standards. The authority to grant a waiver shall be limited to the following:

- A. A reduction in the minimum front, side, or rear yard setbacks for a single lot, provided the following standards are met:
  - 1) The reduction is necessary in order to implement landscaping, buffer, and tree protection standards of the LDC; and
  - 2) The reduction is limited to a maximum of 20% of the minimum standard.
- B. A reduction in the parking requirement, provided the following standards are met:
  - 1) The reduction is necessary in order to implement landscaping, buffer, and tree protection standards of the LDC; and
  - 2) The reduction is limited to either one (1) space or 10% of the parking requirement, whichever is more; and
  - 3) The reduction does not limit the availability or location of required handicapped parking.
- C. A reduction in landscaping or buffer requirements, provided the following standards are met:
  - 1) The reduction is necessary due to particular physical conditions of the property, such as the shape of the lot, topography, presence of bodies of water, or other natural features;
  - 2) The reduction is limited to 20% of the otherwise required width of the buffer; and
  - 3) The reduction is limited to 20% of the otherwise required plant materials.



# ADMINISTRATIVE PROCEDURES

*Article IX TOC to be inserted here*

## **9.01.00 GENERALLY**

### **9.01.01 Purpose**

Article IX sets forth the procedures and requirements that shall be followed in order to seek approval for any development in unincorporated Burke County. Article IX also sets forth the requirements for appealing decisions and for enforcement.

### **9.01.02 Approvals Required**

- A. No person shall develop any property within Burke County without first obtaining an approved subdivision plat and permits to perform such activities. All development activities or site work conducted after approval of a subdivision plat shall conform to the specifications of such approved plat.
- B. A plat of a land subdivision shall be recorded in the office of the Clerk of the Superior Court of Burke County when approved as required by this article. The filing or recording of a plat of a subdivision without such approval is declared to be a violation of this LDC.
- C. The transfer of, sale of, or other use of a plat of a subdivision that has not been given final approval as required by this article and recorded in the office of the Clerk of the Superior Court of Burke County is prohibited, and the description by metes and bounds in such an instrument of transfer or other document shall not exempt the transaction from prescribed penalties.
- D. A building permit, or a sign permit in case of a sign, issued by Burke County is required in advance of the initiation of construction, erection, moving, or alteration of any building, structure, or sign except for those specific situations which are exempted as set forth in this chapter.
- E. It shall be unlawful to commence the excavation or filling of any lot for any construction of any building, or to commence construction of any building, or to commence the moving or alteration of any building until a building permit for such work has been issued.

### **9.01.03 Expiration of Approvals**

- A. Any building permit or other permit shall become void if the work authorized by the permit has not begun within six (6) months after the date of issuance of the permit.
- B. If construction described in a building permit or other permit is suspended or abandoned after work has commenced, the permit shall expire twelve (12) months after the date that work ceased.
- C. The time period for which a permit is valid may be extended for one (1) or more periods of not more than ninety (90) days each where an application for such extension is filed and such extension has been granted in writing by the building official.

### **9.01.04 Fees Required**

- A. All applications shall be accompanied by payment of application fees, as adopted by the Board of Commissioners, and any other fees that may be assessed in accordance with Georgia statutes or code requirements.

- B. An application shall not be complete until all required fees are paid. Such fees shall include the filing fee, and where notice is required, shall include an additional fee to defray the expense of preparing and mailing such notices.

#### 9.01.05 **Procedures for Conducting Public Hearings**

Public hearings concerning a proposed zoning decision or application under consideration by the Board of Commissioners shall adhere to the following procedures:

- A. All persons who wish to address the Board of Commissioners at a hearing concerning a proposed zoning decision or application under consideration by the Board of Commissioners shall first sign up on a form to be provided by the County Administrator prior to the commencement of the hearing.
- B. The Board of Commissioners chairman or his designee will read the proposed zoning decision or application under consideration and any County departmental reviews pertaining thereto prior to receiving public input on such proposed zoning decision or application. Proposed zoning decisions or applications shall be called in the order in which they were filed.
- C. The Chairman of the Board of Commissioners or his designee shall then call each person who has signed up to speak on the zoning decision or application in the order in which the persons have signed up to speak.
  - 1) The applicant will always speak first.
  - 2) Prior to speaking, the speaker will identify himself or herself and state his/her current address.
  - 3) Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak.
- D. Each speaker shall be allowed sufficient time to address the Board of Commissioners concerning the zoning decision or application then under consideration.
  - 1) The County Administrator shall be designated as the time keeper to record the time expended by each speaker.
  - 2) Pursuant to O.C.G.A. § 36-66-5, and as amended from time to time, both proponents and opponents of any proposed zoning decision shall be given a minimum of ten (10) minutes per side for their presentation.
- E. Each speaker shall:
  - 1) Speak only to the merits of the proposed zoning decision or application under consideration and shall address his remarks only to the Board of Commissioners.
  - 2) Refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision or application under consideration.
  - 3) The Board of Commissioners may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection.
- F. Nothing contained herein shall be construed as prohibiting the Board of Commissioners from conducting the hearing in an orderly and decorous manner to

assure that the public hearing on a proposed zoning decision or application is conducted in a fair and orderly manner.

**9.01.06 Notice Requirements – Planning Commission**

- A. Before making a recommendation concerning a proposed rezoning or variance request, the Planning Commission shall hold a public hearing thereon.
- B. At least fifteen (15) but not more than forty-five (45) days prior to the date of the public hearing, the Planning Commission shall cause to be published in a newspaper of general circulation within the County notice of the hearing. Such notice shall be published once a week for two (2) consecutive weeks in such newspaper. The notice shall state:
  - 1) The time, place and purpose of the hearing.
  - 2) Location of the property.
  - 3) Present zoning classification of the property.
  - 4) Proposed zoning classification of the property and/or proposed variance request.
- C. A sign containing the required public notice information shall be placed by the applicant in a conspicuous location on the property not less than fifteen (15) days prior to the date of the hearing but not more than forty-five (45) days before the hearing. A sign containing public notice information for a proposed rezoning shall not be moved until such time as the Board of Commissioners has acted upon the application for rezoning.
- D. The cost of the notices shall be borne by the applicant.
- E. On the date of the public hearing, all applicants requesting a zoning change or variance request shall present receipts for certificates of mailing to the Planning Commission.

**9.01.07 Notice Requirements – Board of Commissioners**

- A. Before enacting a resolution to amend, delete, supplement, or change this LDC or the official zoning map, the Board of Commissioners shall first hold a public hearing regarding the proposed amendment, deletion, supplement or change.
- B. Notice of the time, place and purpose of the hearing shall be published in the official organ of the county at least 15 days prior to the date of the hearing but not more than 45 days before the hearing.
- C. If the public hearing is for the purpose of the rezoning of property and the rezoning is initiated by a party other than Burke County, then the notice, the notice, in addition to the requirements of subsection (B) of this section, shall include the location of the property, the present zoning classification of the property, and the proposed zoning classification of the property.

**9.01.08 Notice of Agricultural Adjacency**

- A. Generally

When a non-agricultural use is proposed for property abutting an existing General Agricultural (A-1) District or will be located within the required minimum setbacks for such district, the developer or property owner shall be provided with a “Notice of Agricultural Adjacency” at the time an application for a building permit or for a change in zoning classification or use is filed.

B. Requirements

- 1) As a condition of and prior to any administrative action on either the change in zoning classification or use request, or the issuance of any land use, building, or occupancy permit, the applicant shall be required to sign a waiver on a form prepared by the Building Official which will indicate that the applicant understands that there is an ongoing agricultural land use adjacent to the subject property which could produce odors, noise, dust, and other effects which may not be compatible with the applicant’s development. Nevertheless, understanding the effects of agricultural operations and uses on adjacent land, the applicant agrees, by executing the form, to waive any objection to those effects and understands that his change in zoning classification or use and/or his permits are issued and processed in reliance on his agreement not to bring any action against adjacent land owners, whose property is agricultural and or an agricultural operation, or any local government, asserting that the adjacent agricultural operations or uses of agricultural land constitutes a nuisance; provided that said existing agricultural use is operated in conformance with this LDC and with all applicable local, state, and federal regulations.
- 2) Any such notice or acknowledgement provided to or executed by a land owner adjoining an existing agricultural use or within the required minimum setbacks for said use shall be public record. The Agricultural Use Notice shall include the following information in substantially the same or similar format and content:

*You are hereby notified that all or part of the property you are proposing to use or build upon is located adjacent to agricultural land with one or more existing agricultural operations. You may be subject to inconvenience or discomfort from lawful agricultural operations. Discomfort and inconvenience may include, but are not limited to, noise, odors, fumes, dust, smoke, burning, vibrations, insects, rodents, and/or the operation of machinery (including aircraft) during any 24-hour period. One or more inconveniences may occur as a result of agricultural operations that are in compliance with existing laws and regulations and accepted customs and standards. If you live or operate a use near an agricultural area, you should be prepared to accept such inconveniences or discomfort as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. Your signature constitutes an agreement not to bring any action against adjacent landowners whose property is agricultural land or in agricultural operation, or against local government, asserting that the adjacent agricultural operation or uses of agricultural lands constitutes a nuisance.*

Signature of Applicant: \_\_\_\_\_

**9.01.09 Requirements Regarding Developments of Regional Impact (DRI)**

The Georgia Department of Community Affairs (DCA), pursuant to the Georgia Planning Act, has established criteria for the identification of certain large-scale developments, which have the potential to cause land use impacts beyond the boundaries of the respective local government where a project might be proposed. These developments, known as Developments of Regional Impact (DRIs), shall be submitted, based on established DCA standards, procedures, and format, to the Central Savannah River Area Regional Commission for review and recommendation prior to issuance

of any local building or development permit, utility tap, or rezoning, whichever occurs first. As such, these requirements establish an official delay in the local permitting and/or review process to allow for compliance with these requirements.

## **9.02.00 SUBMITTAL AND PROCEDURAL REQUIREMENTS**

### **9.02.01 Determination of Completeness**

All applications shall be complete before acceptance for review and decision making. A determination of completeness is a determination that all required documents and plans include the information required by this LDC, that said documents and plans have been submitted in sufficient number, and that all fees have been paid. A determination of completeness is not a determination of compliance with substantive standards and criteria.

### **9.02.02 Subdivisions – Generally**

- A. Persons desiring to subdivide land within the county shall seek the approval of the Planning Commission according to the following procedures:
  - 1) The prospective subdivider should consult with the building official and county health office to obtain advice and assistance prior to his preparation of a subdivision plat. The subdivider should submit subdivision design sketches, a property boundary survey, and other general information as necessary to communicate his intentions regarding land subdivision.
  - 2) Prior to his making any improvements, including site grading or clearing, road construction, or utilities installation, the subdivider shall submit to the Planning Commission a subdivision plat, as provided for in division 2 of this article unless exempted by the Planning Commission as provided for in section 26-142.
  - 3) Approval of a preliminary subdivision plat by the Planning Commission shall constitute authorization for the subdivider to subdivide the land and make improvements thereto in accordance with the approved plat.
  - 4) After the land has been subdivided, roads or other improvements completed, or a surety bond posted therefor, the subdivider shall submit the subdivision plat to the Planning Commission for final approval.
  - 5) Upon final approval of a subdivision plat, the subdivider shall record the subdivision plat in the office of the clerk of the superior court no later than 180 days after final approval. Thereafter, the subdivider may transfer by sale, lease, legacy or agreement all subdivided lots, parcels or building sites, or may apply for permits to erect structures.
- B. Subdivisions of five (5) lots or less  
The building official may review and approve or disapprove subdivision containing five (5) or less tracts provided that no new roads area created and that the divisions meet all requirements of this LDC.
- C. Family Ties Land Division

- 1) The building official may review and approve or disapprove applications involving family ties land divisions provided that the application meets the requirements of Section 4.04.04 of this LDC.
  - 2) Applications shall include an affidavit to indicate the family relationship.
- D. Single lot development  
Reserved

### 9.02.03 Subdivision Plat Procedures

- A. The subdivider or his agent shall submit to the Planning Commission, at least ten days prior to its next regular meeting, the following:
- 1) A letter requesting the Planning Commission's review of a subdivision plat and giving the name and address of a person to whom a notice may be sent specifying the date, time and place of meeting of the Planning Commission when it will act on the plat;
  - 2) Three (3) copies of the plat of the proposed subdivision prepared in accordance with Section 9.02.04; and
  - 3) A check payable to the order of the county in appropriate amount based on a review fee of \$10.00 per each lot, parcel or building site shown on the subdivision plat.
- B. Approval
- 1) Upon submission of a preliminary subdivision plat, the Planning Commission shall conduct its review and disapprove or approve the plat.
  - 2) Whenever a subdivision plat shall have been granted preliminary approval by the Planning Commission, the chairman shall inscribe and verify by his initial on each sheet of three copies of the plat the following notation:  
"Preliminary Approval of the Plat granted by the Planning Commission on (date)."
  - 3) Preliminary approval is valid for a period of 180 days from the date of approval. If construction has not begun or is not complete, an extension application must be made with the planning commission. The Planning Commission may grant an extension for a term not more than 180 days from the original termination date.
- C. Stipulations to Preliminary Approval
- 1) As a part of its preliminary approval of a subdivision plat, the Planning Commission may stipulate modifications in subdivision design, required improvements, or subdivision plat as it may deem necessary to ensure compliance with the provisions of this chapter; however, such modifications shall be included in the official action of the commission granting preliminary approval.
- D. Distribution of Notice of Preliminary Approval
- 1) After a subdivision plat shall have received preliminary approval, copies of the approved plat, bearing the required inscription and verification, and

statements of any stipulations of preliminary approval, shall be distributed as follows:

- a. One (1) copy of each returned to the subdivider together with a written notice of such action;
- b. One (1) copy of each forwarded to the county health officer; and
- c. One (1) copy of each retained in the files of the Planning Commission.

E. Exclusion of Property Transfer

- 1) The preliminary approval of a subdivision plat authorizes the excavation and grading of land, the construction of roads, and the installation of other required improvements.
- 2) Such preliminary approval however shall not authorize the transfer of property by sale, lease or legacy; nor any agreement or negotiation of such transfer; nor use of the approved plat for such purposes; nor constitute the final approval of a subdivision plat as required for the plat.

F. Interim Modifications to Preliminary Subdivision Plat

- 1) Modifications to an approved preliminary subdivision plat may be authorized by the Planning Commission at the request of the subdivider when the subdivider shows to the satisfaction of the commission that extraordinary and exceptional conditions encountered in the development of the approved subdivision necessitate such modifications.
- 2) No modification to an approved subdivision shall be made by the subdivider until approved in writing by the Planning Commission.
- 3) The county shall not grant a modification to an approved subdivision that would be detrimental to the public safety, convenience or welfare, or contrary to the purposes and intent of this chapter.

G. Inspections and Notice to Comply

- 1) The Planning Commission shall have the authority to inspect subdivision development and site preparation to determine if such activities are in accordance with an approved plat or stipulated conditions or modifications approved thereto.
- 2) Whenever it has been determined that such activities are not being conducted in such accord, a written notice to comply, bearing the signature of the chairman of the Planning Commission, shall be sent to the subdivider by registered or certified mail.
- 3) The notice required in subsection (b) shall set forth the violations cited as the result of the inspection, measures to be constituted by the subdivider to remedy the violations cited, and time period within which such measures are to be completed.

H. Denial of Preliminary Approval

- 1) The Planning Commission may deny preliminary approval of a subdivision plat on any of the following grounds:
  - a. The subdivision plat, together with the required certifications, letters or fees, are not submitted in complete and required form;

- b. The Planning Commission determines that the land proposed for subdivision is unsuitable for subdivision because of flood hazard or other conditions that could endanger public health; or
    - c. The Planning Commission determines that a proposed subdivision is premature because of inadequate utilities, public schools, transportational facilities, law enforcement or public maintenance funds, and because such subdivision development would necessitate excessive expenditure of public funds for the provisions and maintenance of such services.
  - 2) Whenever a plat shall have been disapproved, the Planning Commission shall state the grounds for disapproval in the official record of the meeting at which such action was taken.
  - 3) The subdivider shall be notified in writing of such action, including grounds for the action, with a copy of such notice forwarded to the clerk of the superior court and the county health officer.
- I. Denial of Final Approval
  - 1) The Planning Commission may deny final approval of a subdivision plat on any of the following grounds:
    - a. When the plat, together with required accompanying information, fees and letters are not submitted in complete and proper form.
    - b. Where the plat does not conform to the approved preliminary plat, including any modifications as may have been granted.
    - c. (Where the plat does not reflect the required minimum standards of improvement.
    - d. Where the preliminary approval of a plat shall have been declared void by the Planning Commission; or
    - e. Where the plat shall have been previously disapproved by the Planning Commission.
  - 2) Whenever a plat shall have been disapproved, the Planning Commission shall state the grounds for such action in the official record of the meeting at which such action was taken.
  - 3) The subdivider shall be notified in writing of such action, including grounds therefore, with a copy of such notice forwarded to the clerk of the superior court and the county health officer.
- J. Time Limitations on Planning Commission Action
  - 1) Upon submission of a final plat, the Planning Commission shall have 45 days in which to review the plat and grant its final approval or disapproval of the subdivision plat.
  - 2) Failure by the Planning Commission to grant final approval or disapproval of a plat within 45 days from date of submission is hereby deemed to constitute approval, and certification of approval shall be issued by the chairman of the commission on demand; however, the subdivider may waive this requirement and consent to an extension of the review period.

#### 9.02.04 Subdivision Plat Requirements

- A. The subdivision plat shall be drawn to a scale of not less than one inch = 200 feet and shall show the following information:
- 1) All dimensions to the nearest tenth of a foot and all bearings and angles to the nearest minute;
  - 2) The name, location and acreage of the proposed subdivision; the name and address of the owner; the name of the subdivision designer;
  - 3) The date prepared, north point, and graphic scale;
  - 4) The location of existing property lines, topography contours, streets, streams, rivers, lakes, ponds, railroads, sewer lines, water lines, septic tanks, filtration fields, wells, bridges and drainage structures within the subdivision. If any land disturbance will result from the construction of the subdivision, the plat shall reflect the resulting topographic conditions and to be constructed drainage plans and easements;
  - 5) The names of the owner of adjoining properties and the names of any adjoining subdivisions;
  - 6) The proposed names, locations, widths and other dimensions of streets, easements, recreational areas, drainage plan, topographical plan, and rights-of-way; all utilities easements shall be located along side and rear property lines. Plats shall also contain on all side and rear property lines a dedicated right-of-way of at least 5 feet and ten feet, respectively. NOTE: all utilities shall be underground.
  - 7) The arrangement and dimensions of proposed lots;
  - 8) The limits of any area subject to flooding;
  - 9) Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every street, lot line, block line or boundary line;
  - 10) Zoning of all properties proposed for subdivision and zoning for all properties abutting the proposed subdivision;
  - 11) A location sketch map showing relationships of the proposed subdivision to the surrounding area (within one mile of the subdivision site); and
  - 12) A statement inscribed on the plat and signed by a registered engineer or qualified surveyor certifying the accuracy of the dimensions and bearings shown on the plat.
  - 13) In the event of variance approval by the Planning Commission or the Board of Commissioners, a statement shall be added stating the date of the approval of the variance and the board approving the variance
- B. Public Health Certification
- 1) Where individual septic tanks or means other than connection to a public sanitary sewerage system are to be employed temporarily or permanently as a method of sewage disposal for one or more lots within a subdivision, evidence of the tentative approval of such methods by the county health officer shall be submitted with the subdivision plat.

- 2) Acceptable evidence of such tentative approval shall be a written statement bearing the signature of the county health officer and specifying that the subdivider has consulted the county board of health as to the suitability of such methods within the subdivision and each lot therein and that the tentative approval of the board of health has been granted for the use of such methods or that the subdivider has been apprised of subdivision design modifications to be made to render proposed lots suitable for septic tank use. Such modifications shall be specifically stated in the health officer's certification statement.

C. Road Development Certification

- 1) A statement signed by the land owner, developer, and/or subdivider shall be submitted with the subdivision plat and shall certify that all easements, rights-of-way, utilities, and road improvements, including grading, base and surface materials, and other drainage facilities will be made in accordance with the provisions of Article VI of this LDC, or that a surety bond in the amount of 150% of the value of the utilities and road improvements has been posted by the land owner, developer, and/or subdivider, in a form acceptable to the Planning Commission, as a guarantee that the required improvements will be made. In addition to the requirements of this section, the owner or developer shall remain liable to the county for any repairs or maintenance of such road and drainage facilities for a period of one year from date of acceptance by the county.

D. Final Plat Requirements

- 1) After a subdivision plat has received preliminary approval by the Planning Commission and the required improvements have been made by the subdivider or a surety bond posted in lieu thereof, the subdivider shall submit to the Planning Commission the following:
  - a. A letter requesting the Planning Commission to consider the subdivision plat for final approval and giving the name and address of a person to whom a notice shall be sent specifying the date, time and place of the meeting of the Planning Commission when it will act on the request;
  - b. The original drawing of the subdivision plat, corrected to show any modifications in subdivision design and development as may have been stipulated by the Planning Commission as part of its preliminary approval of the plat or as may have been necessary due to the topography or other conditions peculiar to the land subdivided and as may have been approved by the Planning Commission;
  - c. A copy of the terms of any surety bond as may have been posted by the subdivider guaranteeing any required improvements; and
  - d. A check payable to the county in the amount of \$25.00.
- 2) Whenever a subdivision plat shall have been granted final approval, the chairman of the Planning Commission shall inscribe and verify by his signature on each sheet of the original drawing of the plat, the following notation:

Pursuant to the Land Development Code of Burke County, Georgia, and with all improvements for approval having been met, final approval of this subdivision plat has been granted by the county.

_____
<i>Building Official</i>
_____
<i>Chair, Planning Commission</i>
_____
<i>Date</i>

3) After final approval from the planning commission, the plat shall be submitted to the board of commissioners for acceptance by the county of roads, rights-of-way and drainage easements shown on the plat within the subdivision for public maintenance.

a. The dedication to and acceptance by the county of the roads, rights-of-way and drainage easements within the subdivision shall be shown by the following inscribed on the plat:

<i>The roads, rights-of-way and drainage easements shown on this plat have been dedicated to and accepted by Burke County, Georgia.</i>
_____
<i>County Administrator</i>
_____
<i>Chair, Board of Commissioners</i>
_____
<i>Date</i>

b. Commission action granting final approval of a subdivision plat shall be entered into the official record of the meeting at which such action was taken.

4) Distribution of Plats

After a subdivision plat shall have received final approval and the required inscription and verification entered on the original drawing of the plat, the Building Official shall require the developer to submit three copies with the original and shall distribute the original drawing and copies thereof as follows:

- a. The original drawing of the plat shall be returned to the subdivider;
- b. One (1) of the copies of the plat transmitted to the clerk of the superior court within 180 days from the date of approval from the Planning Commission, together with written authorization from the chairman of the Planning Commission, for the clerk to record the plat in the county's register of deeds and property transactions;
- c. One (1) copy forwarded to the county health officer; and
- d. One (1) copy retained in the files of the Planning Commission.

5) Recording of Plats

- a. No plat of a subdivision shall be filed or recorded in the office of the clerk of the superior court until it shall have been submitted to and approved by the Planning Commission and such approval entered in writing and certified by the chairman and the building official on the plat.
- b. Plats shall be recorded in the office of the clerk of the superior court no later than 180 days from date of approval by the Planning Commission.
- c. The clerk of the superior court shall not file or record a plat of a subdivision that does not include a statement of approval by the Planning Commission certified by its chairman and the building official.

### 9.02.05 **Development Plans**

Reserved

### 9.02.06 **Building Permits**

- A. Any person who desires to construct, enlarge, alter, repair, move or demolish any building or structure, or to erect, install, alter, remove, repair, convert or replace any electrical, gas, mechanical or plumbing system, where the cost of such work exceeds \$1,500.00, shall first obtain the required permit from the Building Official. Also, any person who desires to change the use of a building or structure or of land or install a manufactured home, regardless of cost, shall first obtain the required permit from the Building Official.
- B. Application for a building permit shall be made to the Building Official in accordance with the administrative regulations of the Standard Building Code.
- C. Fees
  - 1) Permit fees for construction, gas, mechanical or plumbing work shall be listed in the appendix of the applicable code. Fees for electrical permits shall be as set forth in the schedule of fees and charges.
  - 2) Permit fees for installation of a mobile or manufactured home or change of use of a building, structure or land will be as set forth in the schedule of fees and charges.
  - 3) The fee for demolition of any building shall be as set forth in the schedule of fees and charges.
  - 4) Any person who commences any work on a building, structure or system before obtaining the necessary permit shall be subject to a penalty of 100% of the usual permit fee in addition to the required permit fee.
- D. Certificate of Occupancy
  - 1) No land or structure for which a building permit has been issued shall be occupied or used until the Building Official shall have issued a certificate of occupancy
  - 2) A certificate of occupancy shall be issued only when the building, structure and/or land is determined to be in conformity with the provisions of this article. No certificate of occupancy shall be issued for any use of land or

structure where on-site means of sewage disposal are employed until the county health officer shall have certified in writing his approval of the installation and operation of such on-site disposal means.

- 3) If a certificate of occupancy is not granted upon request, the Building Official shall state in writing the reasons for such action and shall identify any corrections or modifications necessary for compliance certification.

E. Remedial Nature of Article

- 1) The provisions of this section are remedial and shall be construed to secure the beneficial interest and purposes of this article, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction, alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.

F. Compliance with Technical Codes and State Laws

- 1) All construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, location, area, maintenance of buildings, structures, and any appurtenances, mechanical, gas, plumbing and electrical, shall be performed in compliance with the codes adopted in Section 1.08.03.
- 2) All work performed which by law requires a state license (including but not limited to electrical, low-voltage electrical, plumbing, mechanical and installation of manufactured housing) shall be accomplished only by those individuals so licensed; except the owner of a residence (excluding manufactured housing) may accomplish such work in or on his residence subject only to the requirements of permitting and inspection.

G. Completion of Prior Permitted Construction

- 1) Nothing contained in this article shall require any change in the plans, construction, designated use, or occupancy of a building or structure for which:
  - a. There is physical evidence that construction had commenced prior to the effective date of the ordinance from which this section derives and where the entire building or structure shall be completed within one year from the effective date of the ordinance from which this section derives; or
  - b. A building permit had been issued pursuant to the requirements of previous development regulations as may have been modified or repealed by the ordinance from which this section derives and where the entire building or structure shall be completed within six months from the effective date of the ordinance from which this section derives.

H. Enforcing Official

- 1) The provisions of this article shall be administered and enforced by the building official. The building official shall have the right to enter upon any property or into any building or structure for the purpose of making inspections as necessary to carry out his duties in the enforcement of this article.

- 2) The building official shall issue all building permits and make and maintain records of permits issued or denied, or inspections made, of any violations cited and remedies ordered, and of any appeal proceedings and of certificates of occupancy issued.
- 3) The Building Official shall not issue a building permit until he has determined that the proposed activity is in conformity with this article.

I. Insurance

- 1) Prior to approval of a permit for any person, evidence shall first be shown of a minimum of \$100,000.00 general liability insurance coverage, except for permits for change of use, or for individuals performing work on their own residence.

J. Public Health Certification

- 1) The Building Official shall not issue a building permit where the proposed building, structure or use involves on-site means of sewage disposal until the applicant shall have first obtained the written certification of the county health officer that on-site sewage disposal means can satisfactorily accommodate the expected sewage discharge from the proposed use, and that the site on which the proposed use is located or is to be located contains sufficient land area to accommodate the on-site disposal of the expected discharges without adversely affecting groundwater or surface water supplies.

K. Exemptions from state law

- 1) The Board of Commissioners, pursuant to 1996 Ga. Laws, page 1632, does hereby exempt the county from the provisions of O.C.G.A. § 8-2-26(d).

**9.02.07 Land Disturbance Permits**

Reserved

**9.02.08 Official Zoning Map Amendments (Rezoning Applications)**

A. Initiation of amendments

- 1) A change in the zoning classification of a property by amending the Official Zoning map may be initiated by the owner of the property or the owner's authorized representative by filing an application with the Building Official. If submitted by a representative of the owner, such authorization shall be notarized and attached to the application.
- 2) A change in the zoning of a property may be initiated by the Board of Commissioners on its own motion or at the request of any of the following: the Building Official, the Planning Commission, or the owner of a property due to extraordinary circumstances.
- 3) An application for an amendment to the zoning map affecting the same property shall not be submitted more than once every 12 months, such interval to begin on the date of the final decision by the Board of Commissioners.
- 4) The twelve-month interval shall not apply to applications initiated by the Board of Commissioners, except for amendments to the zoning maps which were

defeated by the Board of Commissioners, in which case the interval required for the subsequent applications shall be at least 12 months.

5) An application to alter conditions of rezoning may be submitted at any time.

A. Application Requirements

1) Each application to amend the Official Zoning Map shall be filed with the Planning, Permits and Inspections Department. Applications shall be submitted in compliance with the following:

- a. A legal description of the tract to be rezoned.
- b. Three (3) copies of a plat, drawn to scale, showing a north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat.
- c. The present and proposed zoning district for the tract.
- d. Existing and intermediate regional floodplain and structures.
- e. The names and addresses of the owners of the land and their agents, if any.
- f. The names and addresses of all adjoining property owners.
- g. Such other and additional information as may be requested by designated representative of the county or required by this chapter.

2) All applications shall be sworn to be true and correct and shall be signed by the landowner requesting the zoning change or by his/her authorized agent.

B. Withdrawn applications

1) An application may be withdrawn without prejudice at any time prior to the first appearance of the legal advertisement required by this Article.

2) An application may be withdrawn prior to a vote on the amendment by the Planning Commission or prior to final action by the Board of Commissioners, but in such event an application for the same amendment may not be resubmitted for consideration by the Planning Commission for a period of six (6) months from the date of withdrawal.

3) Unless withdrawn at the hearing, the withdrawal must be in writing, signed and dated by the applicant.

C. Procedures

1) Upon presentation of an application for a zoning change, the application shall be forwarded to the Planning Commission who will examine the property and make a recommendation to the Board of Commissioners for action on the application.

2) The Planning Commission may recommend approval and/or the Board of Commissioners may approve a rezoning request conditioned upon the applicant complying with specified conditions, the Planning Commission and/or the Board of Commissioners deem reasonable and appropriate to carry out the purposes of this chapter and which are designed to harmonize applicant's request with the public interest.

- 3) In the event the request is approved upon the compliance with certain conditions, the applicant will have so much time as may be granted to the applicant by the Board of Commissioners to comply with such conditions and if the applicant fails to comply with such conditions the rezoning request will be deemed denied.
- 4) No building permits or other permits shall be issued until such time as the Building Inspector determines that the applicant has complied with the specified conditions.
- 5) The application for a zoning change may be acted upon by the Board of Commissioners at the first meeting of the Board of Commissioners to which such application is submitted following the recommendation of the County Planning Commission.
- 6) Such application shall be read at the first meeting of the Board of Commissioners following the recommendation of the Planning Commission, and may be acted upon by the Board of Commissioners following the presentation of both the proponents and the opponents to the proposed zoning decision.
- 7) Action by the Board of Commissioners regarding proposed zoning change shall be taken at an advertised public hearing, and shall be based on the following information:
  - a. The recommendation of the Planning Commission;
  - b. The application and supporting documentation; and
  - c. Testimony during the public hearing.

D. Zoning Standards

- 1) The Planning Commission and Board of Commissioners shall consider the following when considering an amendment to the zoning map:
  - a. Whether the zoning proposal will permit a use that is suitable in view of the use and development of adjacent and nearby property;
  - b. Whether the zoning proposal will adversely affect the existing use or usability of adjacent or nearby property;
  - c. Whether the property to be affected by the zoning proposal has a reasonable economic use as currently zoned;
  - d. 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;
  - e. Whether the zoning proposal is in conformity with the policy and intent of the Future Development Map and Comprehensive Plan; and
  - f. 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.

**9.01.02 Land Development Code Amendments**

- A. Only the Board of Commissioners may initiate a change to the text of this LDC or a comprehensive amendment to the Zoning Map. Such an initiation may be in response to a request from the Building Official, the Planning Commission, or any

private citizen or property owner, or on its own motion, upon a determination that the public necessity, general welfare or good zoning practice justifies such action.

- B. No amendment to the text of this LDC or comprehensive amendment to the Zoning Map (hereinafter referred to as a “code amendment”) shall become effective unless it shall have been submitted to the Planning Commission for review and recommendations. The following information shall be provided for review:
  - 1) Identification of the specific provision proposed for amendment;
  - 2) The proposed modifications in a strikethrough and underline format;
  - 3) A detailed explanation of the rationale and justification for the requested amendment; and
  - 4) A detailed explanation of the potential impacts of the modification on the development of Burke County.
- C. Before enacting a code amendment to this LDC, the County shall hold public hearings thereon. At least 15 days but not more than 45 days prior to each public hearing, notice is to be published in a newspaper of general circulation within the city. The notice is to state the time, place and purpose of the hearing.
- D. Public hearings by the Planning Commission and the Board of Commissioners on a code amendment shall follow the same procedures as a public hearing for a rezoning, as described in this LDC.
- E. Decisions on a Code Amendment
  - 1) The Planning Commission shall make a recommendation for approval, denial or such other action it deems appropriate, no later than their next regularly scheduled meeting following their public hearing, or the proposed amendment shall go forward with no recommendation. The report of the Planning Commission shall be forwarded in writing to the Board of Commissioners for final approval or denial.
  - 2) The Board of Commissioners shall hold its public hearing and take action on each code amendment at a regularly scheduled meeting for which adequate notice can be published.
  - 3) The Building Official shall maintain a record and date of such amendments as approved or denied by the Board of Commissioners, and shall update this LDC or the Zoning Map as amended within 30 calendar days of the Board of Commissioner’s action.
- F. Standards for a Code Amendment

The Planning Commission and the Board of Commissioners shall consider the following standards in reviewing any code amendment to this LDC, giving due weight or priority to those factors that are appropriate to the circumstances of each proposal:

  - 1) Is the proposed amendment consistent with the purpose and intent of this Development Code as stated under Article I?
  - 2) Does the proposed amendment further or is it compatible with the purpose and intent of the Comprehensive Plan?

- 3) Is the proposed amendment required to adequately address new or changing conditions or to properly implement the Comprehensive Plan?
  - 4) Does the proposed amendment reasonably promote the public health, safety, morality or general welfare?
- G. Effect of Text Amendment Approval
- 1) Approval of a text amendment shall be in full force and effect upon its approval by the Board of Commissioners or upon the stated effective date thereof.
  - 2) For a property on which a use, building, structure or other improvements existed in conformity with this LDC prior to the effective date of a text amendment affecting the property, any such use, building, structure or other improvements no longer in conformance shall be governed by the provisions for Nonconformities under Article VIII of this LDC, as applicable.
  - 3) Construction of any use, building, structure, or other improvements for which a building permit has been issued in conformity with this LDC prior to the effective date of a text amendment may continue to completion as though no change had occurred and, upon completion, shall be governed by the provisions for Nonconformities under Article VIII of this LDC, as applicable.

## 9.02.00 APPEALS

### 9.02.01 Application for Appeal

- A. A request for an interpretation of this LDC or an appeal for variance from its terms may be taken by any person aggrieved, or by any officer, department or board of the county affected by a decision or order of the Building Official. Such appeal shall be taken within 15 days' time after the decision has been rendered, by filing with the Building Official a notice of appeal. The appeal shall be filed on forms provided by the Building Official and upon deposit of a fee as set forth in the schedule of fees and charges. The Building Official shall forthwith transmit to the Planning Commission all papers constituting the record regarding the action appealed.
- B. Any appeal or application may be withdrawn upon written notice to the Building Official, but no appeal shall be withdrawn after a notice of public hearing has been posted without the written consent of the Planning Commission.
- C. In reviewing an appeal for variance, the burden of showing that the variance should be granted shall be the responsibility of the party applying for the variance. Any variance granted by the Planning Commission shall terminate automatically when the use ceases to be in full compliance with any conditions imposed by the Planning Commission, when the use has been abandoned, when the building permit shall have expired or if the variance has not been acted upon within one year.

### 9.02.02 Public Hearing

- A. Upon receipt of a request for appeal proceedings, the Planning Commission shall fix a reasonable time for the hearing of an appeal and shall give, or cause to be given, a public notice thereof by means of a notice in a newspaper of general circulation within the county at least 15 days prior to the scheduled date of the hearing.

- B. The notice shall contain the time, date and place of the hearing and a general statement as to the nature of the appeal request as well as the name of the appellant.
- C. A sign, no less than four feet by four feet, shall be posted on the property containing the same information contained in the notice provided for in this section.

#### 9.02.03 **Decision of Planning Commission**

- A. The Planning Commission shall decide upon an appeal request within 30 days after the date of the public hearing.
- B. The Building Official shall advise the Board of Commissioners of the decision of the Planning Commission and the reasons therefor.

#### 9.02.04 **Appeals from a Decision of the Board of Zoning Appeals**

Any person may appeal the decision of the Planning Commission to the Board of Commissioners. Such appeal shall be taken within 15 days' time after the Planning Commission decision has been rendered, by filing with the County Administrator a notice of appeal.

### **9.03.00 VIOLATIONS, ENFORCEMENT AND PENALTIES**

#### 9.03.01 **Jurisdiction**

The jurisdiction for actions brought pursuant to the LDC shall be in the Magistrate Court of Burke County.

#### 9.03.02 **Violations**

Any person who violates any provision of this chapter or fails to comply with the requirements thereof shall, upon conviction, be punished as provided in the Burke County Code of Ordinances, Part II, Chapter 1, Section 1-11, and in addition shall pay the cost of such action. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof; and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section.

#### 9.03.03 **Enforcement**

- A. Enforcing official
  - 1) The provisions of this chapter shall be administered and enforced by the Building Official. This official or his designee or subordinate shall have the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. In addition, he shall issue all permits called for by this chapter and make and maintain records thereof, issue all certificates of occupancy and make and maintain records thereof, and conduct inspections as prescribed by this chapter and other such inspections as are necessary to ensure compliance with this chapter.
  - 2) The Building Official or his designee or subordinate shall have the right to issue citations to any person in violation of any provision of this chapter.

9.03.04 **Penalties**

Injunction or mandamus

If 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 this chapter, the Building Official, county attorney or other appropriate authority of the county or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; or to correct or abate such violation; or to prevent the occupancy of the building, structure or land.

9.03.05 **Remedies**

Reserved