

SUBPART 2

LAND DEVELOPMENT ORDINANCE

Chapter 58

GENERAL PROVISIONS*

- Sec. 58-1. Purpose.
- Sec. 58-2. Authority.
- Sec. 58-3. Jurisdiction.
- Sec. 58-4. Cite.
- Sec. 58-5. Interpretation.
- Sec. 58-5.5. Scope.
- Sec. 58-6. Definitions.
- Sec. 58-7. Permits and approvals generally.
- Sec. 58-8. Payment of property taxes.

***Cross references**—Signs, § 6-31 et seq.; community development, ch. 26; planning, ch. 42; utilities, ch. 54; buildings and building regulations, ch. 66; environment, ch. 70; floods, ch. 74; manufactured homes and trailers, ch. 78; subdivisions, ch. 82; waterways, ch. 86.

Sec. 58-1. Purpose.

The purpose of this subpart is to protect the public health, safety and general welfare by establishing minimum development standards and administrative procedures for insuring compliance with these standards.

(Ord. of 3-27-2003(5), § 1.100; Res. No. 06-47, 3-8-2006)

Sec. 58-2. Authority.

This subpart is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I and art. IX, § II, ¶ III.

(Ord. of 3-27-2003(5), § 1.101; Res. No. 06-47, 3-8-2006)

Sec. 58-3. Jurisdiction.

This subpart shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this subpart.

(Ord. of 3-27-2003(5), § 1.102; Res. No. 06-47, 3-8-2006)

Sec. 58-4. Cite.

This subpart shall be known and cited as "the Gilmer County Land Development Ordinance."

(Ord. of 3-27-2003(5), § 1.103; Res. No. 06-47, 3-8-2006)

Sec. 58-5. Interpretation.

This subpart shall be interpreted in conjunction with federal, and state rules, regulations and laws, and other county ordinances contained or referenced in this subpart.

(Ord. of 3-27-2003(5), § 1.104; Res. No. 06-47, 3-8-2006)

Sec. 58-5.5. Scope.

For the purpose of this article and in order to carry out the provisions and intentions as set forth herein, certain words, terms and phrases are to be used and interpreted as defined hereinafter. Words used in the present tense shall include the future tense; words used in the singular number include the plural, and words in the plural number include the singular; the word "person" includes a firm, partnership, corporation or other legal entity as well as an individual; the term "shall" is always mandatory and not directory; and the word "may" is permissive. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed to be used or occupied".

(Ord. of 5-13-2004, Art. I; Res. No. 06-47, 3-8-2006)

Sec. 58-6. Definitions.

All definitions herein are now combined with the Gilmer County Land Use Ordinance. (Ord. of 3-27-2003(5), ch. II; Ord. of 5-13-2004(4), Ch. II; Res. No. 06-47, 3-8-2006)

Note—Other definitions may appear throughout this subpart or other ordinances incorporated in this subpart.

Cross references—Definitions generally, § 1-3; land development ordinance, ch. 62.

State law reference—Similar provisions, O.C.G.A. § 12-7-3.

Sec. 58-7. Permits and approvals generally.

(a) All property owners, prior to the undertaking of any activity contemplated by the county building code or prior to the location of any mobile home or manufactured housing unit, shall make application for a site approval location permit on the form provided by the county land development office. Such application shall be completed, submitted with the required fee, and approval obtained by all necessary officials, as set out thereon, prior to the issuance of a building permit.

(b) All property owners who are desirous or intend to undertake any activity contemplated by the county building code shall make application for a building permit on the form provided by the county land development office. Such application shall be completed, submitted with the required fee and approval obtained, prior to the issuance of a building permit.

(c) All property owners who are desirous or intend to locate a mobile home or manufactured housing unit on their property shall make an application for a mobile home permit on the form provided by the land development office. Such form shall be completed and submitted, along with the required fee, and a mobile home moving permit shall be issued upon approval of the application by the land development office.

(d) All applications for building permits and mobile home location permits on land, any portion of which is located within a special flood hazard area, as defined in chapter 74, shall comply with the Gilmer County Flood Damage Ordinance (Chapter 74).

(e) All applications for plat approval pursuant to the subdivision standards in chapter 82, applications for land-disturbing activity pursuant to the soil erosion and sedimentation control provisions in chapter 70, article II,

(f) All applicants for building permits shall demonstrate compliance with all set-backs and buffers both before and during construction.

(g) All applications for permits and plats described in the section shall be accompanied by an agriculture acknowledgement completed and executed by the property owner. (Ord. of 7-27-1995; Res. No. 06-47, 3-8-2006; Res. No. 06-190, §§ a, b, 11-9-2006)

Sec. 58-8. Payment of property taxes.

No building permit, land-disturbing permit, or mobile home permit can be issued on any property without the property taxes being current and paid. The county land development office shall confirm with the county tax commissioner that all property taxes are current and paid before issuing any such permit.

(Ord. of 10-28-1993; Res. No. 06-47, 3-8-2006)

Chapters 59—61

RESERVED

Chapter 62

ADMINISTRATION*

Article I. In General

- Sec. 62-1. Development officer.
- Sec. 62-2. Duties of development officer.
- Sec. 62-3. Development permits required.
- Sec. 62-4. Powers of development officer.
- Sec. 62-5. Fines for noncompliance.
- Sec. 62-6. Administrative appeals.
- Sec. 62-7. Legal appeals.
- Sec. 62-8. Liability.
- Sec. 62-9. Public notice.
- Sec. 62-10. Adoption and amendments.
- Secs. 62-11—62-30. Reserved.

Article II. Land Use Ordinance

Division 1. Generally

- Sec. 62-31. Title.
- Sec. 62-32. Applicability.
- Sec. 62-33. Purpose.
- Secs. 62-34—62-50. Reserved.

Division 2. Definitions of Terms Used in Article

- Sec. 62-51. Definitions.
- Secs. 62-52—62-70. Reserved.

Division 3. Establishment of Districts Provision for Official Land Use Map

- Sec. 62-71. Land use districts.
- Sec. 62-72. Official land use map.
- Sec. 62-73. Interpretation of district boundaries.
- Sec. 62-74. Boundary lines can divide a lot in single ownership.
- Sec. 62-75. Designation after street abandonment.
- Secs. 62-76—62-90. Reserved.

Division 4. Nonconforming Lots, Buildings and Uses

- Sec. 62-91. Purpose and intent.
- Sec. 62-92. Nonconforming lots of record.
- Sec. 62-93. Continuance of nonconforming use.
- Sec. 62-94. Discontinuance of a nonconforming use [grandfathering clause].
- Sec. 62-95. Expansion of nonconforming buildings.
- Sec. 62-96. Buildings under construction.

***Cross reference**—Administration, ch. 2.

GILMER COUNTY CODE

Secs. 62-97—62-120. Reserved.

Division 5. General Provisions

- Sec. 62-121. Use, occupancy and erection.
- Sec. 62-122. Minimum requirements.
- Sec. 62-123. Minimum lot frontage.
- Sec. 62-124. Visibility at intersections and driveways.
- Sec. 62-125. Height limitations.
- Sec. 62-126. Reduction in lot size prohibited.
- Sec. 62-127. Individual water wells and individual sewage disposal.
- Sec. 62-128. Accessory buildings and uses.
- Sec. 62-129. Use of temporary structures.
- Sec. 62-130. Agricultural use acknowledgment and notice.
- Sec. 62-131. Acknowledgment of restrictive covenants.
- Sec. 62-132. Table of land use districts and requirements therein.
- Sec. 62-133. Public owned lands.
- Secs. 62-134—62-160. Reserved.

Division 6. A1: Agricultural District

- Sec. 62-161. Purpose and intent.
- Sec. 62-162. Permitted uses and conditional uses.
- Sec. 62-163. Area, density and placement requirements.
- Secs. 62-164—62-170. Reserved.

Division 7. R-1: Residential Low Density District

- Sec. 62-171. Purpose and intent.
- Sec. 62-172. Permitted uses and conditional uses.
- Sec. 62-173. Area, density and placement requirements.
- Secs. 62-174—62-180. Reserved.

Division 8. R-2: Residential High Density District

- Sec. 62-181. Purpose and intent.
- Sec. 62-182. Permitted and conditional uses.
- Sec. 62-183. Area, density and placement requirements.
- Secs. 62-184—62-190. Reserved.

Division 9. R-3: Residential Multifamily District

- Sec. 62-191. Purpose and intent.
- Sec. 62-192. Permitted uses.
- Sec. 62-193. Area, density, and placement requirements.
- Secs. 62-194—62-200. Reserved.

Division 10. C-1: General Commercial District

- Sec. 62-201. Business uses.
- Sec. 62-202. Permitted uses and conditional uses.
- Sec. 62-203. Area, density and placement requirements.

ADMINISTRATION

Secs. 62-204—62-210. Reserved.

Division 11. I-1: Industrial District

- Sec. 62-211. Purpose and intent.
- Sec. 62-212. Permitted uses.
- Sec. 62-213. Area, density and placement requirements.
- Secs. 62-214—62-220. Reserved.

Division 12. Table of Permitted Uses

- Sec. 62-221. Table of permitted uses.
- Secs. 62-222—62-229. Reserved.

Division 13. Board of Land Use Appeals

- Sec. 62-230. Established.
- Sec. 62-231. Creation, purpose, and appointment.
- Sec. 62-232. Meetings and records.
- Sec. 62-233. Public hearings and notice required.
- Sec. 62-234. Powers and duties limited.
- Sec. 62-235. Approval period limited.
- Sec. 62-236. Appeals of the BOLUA decisions.
- Secs. 62-237—62-250. Reserved.

Division 14. Amendments to This Ordinance

- Sec. 62-251. Land Use Procedures and Standards Ordinance of Gilmer County, Georgia.
- Sec. 62-252. Application process.
- Secs. 62-253—62-264. Reserved.

Division 15. Administration, Interpretation, Enforcement, Penalties and Remedies

- Sec. 62-265. Administration and interpretation.
- Sec. 62-266. Land/use compliance required to receive building permit.
- Sec. 62-267. Building permit required.
- Sec. 62-268. Application for a building permit.
- Sec. 62-269. Construction progress.
- Sec. 62-270. Certificate of occupancy required.
- Sec. 62-271. Records of applications and certificates of occupancy.
- Sec. 62-272. Enforcement.
- Sec. 62-273. Penalties and incentives.
- Sec. 62-274. Criminal penalties for violation.
- Secs. 62-275—62-285. Reserved.

Division 16. Legal Status Provisions

- Sec. 62-286. Other regulations remain in effect.
- Sec. 62-287. Conflict with other laws.
- Sec. 62-288. Validity/separability.
- Sec. 62-289. Effective date.
- Sec. 62-290. Land use ordinance fee schedule.

GILMER COUNTY CODE

Secs. 62-291—62-330. Reserved.

Article III. Land Use Procedures and Standards

- Sec. 62-331. Preamble and enactment clause.
- Sec. 62-332. Definitions.
- Sec. 62-333. Adoption.
- Sec. 62-334. Initiation of amendments.
- Sec. 62-335. Pre-application conference.
- Sec. 62-336. Map amendment application requirements.
- Sec. 62-337. Complete application.
- Sec. 62-338. Public hearing.
- Sec. 62-339. Public hearing notice.
- Sec. 62-340. Public notice sign on subject property.
- Sec. 62-341. Criteria to consider for map amendments.
- Sec. 62-342. Criteria to consider for conditional uses.
- Sec. 62-343. Staff investigation and report.
- Sec. 62-344. Planning commission and recommendation.
- Sec. 62-345. Procedures for conducting public hearings.
- Sec. 62-346. Withdrawal of application.
- Sec. 62-347. Limitations on new applications.
- Sec. 62-348. Distribution.
- Sec. 62-349. Legal status.

ARTICLE I. IN GENERAL**Sec. 62-1. Development officer.**

The Land Development Ordinance and ordinances relating to land development shall be administered by the Gilmer County Development Officer. The development officer shall be appointed by and report to the planning commission. The development officer shall coordinate his/her activities with the planning commission, county health department, tax assessor, board of commissioners and all other interested parties.

(Ord. of 3-27-2003(5), § 7.100; Ord of 5-13-2004(4), § 7-100)

Cross reference—Officers and employees, § 2-91 et seq.

Sec. 62-2. Duties of development officer.

The duties of the development officer shall be as follows:

- (1) Review and coordinate with the planning commission the approval of all subdivision of land as defined in this subpart and O.C.G.A. § 15-6-67.
- (2) Coordinate the review of all soil erosion and sediment control plans, issue land disturbing permits and inspect the on-site erosion control measures.
- (3) Review and issue building permits.
- (4) Review and coordinate with the planning commission the approval of mobile home parks.
- (5) Issue noncompliance and stop work orders.

(Ord. of 3-27-2003(5), § 7.101)

Sec. 62-3. Development permits required.

This subpart will be administered through the use of development permits. All of the permits except the septic tank permit will be issued by the development officer. A permit fee, in an amount established by the board of commissioners, shall be charged to partially defray the cost the county incurs in administering this subpart. The permits required in the county are as follows:

- (1) Preliminary plat;
- (2) Final plat;
- (3) Land disturbing;
- (4) Work on adjacent to county road;
- (5) Building permit;
- (6) Mobile home park; and
- (7) Septic tank permit.

(Ord. of 3-27-2003(5), § 7.102)

Sec. 62-4. Powers of development officer.

(a) The development officer shall have the power to enforce the provisions of the Gilmer County Land Development Ordinance [Subpart 2 of this Code]. He/she shall have the authority to issue stop work orders and to cite violators of the ordinance [this subpart] to court.

(b) The development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his/her duties of enforcing the ordinance [Subpart 2 of this Code], and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.
Ord. of 3-27-2003(5), § 7.103; Ord. of 5-13-2004(4), § 7.103)

Sec. 62-5. Fines for noncompliance.

Any person who violates any provision of the Gilmer County Land Development Ordinance, or any permit condition or limitation established pursuant to this subpart shall be guilty of a misdemeanor, and upon conviction shall be punished for each offense by a fine not to exceed \$300.00 per day. Each day during which the violation or failure or refusal to comply continues shall be a separate violation. Other ordinances incorporated herein may specify other penalties, which will govern over this section.
(Ord. of 3-27-2003(5), § 7.104; Ord. of 5-13-2004(4), § 7.104)

Sec. 62-6. Administrative appeals.

(a) Any party aggrieved by any decision of the development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the development officer a written notice of appeal specifying the judgment of decision from which appeal is taken.

(b) A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the development officer.
(Ord. of 3-27-2003(5), § 7.105)

Sec. 62-7. Legal appeals.

Any party, aggrieved by a decision or order of the board of commissioners, shall have the right to appeal to the superior court of the county.
(Ord. of 3-27-2003(5), § 7.106)

Sec. 62-8. Liability.

Neither the approval of a plan under the provisions of this subpart, nor the compliance with the provisions of this subpart shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law or impose any liability upon the county.
(Ord. of 3-27-2003(5), ch. VIII, art. II)

Sec. 62-9. Public notice.

A public hearing shall be held on the adoption of all proposed amendments or variances to this subpart. The notice of the time, date and place of the hearing shall be published in the legal organ within the county. The public hearing must be advertised as required by general law and the state constitution prior to the public hearing.

(Ord. of 3-27-2003(5), ch. VIII, art. III)

Sec. 62-10. Adoption and amendments.

The board of commissioners shall have the power to adopt and amend this subpart in accordance with law.

(Ord. of 3-27-2003(5), ch. VIII, art. IV)

Secs. 62-11—62-30. Reserved.**ARTICLE II. LAND USE ORDINANCE*****DIVISION 1. GENERALLY****Sec. 62-31. Title.**

The title of this article is the "Land Use Ordinance of Gilmer County, Georgia" and may be also known as Land Use District Ordinance in the Land Use Procedures and Standards Ordinance of Gilmer County, Georgia.

(Res. No. 05-97, Art. 1 § 101, 8-25-2005)

Sec. 62-32. Applicability.

This article shall be applicable to all land, present and future, and development located in the unincorporated area of Gilmer County, Georgia. This is an ordinance of Gilmer County, Georgia, regulating the location, height, bulk and size of buildings and other structures; the use of buildings, structures, and land for business, industry, residence, public activities and other purposes; and for dividing the unincorporated area into districts for such purposes and establishing boundaries therefore; providing for a board of land use appeals, defining its power and duties; the method of administration, amendment and enforcement; prescribing penalties for the violation of its provisions; repealing conflicting resolutions; and other matters.

(Res. No. 05-97, Art. 1 § 102, 8-25-2005)

***Editor's note**—Res. No. 05-97, adopted Aug. 25, 2005 did not specify manner of codification; at the county's instructions these provisions were set out as Ch. 62, Art. II. At the county's instruction, Art. II, land use procedures and standards was moved to Art. III. and renumbered appropriately.

Sec. 62-33. Purpose.

The purpose of this article is to establish minimum standards for the use of land and improvements thereon in Gilmer County, Georgia. The land use regulations and districts herein established are designed to:

- Protect existing developments;
- Lessen congestion in the streets;
- Secure safety from fire, panic, and other dangers;
- Promote health and the general welfare;
- Provide adequate light and air;
- Prevent overcrowding of the land;
- Avoid undue concentration of the population;
- Ease the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements;
- Promote desirable living conditions;
- Sustain the stability of neighborhoods;
- Protect property against blight and depreciation;
- Secure economy in government expenditures;
- Conserve the value of buildings;
- Encourage the most appropriate use of land and structures; and
- Improve and protect the overall aesthetics of the community.

The requirements of this article are minimum permissible standards; and it is expected that developers and the respective decision making authority will normally strive for quality developments that will exceed these minimum requirements.

(Res. No. 05-97, Art. 1 § 103, 8-25-2005)

Secs. 62-34—62-50. Reserved.

DIVISION 2. DEFINITIONS OF TERMS USED IN ARTICLE

Sec. 62-51. Definitions.

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

AASHTO: American Association of State Highway Transportation Officials.

Abutting: Having property or district lines in common, or having property separated by only an alley. Separation by a street right-of-way is not considered abutting.

Access: The right to cross between public and private property, thereby permitting pedestrians and vehicles to enter and leave property.

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

ADT—Average daily traffic: Count on a road. For residences, use ten ADT per family or home.

Agriculture: The cultivation or growth of a field or horticultural crop, including dairying, livestock and poultry raising, farm forestry, and other similar enterprises or uses.

Agriculture machine shop: A workshop where machines and tools are used for making, finishing, or repairing machines, machine parts, or equipment. For the purpose of this article, no more than five employees shall be allowable in the A-1 district.

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

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

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

Automated teller (ATM): A facility, often established as an accessory facility to the principal use, through which certain banking functions such as deposits and withdrawals can be completed without the personal assistance of a bank employee.

Bank, finance, insurance, and real estate establishment: Such uses include but are not limited to banks, savings and loan institutions and credit unions, security and commodity exchanges, insurance agents, brokers, and service, real estate brokers, agents, managers, and developers, trusts, and holding and investment companies.

Base flood 100 year: The flood having a one percent chance of being equaled or exceeded in any given year.

Bed and breakfast home: Any private, owner-occupied residence offering short-term overnight lodging accommodations and breakfast to not more than four guest rooms for compensation.

Bed and breakfast inn: A building, not necessarily owner-occupied, that offers short-term overnight lodging accommodations and breakfast for five or more guest rooms for compensation. Such use has 80 percent of the rooms occupied by a different registered guest every seven days, provides patrons with daily maid service and telephone switchboard service, or equivalent, and shall comply with the applicable requirements of the Gilmer County Health Department and O.C.G.A. § 31-28-1 et seq.

Block: An area of land within a subdivision that is entirely bounded by streets, or by streets and the exterior boundary or boundaries of the subdivision, or a combination of the above with a river or lake.

Board of land use appeals "BOLUA": The body established by this article composed of or appointed at pleasure by the board of commissioners (BOC) which has original jurisdiction to take action on administrative appeals, variances, and other determinations as herein established.

Boarding house: A building, permanently occupied by the owner or operator, where both lodging and meals, served upon the table family-style with no provision for cooking in any rooms, are provided for persons not of the same family by pre-arrangement for definite periods and for compensation.

Board of commissioners "BOC": The Board of Commissioners of Gilmer County duly elected by the citizens within the jurisdiction as the governing authority of Gilmer County.

Bond: A legal instrument with a clause which establishes a sum of money fixed as a penalty, binding the parties to pay the same; conditioned, however, that the payment of penalty may be avoided by the performance by the parties of certain acts.

Buffer: A landscaped open space and/or screen located between incompatible land uses for the purpose of visibly separating uses through distance and to shield or block noise, light, glare, or visual or other nuisances; that portion of a given lot, not covered by buildings, pavement, parking, access and service areas, established for the purpose of screening and separating properties with incompatible land uses, the width of which is measured from the common property line and extending to the developed portion of the property. A buffer consists of trees, shrubs and other natural vegetation undisturbed by grading or site development and replanted where sparsely vegetated or where disturbed for approved access and utility crossings.

Buildable area: The portion of a lot remaining after required yards, buffers and building setbacks have been provided, where construction of principal buildings is permitted.

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

Building official: The Land Development Officer of Gilmer County, or his authorized representative.

Building principal: A building or structure in which is conducted the main use of the property on which the building or structure is located. In any residential district, any structure containing a dwelling unit shall be defined to be the principal building on the lot on which said structure is located.

Building line, front: A line, also known as the front setback line, establishing the minimum allowable distance between the main or front wall of a building, including any covered porches, and the street right-of-way or property line when measured perpendicularly thereto. In the case of corner lots or double frontage lots, front yard requirements shall be observed for those areas adjacent to street rights-of-way. When the lot frontage is less than the minimum required lot width, the building line is parallel to the chord of the arc and located where the minimum lot width is obtained measured between the side lot lines.

Business service establishment: A facility engaged in support function to establishments operating for a profit on a fee or contract basis, including but not limited to: advertising agencies, photocopying, blueprinting and duplication services, mailing agencies, commercial art and graphic design; personnel supply services and employment agencies, computer and data processing services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, publications and business consulting firms, food catering, interior decorating, and locksmiths.

Campground: Land containing two or more campsites which are located, established or maintained for occupancy by people in temporary lodging units such as camp tents, campers, motor homes, or cabins, for recreation, education or vacation purposes.

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

Cemetery: Land used or intended to be used for the burial of the dead and dedicated for cemetery purposes, including a mausoleum and a columbarium, but not including crematories and mortuaries.

Certificate of occupancy: A legal statement or document issued by the building official indicating that the building and use or reuse of a particular building or land is in conformity with all applicable codes and regulations, and that such building or land may be occupied for the purpose stated therein.

Church: An institution that people regularly attend to participate in or hold religious services, meeting, and other purposes, including education, day care, and recreation facilities when owned and operated by such church. Such term shall not include a thrift/clothing store, but may include an adjacent cemetery.

Clinic: A building designed and used for the diagnosis and treatment of patients that does not include overnight care facilities.

Club, lodge, or fraternal organization: A building or facility owned or operated by a group for civic, social, cultural, educational, political, recreational or like activities operated for the benefit of its members and not open to the general public. Excludes clubs which are operated for a profit, shooting clubs, and places of religious worship.

Community private wastewater treatment and disposal systems: A form of sewerage disposal that is approved and permitted by the Georgia Environmental Protection Division or any other state or local agency that is empowered to permit such systems. In order to be considered as an approved private sewer service in Gilmer County, each system shall be submitted for consideration and approval by the board of commissioners. Criteria considered for approval shall include but not limited to a business model of the system, the system's design merits, environmental impact aspects, and a performance and/or maintenance bond. Any submitted private sewerage system must demonstrate that such system shall not require expenditures of public funds at any time in the future by the Gilmer County Board of Commissioners or other government agency.

Comprehensive plan: Those coordinated plans or portions thereof which have been adopted by the board of commissioners for the physical development of the jurisdiction; or any plans that designate plans, programs, or policies to encourage the most appropriate use and design of the land in the interest of public health, safety and welfare.

Conditional use: A use which would not be appropriate without restriction throughout a land use district and is not automatically permitted by right within a land use district, but which may be permitted subject to meeting specific conditions (such as controls on number, size, area, location and activities) and after approval by the board of commissioners through the process and standards established by the land use procedures and standards ordinance.

Condominium: A building, or group of buildings, containing multiple dwelling units which are owned individually, and the structure, common areas, and facilities are owned by all of the individual owners on a proportional, undivided basis.

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

Convalescent home: See "nursing home".

Convenience store: A small retail store, 5,000 square feet or less, which sells convenience items as its primary sales. A convenience store may include the sale of gasoline and diesel fuel, but such sales shall be accessory to the primary sale of convenience items.

Corner lot: A lot abutting upon two or more streets at their intersection. (A front setback is required on all street frontages.)

County: Means Gilmer County, a political subdivision of the State of Georgia.

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

Day care home: A customary home occupation which provides for six or less children under 18 years of age, who are not residents of the premise; care and supervision is provided by a State of Georgia registered resident adult for less than 24 hours per day on a regular basis for compensation.

Day care center: A building or portion of a building in which care and supervision of children under 18 years of age away from their place of residence for less than 24 hours per day on a regular basis for compensation; serves seven or more persons and is licensed by the State of Georgia.

Density: The maximum number of dwelling units permitted outright per gross acre of land.

Department store: A retail facility which offers the sale of various goods and merchandise and serves a regional market as opposed to a facility serving only neighborhood markets. A department store typically contains at least 40,000 square feet in area and serves as an anchor for smaller retail stores and shops, usually located in a shopping mall or center.

Developer: Any person or entity who subdivides or develops property.

DHR: Georgia Department of Human Resources.

Development: Any manmade change on improved or unimproved real estate including, but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations.

DOT: Georgia Department of Transportation.

District, land use: A geographical area or areas, designated with the use of symbols and/or colors on the official land use map, wherein uses of land may be restricted in type, density, placement, size, height and other limitations as established in this article.

Double frontage lot: Any lot, other than a corner lot, which has frontage on two streets that do not intersect at a point abutting the property. (A front setback is required on all street frontages.)

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

Dwelling, security guard: An accessory residence, located inside or in addition to the principal structure or use of a parcel of land, designed or occupied by personnel for security reasons only.

Dwelling, multi-family: A detached residential building containing two or more dwelling units (can include condominium, apartments, and townhouses, which may be separately defined).

Dwelling, senior: A multi-family dwelling with 80 percent or more of the dwelling units occupied by residents, ages 62 and over or handicapped; or couples where either the husband or wife is 62 years of age or older; does not include convalescent or nursing facilities.

Dwelling, single-family detached: A detached residential building containing only one dwelling unit surrounded by open space. Such term includes conventional site-built homes, manufactured homes, and industrialized homes.

Dwelling unit: One or more rooms located within a building and forming a single habitable unit with individual permanent bathroom and kitchen facilities and is used or intended to be used for living, sleeping, cooking, and eating purposes of a single-family.

Easements: A grant by a property owner for the use of a strip of land for a specified purpose of including, but not limited to ingress and egress, sanitary sewers, conservation, water mains, electric lines, telephone lines, storm sewer or storm drainage ways and gas lines.

Environmental compliance structure: Any structure that is required or recommended by a state, federal, or legal agency to achieve or enhance compliance with any water quality requirement or other environmental concern.

Erosion and sedimentation control plan: A plan that depicts a plan to manage the soil erosion and sedimentation of a land-disturbing project as defined by the Georgia Soil and Water Conservation Commissions manual for erosion control, latest edition.

Excavation: See *cut*.

Existing grade: The vertical location of the existing ground surface prior to cutting or filling.

Family: An individual, or two or more persons occupying a single dwelling unit, appropriately sized in compliance with other applicable codes as one household unit.

Farm: An area of land principally devoted to agriculture.

Farmer's market: See "open air business establishment" or "produce stands."

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

Farm winery shall have the meaning set forth and further defined in O.C.G.A. § 3-6-21.1(a)(1).

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

Filling: The placement of any soil or other material.

Final plat: A drawing or map of a subdivision, meeting all of the requirements of these regulations in such form as required by this chapter and showing, completely and accurately, all legal design and engineering information, and certificates necessary for recording.

Finished grade: The final grade or elevation of the ground surface forming the proposed design.

Flea market: See "open air business establishment."

Finished grade: The final grade or elevation of the ground surface forming the proposed design.

Flea market: See "open air business establishment."

Flood: An overflow of lands not normally covered by water that results in significant adverse effects in the vicinity.

Flood insurance rate map (FIRM): The official map issued by the Federal Emergency Management Agency ("FEMA").

Floodways: The natural channel and the portion of the floodplain along the channel, which must be retained solely for the passage of floodwaters to prevent an undue increase in flood heights upstream. Water usually travels at a high velocity in the floodway.

Funeral home / mortuary: A building or part thereof used for human funeral services, which may contain space and facilities for: embalming and the performance of other services used in preparation of the dead for burial; performance of autopsies; storage of caskets; and chapel services. Such term does not include a crematorium.

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

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

Georgia D.O.T. Standards of Design Manual: Means the State of Georgia Department of Transportation Specification Construction of Roads and Bridges, latest edition.

Grading: Altering surfaces to specified elevations, dimensions, and/or slopes, this includes; stripping, cutting, filling, stockpiling and shaping or any combination thereof and shall include the land in its cut or filled condition.

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

Greenspace development: A development of a tract of land whereby the minimum lot is reduced as follows. Whereby the lots will be smaller than the prescribed minimum for each zone district, the remaining property not included within lots shall be used for common area, greenspace, conservation easements, or other nonresidential uses that are permitted for residential zone districts, such as golf courses, parks, equestrian areas, gathering places, etc. All such property not included within lots must be dedicated as road rights-of-way or common area and shall be prohibited from any future development.

Group home: A single-family dwelling, housing persons who are mentally/physically handicapped, elderly, terminally ill, AIDS/HIV victims, Alzheimer's patients, or children and

teens with emotional problems, operating as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing the organization and stability of a home environment.

Guest house: A lodging unit for temporary guests as an accessory building. No such lodging unit shall be rented or otherwise used as a separate dwelling. For the purpose of density, guest house is not considered to be a principal dwelling.

Halfway house: A building for temporary residence by non-related persons, who are recovering from alcohol abuse or other chemical-based substances, with one or more surrogate parents that provide services that include room, meals, supervision, rehabilitation, and counseling to enable residents to move back into society and live independently. In compliance with O.C.G.A. § 36-66-4, any such location or relocation of such use shall require a public hearing at least six months and not more than nine months prior to the date of final action on any land use decision (i.e. changing land use districts from one district to another or conditional use review). The sign posted on the subject property and the published advertisement shall contain a prominent statement that the proposed land use decision relates to or will relocate a halfway house. The published notice shall be at least six column inches in size and shall not be located in the classified advertising section of the newspaper, with the latter posted and published notices appearing at least 15 days and not more than 45 days prior to the date of this public hearing. The above public hearing is in addition to the public hearing that may be required nearest to making a land use decision per the requirements of the Land Use Procedures and Standards Ordinance of Gilmer County, Georgia.

Height, building: The vertical distance measured from the highest adjacent grade where the foundation projects from the ground to the highest point of the roof.

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

Home occupation: An occupation, profession, or trade customarily carried on by an occupant in a dwelling unit as a secondary use which is clearly incidental to the dwelling unit for residential purposes. The occupation is carried on wholly with the principal building; not more than 20 percent of the floor area of the principal building is used for the conduct of the home occupation; there is no alteration of the residential character of the building or premises; and only one unlighted sign shall be allowed on the premise, not exceeding one square foot in size and located 20 or more feet from any property line or outside the existing public street or right-of-way, whichever is greater.

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

Hospice: See "group home."

Hotel: A building offering overnight sleeping accommodations for travelers; ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours. Such use has 80 percent of the rooms occupied by a different registered guest every five days, provides patrons with daily maid service and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the Gilmer County Health Department and O.C.G.A. § 31-28-1 et seq., and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

Individual sewage disposal system: Means an "On-site Sewage Management System" which means a sewage management system other than a public or community sewage treatment system serving one or more buildings, mobile homes, recreational vehicles, residences, or other facilities designed or used for human occupancy or congregation. Such term shall include, without limitation, conventional and chamber septic tank systems, privies, and experimental and alternative on-site management systems which are designed to be physically incapable of a surface discharge of effluent that may be approved by the department.

Industrialized home: Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Industrialized buildings are constructed and regulated in accordance with the "Industrialized Building Act", Georgia Law 1982 pp. 1637-1643 (Official Code of Georgia Annotated, Title 8, Chapter 2, Article 2, Part 1).

Issuing authority: The governing authority of Gilmer County, which has been certified, by the Director of the Environmental Protection Division of the Department of Natural Resources as an issuing authority, pursuant to the Erosion and Sedimentation Act of 1975, as amended.

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

kennel: A facility where dogs, cats, or other household pet are kept for the purpose of sale, care, breeding, training, or overnight boarding and such activities are conducted as a business.

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

Land development officer ("LDO"): The officer or his authorized representative, hereby designated as the LDO, authorized to administer the Gilmer County Land Use Ordinance.

Land-disturbing activity: Any activity which may result in soil erosion from water or wind and the movement of sediments into state water or onto lands within the state, including, but not limited to, clearing, dredging, grading, excavating, transporting and filling of land.

Landfill, inert: A disposal site as defined by the State of Georgia Department of Natural Resources Environmental Protection Division Rules in Chapter 391-3-4 "Solid Waste Management."

Landfill, sanitary: A disposal site using approved engineering methods to dispose of putrescible wastes on land by spreading them in thin layers, compacting them to the smallest practical volume, placing an earthen cover thereon, and such other measures as are necessary to protect human health and the environment. Such use is not an allowable, conditional or permitted use in Gilmer County.

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

Livestock, general: Cattle, horses, goats, sheep, swine, llamas, donkey, mules, poultry, ducks, geese, emus, ostriches, and other fowl, rabbits, mink, foxes and other fur or hide-bearing animals customarily bred or raised in captivity for the harvesting of their skins or meat, whether owned or kept for pleasure, utility, or sale.

Livestock hobby: Animals kept on a premise in a noncommercial setting. The number of such animals that may be kept under hobby livestock shall not exceed, per acre used for such purposes (not including home site), the following: one large animal (300 pounds or more) or two small animals (less than 300 pounds), or 20 outdoor birds. This definition does not include domesticated pets such as dogs or cats. A conditional use of hobby livestock is granted by this ordinance to any tract of land that was zoned R-1 and where such use was either in existence or was permitted by covenants and restrictions which were in place on or before January 1, 2006.

Livestock operations, intensive: Any area of land or building, pen or corral, sheds or fenced fields wherein livestock are maintained in close quarters for feeding, breeding, raising, or holding and the area is specifically designed as a confinement area where manure may accumulate at one location. All such operations are required to follow recognized best management practices. Such areas are further defined if the following minimum number of animals occurs at one location: 50 horses; 75 dairy cows; 100 beef cattle; 250 swine (larger than 55 pounds); 1,000 sheep/goats; 1,000 nursery swine; 5,500 turkeys; 1,000 ostriches/emus; 500

ducks/geese; and 10,000 chickens. Even if the actual number of animals at one location falls below that of the minimum defined herein, an area can still be considered and defined as an intensive livestock operations depending on a variety of circumstances including but not limited to, gross acreage, acreage actually used in the intensive livestock operations, total actual number of animals therein, amount of manure produced, and other pollutants created.

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

Lodging house: A fraternity house, sorority house, dormitory, or other such building designed and occupied, with or without separate kitchen or housekeeping facilities for each unit and does not include motels, hotels, rooming houses, or boarding houses.

Lot: A parcel of land occupied or capable of being occupied for a use, by a building or group of buildings devoted to a common use, together with the customary accessories and open spaces belonging to the same, and having principal frontage on a public street; a developed or undeveloped tract of land in one ownership legally transferable as a single unit of land.

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

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

Lot line, front: The lot line separating a lot from a public or private street right-of-way.

Lot line, rear: The lot line opposite the front lot line.

Lot of record: A lot which is part of a subdivision recorded in the superior court clerk's office, or a lot described by metes and bounds, the description of which has been recorded in the superior court clerk's office prior to the date of passage of this section.

Lot width: The width of a lot at the front building setback line measured at right angles to the centerline of its depth.

Lowest floor: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, useable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor.

Manufactured home: See definition in mobile home ordinance.

Manufactured home park: See definition in mobile home ordinance.

Manufactured home space: A site within a manufactured home park sized for the placement of a single manufactured home and exclusive use of its occupants.

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

Minimum floor elevation: The lowest elevation permissible for the construction, erection, or other placement of any floor including a basement floor.

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

Mobile home: See definition in mobile home ordinance.

Modular home: See "industrialized home."

Motel: A permanent building or group of permanent buildings in which overnight sleeping accommodations are provided for travelers and having a parking space near or adjacent to the entrance of the room. Such use has 80 percent of the rooms occupied by a different registered guest every five days, provides patrons with daily maid service, 24 hour desk/counter clerk service, and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the Gilmer County Health Department and O.C.G.A. § 31-28-1 et seq., and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

Motor vehicle sales and service establishment: New and used automobile, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and service, including portable, manufactured home and industrialized building sales, and agricultural implement and equipment. This definition includes automotive services such a rental facilities, general mechanical work, body, paint, glass, transmission, and tire repair shops, car washes, including automated and staffed facilities, and oil change and lubrication facilities.

MUTCD: Manual of Uniform Traffic Control Devices.

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

Nonconforming lot: A lot, the area, width, and other characteristics of which, at the effective date of this article or the effective date of subsequent amendments to this article, were in compliance with all existing legal requirements and which, under this article or subsequent amendments to this article, no longer conforms to the lot requirements of the land use district in which the lot is located. Such lots can also be deemed "a lot of record."

Nonconforming structure: Any building or structure, the location, size, height and other characteristics of which, at the effective date of this article or the effective date of subsequent amendments to this article, were in compliance with all existing legal requirements and which, under this article or subsequent amendments to this article, no longer conforms to the regulations governing the bulk, location, height or size of buildings or structures permitted in the district in which the building or structure is located.

Nonconforming use: A use of land or a building which, at the effective date of this article or the effective date of subsequent amendments to this article, was in compliance with all

existing legal requirements and which, under this article or subsequent amendments to this article, no longer conforms with the permitted use provisions established for the district in which the building or land is located.

Nursing home: Any building in which aged, chronically ill or incurable persons are housed and furnished with meals and professional nursing care for compensation by medical referral only. Nursing services shall be those services which may be rendered by a person licensed under the Nurse Practice Act (O.C.G.A. 43-26-1 et seq.). Hospitals and mental health institutions are not included in this definition.

O.C.G.A.: Official Code of Georgia Annotated.

Office: A building or portion thereof wherein services are performed involving predominantly administrative, professional or clerical operations and not involving retail sales or service of any kind on the premises.

Open air business establishment: Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides, including but not limited to rock yards, nurseries and garden supply stores, lumber and building materials yards, statuaries and monument sales establishments, and firewood sales lots, liquid petroleum dealers and tank sales. A produce stand is not considered to be an open-air business.

Ordinance: This land use ordinance and all amendments thereto including the official Gilmer County Land Use Map.

Outdoor storage: The keeping of personal or business property or motor vehicles in a required open parking space or any other area outside of a building for a period of time exceeding 24 hours. Such use can be a principal use or subordinate to another principal use.

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

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

Percentage of grade: Slope as measured by the rate of change in distance vertically (up and down) from the horizontal in feet for each 100 feet of horizontal distance.

Permit: The authorization necessary to begin an activity under the provisions of this chapter.

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

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 this state, any interstate body, or any other legal entity.

Personal care home: An intermediate care facility licensed or approved to provide full-time assistance as necessary, including, but not limited to rooms, meals, and attention to personal needs, to non-family ambulatory individuals who, by reason of advanced age or infirmity, are unable to care completely for themselves, but who remain largely self-sufficient. Synonymous with assisted living home/facility.

Personal service establishment: A facility engaged in the provision of services to persons and their apparel, including but not limited to barber/beauty shops, tattoo/body piercing parlors, tanning studios, massage parlors, coin-operated and full service laundries and dry cleaners, photographic studios, shoe repair and shoe shine shops, dance studios, school, and halls, and travel agencies.

Planning commission: The Gilmer County Planning Commission.

Plat: A map of lands meeting requirements of O.C.G.A. § 15-6-67, except preliminary subdivision plats.

Pre-application review: An initial and informal stage of subdivision review at which the developer may make known preliminary plan proposals and the county may respond and advise the developer concerning the subdivision regulations.

Private street: A street over which the general public has no right of use. Right-of-way from a landowner to a certain individual or individuals and the use of which can be or is controlled by the parties to the right-of-way.

Produce stands: A structure, often more temporary than permanent, which is used solely for the display or sale of farm products and adequate parking and sight distances are maintained and observed in the actual location of the structure.

Protective covenants: Contracts made between private parties or conditions recorded with an approved plat and running with the land, specifying the manner in which land may be used, developed, or improved with the view to protecting and preserving the physical and economic integrity of any given area.

Public building/use: Any building, structure or use owned and/or operated by any government which is necessary to serve a public purpose, such as but not limited to the following: government administrative buildings, police and fire stations, public health facilities and hospitals, public works camps, parks and community centers, public roads and streets, airports, water and sanitary sewerage storage, intake, collection and treatment and pumping facilities, public housing facilities, jails and correctional centers, and solid waste transfer facilities.

Public street or road: A roadway that has been used by the public and is not owned by the county nor maintained by the county.

Recreational facility, indoor: A use that takes place within an enclosed building that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: assembly halls, auditoriums, meeting halls, art galleries and

museums, billiard halls and pool rooms, amusement halls, game/video arcades, ice and roller skating rinks, bowling alleys, fully-enclosed theaters, physical fitness centers and health clubs, and indoor shooting ranges.

Recreational facility, outdoor (small): A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: amphitheaters, golf driving ranges, miniature golf courses, batting cages, trout ponds, botanical and zoological gardens, ultra-light flight parks, and bungee jumping.

Recreational facility, outdoor (large): A use of land and/or buildings that involves the provision of sports and leisure activities to the general public for a fee, including but not limited to the following: stadiums, circuses and carnivals, drive-in theaters, fairgrounds, race tracks for animals or motor vehicles, firearms/archery shooting ranges, and equestrian centers and horse and pony riding rinks.

Recreational vehicle: A vehicular-type, mobile structure which can be towed, hauled or driven and is primarily designed as temporary living accommodations for recreational, camping, and travel uses.

Recreational vehicle (RV) park: Any lot of land upon which two or more recreational vehicle sites are located, established or maintained for occupancy on a temporary basis by recreational vehicles of the general public as temporary living quarters by campers, vacationers or travelers.

Recycling collection center: A principal or accessory use that serves as a neighborhood or regional drop-off point for temporary storage of recoverable resources such as cans, bottles and newspapers, but specifically excluding processing of such resources.

Recycling plant: A facility in which recoverable resources such as cans, bottles and newspapers are recycled, reprocessed and treated to return such products to a condition in which they may again be used in packaging or for production.

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

Reserve strip: A strip or parcel of land along, around, or between properties, the purpose of which is to restrict access.

Residential mixed use development: This activity is intended to provide for the development of large tracts of land as planned communities, creating a mix of a single-family residential, multifamily residential. Density will be based on current zoning regulations while keeping the natural environment and compatibility with surrounding land uses.

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

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

Retail trade establishment, enclosed: Any business offering goods and products for sale to the public, which may include the incidental repair of such goods and products, that operates entirely within a structure containing a roof and walls on all sides, except for outdoor display or other use during business hours and accessory storage in enclosed, subordinate buildings. These include but are not limited to the following: convenience stores including the sale of gasoline, hardware, paint, glass and wallpaper stores, grocery and miscellaneous food stores including retail bakeries, apparel, shoe, and accessory clothing stores, furniture, upholstery, floor covering, household appliance and home furnishing stores, musical instrument stores, radio, television, and computer stores, record, tape, and compact disc stores, eating and drinking establishments, drug stores, apothecaries and proprietary stores, liquor stores and bottle shops, used merchandise stores and pawn shops, sporting goods stores and bicycle shops, art and stationery stores, hobby, toy, and game shops, jewelry, gift, novelty, souvenir and antique shops, camera and photographic supply stores, luggage and leather goods stores, sewing, needlework, and piece goods stores, catalogue and mail order stores, news stands, florists, tobacco shops, automotive parts stores not involving repair, video rental and sales stores, and watch and clock sales and repair shops.

Right-of-way: A strip of land designated, reserved, dedicated, or purchased for the purpose of pedestrian or vehicular access or utility line installation.

Roadway: The actual road surface including necessary road shoulders and drainage facilities, including ditches and curbing and guttering, which is utilized to transport motor vehicles.

Rooming house: A dwelling, permanently occupied by the owner or operator, where only sleeping accommodation is provided for multiple permanent occupants not of the same family by prearrangement for definite periods and for compensation and which makes no provision for cooking in any of the occupied rooms.

Satellite dish antenna: An accessory structure that is a round, parabolic antenna intended to receive signals from orbiting satellites and other sources.

School: A facility that provides a curriculum of elementary and secondary academic instruction. A school is considered public if operated by the county board of education.

School; trade, technical or business: An establishment in which is offered, for compensation, instruction in a trade, craft, technical field, or business skills.

Sediment: Solid material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, ice, or gravity; the product of erosion.

Semi-public building/use: Any building, structure or use owned and/or operated by or as a utilities company which is reasonably necessary for the furnishing of adequate service by such

utility, such as, but not limited to, the following: underground or overhead gas, electrical, television and communication distribution or transmission lines or systems; electric power substations, wires, towers, cables, and poles. Notwithstanding anything herein to the contrary, the set-backs for property that is for semi-public use shall be 15 feet from all property lines.

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

Setback: The minimum perpendicular/horizontal distance that any new building or structure must be located from the applicable property line. Where lots are platted to the centerline of a road, the setback shall be measured from the express, implied or prescriptive easement or right-of-way.

Shopping center: A group of commercial establishments, planned, developed, owned and managed as a unit, with off-street parking, loading, ingress/egress, and perhaps marketing, shared by the establishments on the property.

Site plan: A graphic illustration, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a lot or tract and the location of all buildings, structures, uses and principal site development features proposed for a specific lot or tract of land.

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

Slope: Degree of deviation of a surface from the horizontal; measured as a numerical ratio, percent, or in degrees. Expressed as a ratio, the first number is the horizontal distance (run) and the second is the vertical distance (rise), as 2:1. A 2:1 slope is a 50 percent slope. Expressed in degrees, the slope is the angle from the horizontal plane, with a 90 degree slope being vertical (maximum) and 45 degree being a 1:1 or 100 percent slope.

Stabilization: The process of establishing an enduring soil cover of vegetation and mulch or other ground cover and in combination with installing 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.

Street: A roadway used for vehicular traffic.

Structural alterations: Any change in the supporting members of a building such as bearing walls or bearing partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

Structural practices: Soil and water conservation measures, other than vegetation, 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. Including but not limited to rip-rap, sediment basins, dikes, level spreaders, waterways or cutlets, diversions, grade stabilization structures, sediment traps, land grading, etc.

Structure: Anything constructed or erected, the use of which requires more or less permanent location on the ground, or which is attached to something having more or less permanent location on the ground, not including utility poles.

Subdivider: See "developer".

Subdivision: A subdivision is defined as the division of a single parcel of land into two or more parcels. All subdivisions of land in Gilmer County shall comply with the applicable provisions of this chapter. The subdivision approval process and submission requirements vary with the magnitude of the subdivision. All minor subdivision plats shall comply with the requirements for minor subdivisions. All major subdivisions plats shall comply with the requirements for major subdivisions. A plat depicting a single new lot shall be exempt from the requirements for minor or major subdivisions. However, this exemption shall apply only to divisions occurring no more than two per 12-month period on any privately maintained roads. Any subsequent division creating more than two new parcels within said 12-month period shall be considered a subdivision and must comply with either the minor or major subdivision requirements, whichever applies. Variance is granted where division of property is due to inheritance or court orders. Any plat of such division shall plainly describe the name of the estate and/or court case number. Further exempted shall be any divisions wherein the new tracts directly front and access county or state roads, provided that all such divisions shall fully comply with the size requirements by zoning district and as may be required by Gilmer County Environmental Health Division. All plats that create any new lots must be approved by the Gilmer County Environmental Health Division prior to approval for recording by the Gilmer County Planning Commission. Plats that are exempt from the approval process under provisions in OCGA § 15-6-67 (d) shall not be subject to approval by the planning commission for recording. However, a plat recorded under the statutory exemption shall not be considered to be approved by Gilmer County.

Subdivision, minor: A minor subdivision is a division of a tract into three or up to seven tracts of land and meeting the following requirements: A redivision of lots within an existing subdivision that requires no new road construction or extension of water or sewer lines shall be considered a minor subdivision.

- (1) All lots must be accessed by an existing privately maintained road or driveway. For a privately maintained road to qualify for minor subdivision consideration, either a bona fide property owner's association must be in place or must be created, or sufficient proof of a satisfactory road maintenance mechanism must be provided.
- (2) No road construction or other significant improvements or land disturbance is needed to create the proposed lots.
- (3) The minor subdivision plat shall bear all applicable certificates and meet all of the requirements of a final subdivision plat as defined in this chapter. No preliminary subdivision plat shall be required for minor subdivisions.
- (4) The existing road shall meet the requirements of the appropriate road class.

Subdivision, major: A major subdivision is a division of a tract into two or more tracts of land and does not meet the criteria above to qualify as a minor subdivision. Most typical subdivisions will be considered major subdivisions. Any subdivision that requires road construction or the extension of water or sewer lines is a major subdivision. A major subdivision must meet all of the requirements for preliminary and final subdivision plats.

Townhouse: One of a group of three or more attached dwelling units, wherein each dwelling unit and lot area, is under fee simple ownership.

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

Truck terminal: An area where cargo is stored for routing or reshipment and where trucks load and unload cargo on a regular basis, or an area in which semi-trailers and/or trucks are parked and stored.

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

Variance: An individual or isolated exception to the strict terms of a lot, structure, use or other restriction or requirement established by this article as applied to specific property which may be granted by the board of land use appeals upon showing that established criteria for such variance review have been met.

Vegetative practices: Measures for the stabilization of erosive or sediment producing areas by covering the soil with:

- (1) Permanent seeding, sprigging, or planting producing long-term vegetative cover, or
- (2) Short-term seeding, producing temporary vegetative cover, or
- (3) Sodding, covering areas with a turf of perennial sod-forming grass.

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

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.

Wetlands: Land where water is the dominant factor determining the nature of soil development and the types of plant and animal communities living in the soil or on its surface.

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

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

Yard: A space on the same lot with a principal building, which is open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted. A yard may contain a parking and/or loading area unless otherwise specified by this article.

Yard, front: A 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 front line of the building projected to the side lines of the lot. In the case of a corner lot, both spaces with street frontage shall be considered front yards. In the case of double frontage lots, the spaces as defined above shall both be considered front yards.

Yard, rear: An open, unoccupied space on the same lot with a principal building, extending the full width of the lot and situated between the rear line of the lot and the rear line of the principal building projected to the side lines of the lot.

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

Zoning administrator: The person appointed by the board of commissioners to administer the aspects of this chapter which pertain to zoning.

Other definitions which are contained in the Code of Ordinances of Gilmer County, Georgia are incorporated herein by reference.

(Res. No. 05-97, Art. 2 § 201, 8-25-2005; Res. No. 06-48, §§ 1—4, 3-8-2006; Res. No. 06-182, § 1, 10-26-2006; Res. No. 10-006, 1-28-2010)

Secs. 62-52—62-70. Reserved.

DIVISION 3. ESTABLISHMENT OF DISTRICTS PROVISION FOR OFFICIAL LAND USE MAP

Sec. 62-71. Land use districts.

For the purpose of this article Gilmer County is hereby divided into land use districts as set out below:

- A-1: Agricultural district
- R-1: Residential low density district
- R-2: Residential high density district
- R-3: Residential multifamily district
- C-1: General commercial district
- I-1: Industrial district

(Res. No. 05-97, Art. 3 § 301, 8-25-2005; Res. No. 06-48, § 5, 3-8-2006)

Sec. 62-72. Official land use map.

The location and boundaries of the above listed districts are hereby established as shown on a map entitled "Official Land Use Map of Gilmer County, Georgia." Said Map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article. The official land use map shall be identified by the signature of the chairman of the BOC, attested by the county clerk, and bear the seal of the county or that of a notary public under the following words: "This is to certify that this is the Official Land Use Map referred to in Article Three of the Land Use Ordinance, Gilmer County, Georgia", together with the date of the adoption of the ordinance.

If, in accordance with the provisions of this article and the applicable laws of the State of Georgia, changes are made in boundaries or other matter portrayed on the official land use map, such changes shall be entered on the official land use map as soon as practicable after the amendment has been approved by the BOC, with appropriate entry or indication of such amendment on the official land use map. No changes of any nature shall be made in the official land use map or the matters shown thereon except in conformity with the procedures set forth in the Land Use Procedures and Standards Ordinance of Gilmer County. (See Appendix. [Article III]) Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this article. Regardless of the existence of purported copies of the official land use map which may from time to time be made or published, the official land use map shall be located in the Office of the Gilmer County Planning Commission and shall be the final authority as to the current land use status of land and water areas, buildings, and other structures in unincorporated Gilmer County.

(Res. No. 05-97, Art. 3 § 302, 8-25-2005)

Sec. 62-73. Interpretation of district boundaries.

(a) Where boundaries are indicated as approximately following the centerline of streets or highways, street right-of-way lines or railroad right-of-way lines or such lines extended, such centerline, street right-of-way lines, or railroad right-of-way lines shall be construed to be such boundaries.

(b) Where boundaries are indicated as approximately following property lines or such lines extended, such property lines or such lines extended, as indicated by boundary survey, deed or legal description maintained in the official file of said land use district adoption or amendment, if available, shall be construed to be such boundaries.

(c) Where boundaries are indicated as approximately following the centerline of stream beds or river beds or the top of ridges, such lines shall be construed to be such boundaries.

(d) In the case where the exact location of a boundary cannot be determined by the foregoing methods, the boundary shall be determined by the use of the distance scale found on the map.

(Res. No. 05-97, Art. 3 § 303, 8-25-2005)

Sec. 62-74. Boundary lines can divide a lot in single ownership.

A boundary line as appearing on the official land use map can divide a lot in single ownership where the lot contains more than one actual principal use. Such actual uses may be delineated and assigned land use districts consistent with such uses within the parcel. The existence of principal uses and the area assigned to such uses shall be based upon objective physical evidence of separate uses upon the parcel. Disputes regarding actual principal uses or the location of boundaries regarding this matter shall be resolved pursuant to the procedures set forth in the Gilmer County Land Use Procedures and Standards Ordinance.

(Res. No. 05-97, Art. 3 § 304, 8-25-2005)

Sec. 62-75. Designation after street abandonment.

Where a public street, or other right-of-way is officially vacated or abandoned, the land use district and regulations applicable to the property to which it reverted, shall apply to such vacated or abandoned public street, or right-of-way.

(Res. No. 05-97, Art. 3 § 305, 8-25-2005)

Secs. 62-76—62-90. Reserved.

DIVISION 4. NONCONFORMING LOTS, BUILDINGS AND USES

Sec. 62-91. Purpose and intent.

Within the districts established by this article, there may exist certain incompatible lots, buildings, structures, and uses of land which were lawful before this article was adopted but which would be prohibited, regulated or restricted under the terms of this article or future amendments.

(Res. No. 05-97, Art. 4 § 401, 8-25-2005)

Sec. 62-92. Nonconforming lots of record.

In any district, a single-family dwelling or any other permitted use and customary accessory buildings may be erected on any single lot of record existing at the effective date of adoption or amendment of this article, even though such lot fails to meet the requirements for area or

width, or both, applicable to the particular district involved. Within the limitations of such substandard lot, building construction shall conform to yard, parking, and other requirements for the district in which the lot is located.

(Res. No. 05-97, Art. 4 § 402, 8-25-2005)

Sec. 62-93. Continuance of nonconforming use.

The lawful use of any building, structure, or land existing at the time of enactment of this article may be continued, subject to the limitations of section 62-94, even though such use does not conform with the provisions of this article, except that the use of a principal building, structure or land containing a nonconforming use shall not be:

- (1) Changed to another nonconforming use;
- (2) Expanded, enlarged or extended within the lot, unless such use is changed to a use permitted in the district in which such use is located; provided that this limitation shall not apply to agricultural uses;
- (3) Moved in whole or in part to any other portion of the lot occupied by such use, except in conformity with this article; provided that this limitation shall not apply to agricultural uses.

Nothing in this article shall be deemed to prevent the strengthening or restoring to a safe condition any building, structure, or portion thereof, declared to be unsafe by an official charged with protecting the public safety or health, upon order of such official. In the event that any nonconforming building is destroyed by fire or other natural occurrence, such building may be reconstructed or replaced at the same size and location potentially in conflict with currently adopted requirements of this article.

(Res. No. 05-97, Art. 4 § 403, 8-25-2005)

Sec. 62-94. Discontinuance of a nonconforming use [grandfathering clause].

Land or structures subject to a "grand fathered" or otherwise authorized nonconforming use shall, at the option of a new owner or transferee, either: a) retain its authorized nonconforming use, or b) revert to a use specifically permitted in the zoned district. In the event that a nonconforming use is discontinued for a period of 12 months, any new use established thereafter shall be in conformance with the uses allowed in the current and applicable land use district.

(Res. No. 05-97, Art. 4 § 404, 8-25-2005)

Sec. 62-95. Expansion of nonconforming buildings.

A nonconforming building which contains a conforming use may be expanded, enlarged or extended, provided that any such additions meet the applicable yard and building setbacks, and all other regulations for the district in which it is located. This section shall not, however, be construed as to authorize the expansion of a nonconforming building for a use which is not permitted by the regulations for the district within which such building is located.

(Res. No. 05-97, Art. 4 § 405, 8-25-2005)

Sec. 62-96. Buildings under construction.

Nothing in this article shall be deemed to require a change in the plans, construction, or designated use of any building on which either construction was lawfully begun prior to the adoption of this article or which a building or septic permit has been applied for or issued pursuant to the building and development ordinance of Gilmer County.

(Res. No. 05-97, Art. 4 § 406, 8-25-2005)

Secs. 62-97—62-120. Reserved.

DIVISION 5. GENERAL PROVISIONS

Sec. 62-121. Use, occupancy and erection.

No building, structure, land, open space or water shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, structurally altered or maintained, and no new use or change shall be made or maintained of any building, structure, land, open space or water, unless in conformity with all the regulations herein specified for the district in which it is located.

(Res. No. 05-97, Art. 5 § 501, 8-25-2005)

Sec. 62-122. Minimum requirements.

Within each district, the regulations set forth shall be minimum requirements and shall apply uniformly to each class or kind of building, structure or land.

(Res. No. 05-97, Art. 5 § 502, 8-25-2005)

Sec. 62-123. Minimum lot frontage.

No principal building shall be erected on any lot which does not have immediate frontage of at least 40 feet on at least one street which meet the accessibility requirements of the Gilmer County Land Development Ordinance.

(Res. No. 05-97, Art. 5 § 503, 8-25-2005)

Sec. 62-124. Visibility at intersections and driveways.

At the intersection of public streets, at the intersection of any vehicular access drive with a public street, and at the intersection of any vehicular access drive with another vehicular access drive, no plant, structure, fence, wall, sign, or other element in excess of three feet high above street grade shall be placed or maintained within the triangular area formed by a line connecting the intersection with two points that are located on each intersecting drive or roadway 25 feet from the intersection.

(Res. No. 05-97, Art. 5 § 504, 8-25-2005; Res. No. 06-48, § 6, 3-8-2006)

Sec. 62-125. Height limitations.

No building or structure shall hereafter be erected, constructed, reconstructed, or altered, to exceed the maximum height of 42 feet. The height limitations established by this section shall not apply to chimneys, smokestacks, church spires and steeples, domes, flag poles, grain silos, public monuments, observation towers, water towers, radio and television towers, electricity transmission towers, utility poles and similar structures. (See Division 2, definition for "height, building")

(Res. No. 05-97, Art. 5 § 505, 8-25-2005)

Sec. 62-126. Reduction in lot size prohibited.

No lot shall be reduced, divided or changed in size so that lot width, size of yards, lot area per dwelling unit or any other requirement of this article is not maintained, unless said reduction or division is necessary to provide land which is acquired for a public use purpose.

(Res. No. 05-97, Art. 5 § 506, 8-25-2005)

Sec. 62-127. Individual water wells and individual sewage disposal.

In the interest of public health and welfare, all lots served or to be served by individual water wells and on-site sewage disposal systems shall have minimum separation distance of 100 feet between the well location and both the location of septic tanks and field lines. Such separation distance is required with no consideration to the location of individual property lines. (For example: the location of the septic tank and field lines on one property inherently regulates the location of a water well on adjacent property, and vice-versa.)

(Res. No. 05-97, Art. 5 § 507, 8-25-2005)

Sec. 62-128. Accessory buildings and uses.

(a) Accessory structures/uses shall comply with the minimum front, side, and rear setback requirements for all lots.

(b) When an accessory structure is physically attached to the principal building by a breezeway, passageway or other structure, it shall comply with the setback requirements of the principal building.

(c) In the case of double frontage lots, accessory buildings shall observe required front yard requirements on both streets.

(Res. No. 05-97, Art. 5 § 508, 8-25-2005)

Sec. 62-129. Use of temporary structures.

Manufactured homes or other temporary structures may be used as temporary offices in any district for the purpose of a construction office for a licensed architect/engineer/contractor or as a sales office for a functional residential/commercial/industrial development project. The building official shall issue a temporary permit that is renewable in six month increments. Once the subject development project is completed or all sales have been completed, said

permit shall be revoked and the temporary structure removed from the site. Said permit shall not be construed as to permit the residential occupancy of manufactured homes and depending on the said temporary use, approval of the Gilmer County Health Department may be required for the installation of an individual sewage disposal system.

(Res. No. 05-97, Art. 5 § 509, 8-25-2005)

Sec. 62-130. Agricultural use acknowledgment and notice.

All applicants for a building permit to construct a residential dwelling on a lot or tract within or adjacent to the general agriculture (GA) land use district must execute an agricultural use acknowledgment and notice by signature, acknowledging the potential uses and impacts associated with a general agriculture land use district. The acknowledgment must be recorded in the public records of Gilmer County, Georgia. See Appendix B for a copy of the Agricultural Use Notice and Acknowledgment.

(Res. No. 05-97, Art. 5 § 510, 8-25-2005; Res. No. 06-48, § 7, 3-8-2006)

Sec. 62-131. Acknowledgment of restrictive covenants.

Subdivisions which have declarations of covenants conditions and restrictions (CCR's) duly recorded as of the date of enactment of this article will continue to be governed by said CCR's only to those portions or provisions of said CCR's which are more stringent than requirements set forth herein and shall be exempt from the provisions of this article for the period of time stated in the CCR's or as regulated by state law.

(Res. No. 05-97, Art. 5 § 511, 8-25-2005; Res. No. 06-48, § 8, 3-8-2006)

Sec. 62-132. Table of land use districts and requirements therein.

<i>Classifications</i>	<i>Min. Size</i>	<i>Density</i>	<i>Side Set-backs</i>	<i>Front Set-backs</i>	<i>Rear Set-backs</i>
A-1 (2)	3.0 (5)	N/A (5)	25	40/25 (4)	50
R-1 (2)	1.5 (3)	0.5/acre	20	40/25 (4)	40
R-2 (2)	1.0 (3)	1.0/acre	10	40/25 (4)	25 (1)
R-3	5.0	4.0/acre	50 (1)	40 (1)	50 (1)
C-1	N/A	N/A	15 (1)	40 (1)	15 (1)
I-1	N/A	N/A	15 (1)	40 (1)	15 (1)

- (1) Greater set backs or buffers may apply according to adjacent zone classifications, check ordinance for specific land use classifications.
- (2) Notwithstanding anything herein to the contrary, the setbacks on residential lots previously platted and recorded in the public records of Gilmer County, Georgia, shall remain as set out in either the CCR's or on the recorded plat of the subdivision.
- (3) Minimum lot size is less for greenspace subdivisions—(See definitions).
- (4) Front setbacks are 40 foot from the right-of-way of any county, public, or state road and 25 foot from the right-of-way of any interior subdivision road.

- (5) Minimum lot size is greater for those parcels subject to the 10.0 acre minimum required under section 62-133. Density of one unit per 3.25 acres applies to greenspace developments within A-1 district. See subsection 82-134(b).

(Res. No. 05-97, Art. 5 § 512, 8-25-2005; Res. No. 06-48, § 9, 3-8-2006; Res. No. 07-68, § a, 4-26-2007; Res. No. 10-006, 1-28-2010)

Sec. 62-133. Public owned lands.

Parcels of land owned by state or federal governments, or any agency thereof, are considered to be "conservation" lands by Gilmer County. Therefore, upon conveyance from public ownership to private ownership, any such parcel(s) shall be zoned A-1, with a stipulated minimum lot size of 10.0 acres.

(Res. No. 07-68, § b, 4-26-2007)

Secs. 62-134—62-160. Reserved.

DIVISION 6. A1: AGRICULTURAL DISTRICT

Sec. 62-161. Purpose and intent.

The agricultural district is established to encourage the retention and development of suitable areas for common farm practices and various non-farm uses, preservation of open space, the conservation and management of soil, water, air, game and other natural resources and amenities, and to discourage the creation or continuation of conditions which could detract from the function, operation, and appearance of areas to provide food supplies and to prevent or minimize conflicts between common farm practices and non-farm uses. Gilmer County adopts and follows O.C.G.A. § 41-1-7 sets forth, "A farm or farming operation shall not be found to be a public or private nuisance if the farm or farm operation alleged to be a nuisance conforms to generally accepted agricultural and management practices." All applicable agricultural uses are required to practice and implement identified best management practices.

(Res. No. 05-97, Art. 6 § 601, 8-25-2005; Res. No. 06-48, § 10, 3-8-2006)

Sec. 62-162. Permitted uses and conditional uses.

See division 12 for the list of permitted uses and conditional uses allowed in the agriculture district.

(Res. No. 05-97, Art. 6 § 602, 8-25-2005)

Sec. 62-163. Area, density and placement requirements.

(a) *Building setbacks*: Except as otherwise specified in this article, principal buildings and accessory buildings shall comply with the following setbacks: Front: 40 feet from the right-of-way of any county, public or state maintained road (not within a subdivision) and 25 feet from the right-of-way of any new interior subdivision road; Side: 25 feet; and Rear: 50 feet. However, all new intensive livestock operations shall have a minimum setback of 300 feet

when adjacent to residential districts. Except that environmental compliance structures shall be subject to the standard setbacks above. The minimum lot width at the location of the home on the site shall be 150 feet.

(b) *Minimum lot size:* The minimum lot size shall be 3.0 acres, except as to those parcels subject to the 10.0 acre minimum required under section 62-133. The minimum lot size for any proposed intensive livestock operations (See division 2, definitions) shall be 20 acres in order to minimize conflicts with other adjacent uses. No area within road rights-of-way shall count towards the minimum lot size.

(c) *Density:* The density for the A-1 district is up to three dwellings per single parcel; as long as it is in compliance with the Gilmer County Health Department and applicable provisions of this article. The density for an agriculture greenspace development shall be one unit per 3.25 acres. The maximum of three units is waived in the instance of residences for bona fide farm help where the farm help work specifically on the same parcel as the residence. Affidavits that demonstrate the farm help employment relationship shall be submitted with other permit applications for such residences.

(d) *Buffers:* No buffer is required for any use in the A-1 zone district. However, if a use is proposed that is prohibited in residential zones but is allowed in C-1 districts, then the buffer requirements for such use if in a C-1 zone shall apply to the same use in A-1.
(Res. No. 05-97, Art. 6 § 603, 8-25-2005; Res. No. 06-48, § 11, 3-8-2006; Res. No. 06-182, § 2, 10-26-2006; Res. No. 07-68, § c, 4-26-2007; Res. No. 10-006, 1-28-2010)

Secs. 62-164—62-170. Reserved.

DIVISION 7. R-1: RESIDENTIAL LOW DENSITY DISTRICT

Sec. 62-171. Purpose and intent.

The residential low density district is intended to provide areas dedicated to single-family detached residences and the creation of residential neighborhoods. A conditional use of hobby livestock is granted by this article to any tract of land that was zoned R-1 and where such use was either in existence or was permitted by covenants and restrictions which were in place on or before January 1, 2006.

(Res. No. 05-97, Art. 7 § 701, 8-25-2005; Res. No. 06-48, § 12, 3-8-2006)

Sec. 62-172. Permitted uses and conditional uses.

See division 12 for the list of permitted uses and conditional uses allowed in the single family residential district.

(Res. No. 05-97, Art. 7 § 702, 8-25-2005)

Sec. 62-173. Area, density and placement requirements.

(a) *Building setbacks:* Except as otherwise specified in this article, principal buildings and accessory buildings shall comply with the following setbacks: Front: 40 feet from the right-of-way of any county, public or state maintained road (not within a subdivision) and 25 feet from the right-of-way of any interior subdivision road; Side: 20 feet; and Rear: 40 feet.

(b) *Minimum lot size:* The minimum lot size shall be 1.5 acre unless the option of a greenspace development is exercised. No area within road rights-of-way shall count towards the minimum lot size. The minimum lot width at the location of the home on the site shall be as follows: 150 feet for R-1 developments utilizing on-site wells and septic systems, 100 feet for R-1 developments served by public or approved private water supply and septic systems, or 90 feet for R-1 greenspace developments served by public or approved private water supply and sewerage. For all R-1 developments served by on site septic systems, greater widths and lot sizes may be required by the Gilmer County Environmental Health Department.

(c) *Density:* The density for R-1 district shall be no more than 0.5 dwelling per acre (one lot for every two acres within the development).

(d) *Buffers:* No buffer is required for any use in the R-1 district.
(Res. No. 05-97, Art. 7 § 703, 8-25-2005; Res. No. 06-48, § 13, 3-8-2006; Res. No. 06-182, § 3, 10-26-2006)

Secs. 62-174—62-180. Reserved.

DIVISION 8. R-2: RESIDENTIAL HIGH DENSITY DISTRICT

Sec. 62-181. Purpose and intent.

The residential high density district is intended to provide areas dedicated to single-family detached residences and the creation of residential neighborhoods. It is intended to be located in areas where appropriate infrastructure is available and where such use is compatible with adjacent uses.

(Res. No. 05-97, Art. 8 § 801, 8-25-2005; Res. No. 06-48, § 15, 3-8-2006)

Sec. 62-182. Permitted and conditional uses.

See division 12 for the list of permitted uses and conditional uses allowed in the residential high density district (R-2).

(Res. No. 05-97, Art. 8 § 802, 8-25-2005; Res. No. 06-48, § 16, 3-8-2006)

Sec. 62-183. Area, density and placement requirements.

(a) *Building setbacks:* Except as otherwise specified in this article, principal buildings and accessory buildings shall comply with the following setbacks: Front: 40 feet from the right-of-way of any county, public or state maintained road (not within a subdivision) and 25

feet from the right-of-way of any new interior subdivision road; Side: Ten feet; and Rear: 25 feet. There shall be a 50-foot setback along the exterior boundary of all subdivisions in an R-2 district.

(b) *Minimum lot size:* The minimum lot size shall be 1.0 acre unless the option of a greenspace development is exercised. No area within road rights-of-way shall count towards the minimum lot size. The minimum lot width at the location of the home on the site shall be as follows: 150 feet for R-2 developments utilizing on-site wells and septic systems, 100 feet for R-2 developments served by public or approved private water supply and septic systems, or 90 feet for R-2 greenspace developments served by public or approved private water supply and sewerage. For all R-2 developments served by on site septic systems, greater widths and lot sizes may be required by the Gilmer County Environmental Health Department.

(c) *Density:* The maximum dwelling density for R-2 district is 1.0 lot per acre.

(d) *Buffers:* No buffer is required for any use in the R-2 district.
(Res. No. 05-97, Art. 8 § 803, 8-25-2005; Res. No. 06-48, § 17, 3-8-2006; Res. No. 06-182, § 4, 10-26-2006)

Secs. 62-184—62-190. Reserved.

DIVISION 9. R-3: RESIDENTIAL MULTIFAMILY DISTRICT

Sec. 62-191. Purpose and intent.

The residential multifamily district is located to provide areas for multifamily housing. Existing mobile home parks in existence on January 1, 2006 shall be considered R-3 with nonconforming uses. It is intended to be located in areas where appropriate infrastructure is available and where such use is compatible with adjacent uses.

(Res. No. 05-97, Art. 9 § 901, 8-25-2005; Res. No. 06-48, § 19, 3-8-2006)

Sec. 62-192. Permitted uses.

See division 12 for the list of permitted uses allowed in the residential multifamily district (R-3). Condominiums, apartments, townhomes and duplexes are permitted uses within R-3 district, plus any necessary accessory buildings.

(Res. No. 05-97, Art. 9 § 902, 8-25-2005; Res. No. 06-48, § 20, 3-8-2006)

Sec. 62-193. Area, density, and placement requirements.

Developments within the R-3 district shall conform to the following regulations:

- (1) *Building setbacks:* Except as otherwise specified in this article, principal buildings and accessory buildings shall comply with the following setbacks: Front: 40 feet; Side: 50 feet; and Rear: 50 feet.

- (2) *Minimum lot size:* The minimum size for a development in the R-3 district shall be five acres. Condominium lot units shall, at a minimum, include the dwelling unit, porches and decks, private yard areas, and (if applicable) septic systems.
- (3) *Density:* The maximum dwelling unit density for R-3 district is 4.0 per acre.
- (4) *Separation distances.* A minimum separation distance of 50 feet shall be required between all homes and buildings erected within the R-3 district.
- (5) *Buffers:* If an R-3 district abuts an A-1 district that is currently used for an intensive livestock operation, then the R-3 district shall provide a buffer width of 100 feet. If an R-3 district abuts an A-1 or R-1 district then a buffer consisting of a sight impermeable fence eight feet high shall be provided. No buffer is required if the R-3 district abuts the R-2 district unless the R-2 property is already developed with single-family detached dwellings, then the fence cited above is required. Further, if the R-3 district abuts the C-1 or I-1 districts, then a buffer width of 25 feet is required and such width is planted with a combination of evergreen trees and shrubs in staggered formation, in compliance with typical horticultural spacing.

(Res. No. 05-97, Art. 9 § 903, 8-25-2005; Res. No. 06-48, § 21, 3-8-2006; Res. No. 10-006, 1-28-2010)

Secs. 62-194—62-200. Reserved.

DIVISION 10. C-1: GENERAL COMMERCIAL DISTRICT

Sec. 62-201. Business uses.

The general commercial district is intended to provide adequate space for a variety of business uses including offices, retailing, service establishments, entertainment, and limited storage, assembly and distributions facilities. Generally, such activities are oriented to major streets or at the intersection of major and minor streets, where both traffic and visibility is maximized. Such activities are generally considered less intensive than industrial activities.

(Res. No. 05-97, Art. 10, 8-25-2005)

Sec. 62-202. Permitted uses and conditional uses.

Prior to construction or addition of any structures on C-1 tracts, a site plan must be submitted to and approved by the zoning administrator, and other agencies as may be necessary. In addition to the requirements for a site plan as set forth in the definitions within this chapter, said site plans must be based on current site conditions and must be sealed by a registered land surveyor, professional engineer, or registered landscape architect licensed in the State of Georgia. Prior to a certificate of occupancy (C.O.) being issued, an as-built site plan must be submitted and approved.

See division 12 for the list of permitted uses and conditional uses allowed in the general commercial district (C-1).

(Res. No. 05-97, Art. 10 § 1002, 8-25-2005; Res. No. 06-182, § 5, 10-26-2006)

Sec. 62-203. Area, density and placement requirements.

Developments within the C-1 district shall conform to the following regulations:

- (1) *Setbacks*: Except as otherwise specified in this article, principal buildings and accessory buildings shall comply with the following setbacks: Front, 40 feet; Side: 15 feet; and Rear: 15 feet.
- (2) *Area*: Except as otherwise specified in this article, lot sizes in this district shall comply with the minimum requirements specified in the Manual for the Installation of On-Site Sewage Disposal administered by the Gilmer County Health Department.
- (3) *Separation distances*: A principal building shall not be located closer than 20 feet to another principal building occupying the same lot.
- (4) *Density*: The C-1 district allows multiple principal building to occur per lot in compliance with sewage disposal requirements and separation distances.
- (5) *Buffers*: Any development within the C-1 district shall provide a buffer width of 50 feet if such C-1 district abuts any other district except I-1. Within said 50-foot buffer and adjacent to the property line, a buffer width of 25 feet is required and such width shall be planted with a combination of evergreen trees and shrubs in staggered formation. If existing trees and vegetation exists, the 25 feet adjacent to the property line may remain undisturbed. The purpose of such plantings is to create a barrier to vision and noise.

(Res. No. 05-97, Art. 10 § 1003, 8-25-2005; Res. No. 06-48, § 22, 3-8-2006)

Secs. 62-204—62-210. Reserved.

DIVISION 11. I-1: INDUSTRIAL DISTRICT

Sec. 62-211. Purpose and intent.

The industrial district is established with the purpose of reserving certain areas with relatively level topography, adequate water and sewerage facilities and access to arterial streets for industrial operations. Certain commercial uses having open storage characteristics, though not necessarily industrial in nature, are also included within this district. Industrial operations that are objectionable by reason of the emission of noise, vibration, smoke, dust, gas, fumes, odors or radiation or that create fire or explosion hazards or other objectionable nuisance conditions are considered conditional uses and, if allowed, are most suited to large tracts of land removed from residential or commercial districts.

(Res. No. 05-97, Art. 11 § 1101, 8-25-2005; Res. No. 06-48, § 23, 3-8-2006)

Sec. 62-212. Permitted uses.

See division 12 for the list of permitted uses and conditional uses allowed in the industrial district (I-1).

(Res. No. 05-97, Art. 11 § 1102, 8-25-2005)

Sec. 62-213. Area, density and placement requirements.

Development within the industrial district shall conform to the following regulations:

- (1) *Setbacks:* Except as otherwise specified in this article, principal buildings and accessory buildings shall comply with the following setbacks: Front: 40 feet; Side: 15 feet; and Rear: 15 feet.
- (2) *Building separation:* A minimum separation distance of 20 feet shall be required between principal buildings.
- (3) *Area:* Except as otherwise specified in this article, lots in this district shall comply with the minimum requirements specified in the Manual for the Installation of On-Site Sewage Disposal administered by the Gilmer County Health Department.
- (4) *Buffers:* Any development within the I-1 district shall provide a buffer width of 50 feet if such I-1 district abuts any other district except I-1 or C-1, within said 50-foot buffer and adjacent to the property line, a buffer width of 25 feet is required and such width shall be planted with a combination of evergreen trees and shrubs in staggered formation. If existing trees and vegetation exists, the 25 feet adjacent to the property line may remain undisturbed. The purpose of such plantings is to create a barrier to vision and noise.

(Res. No. 05-97, Art. 11 § 1103, 8-25-2005; Res. No. 06-48, § 24, 3-8-2006)

Secs. 62-214—62-220. Reserved.

DIVISION 12. TABLE OF PERMITTED USES

Sec. 62-221. Table of permitted uses.

The following table shows permitted uses (indicated with a P), conditional uses subject to approval by the board of commissioners (indicated by a C) as required by the Gilmer County Land Use Procedures and Standards Ordinance (see Appendix A), and prohibited uses (indicated by a blank space) for each district.

The Gilmer County Planning Commission is hereby granted discretion to determine if a use that is not specifically listed as a permitted use or conditional use is similar to any other use already allowed by the ordinance, either as a permitted use or conditional use, whereupon an applicable land use district can be identified. In the event, that a clear decision cannot be determined regarding a proposed use, the proposed use is not permitted in any land use district until an official amendment by the board of commissioners shall become effective.

USE DESCRIPTION	A-1	R-1	R-2	R-3	C-1	I-1
Accessory uses and structures normally incidental to permitted principal uses. Gardens are allowed in R-1, R-2 and R-3, but not the keeping of poultry and livestock.	P	P	P	P	P	P
Acid manufacturing and storage						C

ADMINISTRATION

§ 62-221

USE DESCRIPTION	A-1	R-1	R-2	R-3	C-1	I-1
Agricultural uses including the production of field crops, fruits, nuts and vegetables; the raising of livestock and poultry; dairying; horticulture; and fisheries; and other uses involving agricultural operations. (See Livestock operations, intensive)	P					
Agriculture machine shops	P					
Airports and other aircraft landing facilities						P
Animal hospitals/veterinary clinics	P				P	
Asphalt plants						C
Assisted living facility (see "personal care facility")	C			P	P	
Automated teller machines (ATM)					P	P
Bank, finance, insurance, and real estate establishments. Includes: banks, savings and loan institutions and credit unions, security and commodity exchanges, insurance agents, brokers, and service, real estate brokers, agents, managers, and developers, trusts, and holding and investment companies.					P	
Bed and breakfast home	P	C	C	C	P	
Bed and breakfast inn					P	
Boarding homes, dormitories and rooming houses				P	P	
Bottling and distributing plants						P
Building material sales, and other outside storage yards					P	P
Business service establishment: A facility engaged in support functions to establishments operating for a profit on a fee or contract basis. Includes: advertising agencies, photocopying, blueprinting and duplication services, mailing agencies, commercial art and graphic design; personnel supply services and employment agencies, computer and data processing services, detective, protective, and security system services, accounting, auditing, and bookkeeping services, publications and business consulting firms, food catering, interior decorating, and locksmiths.					P	
Bus passenger stations, terminals					P	P
Cabinet shops	C				P	P
Campgrounds, including customary accessory buildings and structures: Such use shall require a site containing a minimum of five acres, subject to Gilmer County Land Development Regulations, and campground standards.	C					
Canning establishments	C					P
Cement, lime, gypsum or plaster of parts manufacture						P
Cemeteries, commercial (Minimum of 5.0 acres required and all grave sites/vaults and buildings shall have a setback of 50 feet from any public R/W or property line.)	C				P	
Ceramic production						P
Christmas tree sales	P	C			P	
Churches, temples, synagogues and places of worship, and their customary related facilities: No parking in the required front yard, and principal buildings shall be setback a minimum of 100 feet from any property line. Cemeteries occurring as an accessory use must contain a minimum of two acres. A columbarium does not require a minimum site acreage.	P	C	C		P	
Clubs, lodges, fraternal institutions and other places of public assembly for membership groups, non-profit or for profit. No parking in the required front yard, and principal buildings shall be setback a minimum of 100 feet from any property line.	C				P	

USE DESCRIPTION	A-1	R-1	R-2	R-3	C-1	I-1
Cold storage, frozen food lockers and ice manufacture					C	P
Concrete, cement, clay, mortar and plaster production						P
Contractor's establishments, building, electrical and plumbing	C				P	P
Convalescent homes, nursing homes, rehabilitation centers, sanitariums, and similar institutionalized residential facilities involving professional care and treatment					P	
Convenience food and retail stores with or without retail gasoline sales					P	P
Contractor's establishments, heavy equipment, logging	C				P	P
Country club, facilities may include golf courses and driving ranges, tennis courts, swimming pools, etc. as part of a residential community.	P	P	P	P	P	P
Crematoriums						P
Day care centers (See Article Two, Definitions.)				P	P	
Day care home, family (See Article Two, Definitions.)	P	P	P	P		
Dry-cleaning plants						P
Dwelling, caretaker/security guard (See Article Two, Definitions.)					P	P
Dwelling, detached single-family (see purpose and intent for each District.)	P	P	P			
Dwelling, detached single-family-additional (see purpose and intent for each district.)	P					
Dwelling, multifamily (Includes: apartments, condominiums, and townhouses)				P		
Dwelling, senior (See Article Two, Definitions.)				P		
Environmental compliance structure	P				P	P
Equipment rental, sales and service					P	P
Explosives manufacture or storage						C
Exterminators and pest control businesses	P				P	P
Extraction industry: removal of sand, gravel, top soil, clay, dirt or other natural resources	C					C
Farmer's market	P				P	
Farm supply stores and agricultural-related businesses, such as agricultural implement sales and service, auction facilities, feed and grain stores and other businesses not involving sales or services to the general public. Located on paved two lane county road.	P				P	
Farm winery	C				C	
Foundry and forging plants						C
Funeral home/mortuary (See Article Two, Definitions and "Crematorium.")					P	
Furniture finishing and repair	C				P	P
Grain elevators						P
Greenhouses	P				P	
Group home	C			P		
Guest house (See Article Two, Definitions.)		C	C			
Halfway house (See Article Two, Definitions.)					P	
Heliports					P	P
Hotel					P	
Home occupation (See Article Two, Definitions.)	P	P	P	P		
Hospital					P	
Junkyards and used auto parts yards					P	P

ADMINISTRATION

§ 62-221

USE DESCRIPTION	A-1	R-1	R-2	R-3	C-1	I-1
Kennels and/or structures used to house dogs or other animals shall be located a minimum of 300 feet from any property line.	P				P	P
Laboratory, research and scientific					P	P
Landfills, inert or Construction & Demolition Waste - subject to state permits and approval by B.O.C	C					C
Landfills-Solid Municipal Waste						C
Livestock—General	P					
Livestock operation, intensive: all buildings, lagoons, feeding corrals or mechanisms, etc. shall be located a minimum of 300 feet from any property line. (See Article Two, Definitions.)	P					
Livestock—Hobby	P	C				
Lumber mills and lumber storage yards	C					P
Machine shops	C				P	P
Manufacture of the following products: floor coverings, glass, chemicals, concrete, machinery, metals, paper, rubber, textiles, tobacco, and wood						P
Manufacturing establishment involving the mechanical or chemical conversion of raw materials into semi-finished or finished products, not otherwise specified in the table.						P
Manufacturing establishments involving only the assembly of pre-manufactured component parts, not otherwise specified in this table.					C	P
Manufactured home sales and portable building sales					P	
Marinas and boat storage yards					P	P
Mini-warehouse and mini-storage facilities					C	P
Motel					P	
Motor vehicle sales and service establishment includes: New and used automobile, truck, tractor, trailer, boat, recreational vehicle, camper, motorcycle, and other motorized vehicle sales, leasing, rental, and service, including portable, manufactured home and industrialized building sales, and agricultural implement and equipment. Also: automotive services such a rental facilities, body, paint, glass, transmission, and tire repair shops, car washes, including automated and staffed facilities, and oil change and lubrication facilities.	C				P	P
Nurseries; plants, trees and shrubs	P				P	
Offices, business, medical, professional, insurance, real estate and others					P	
Open air business establishments. Any commercial establishment with the principal use of displaying products in an area exposed to open air on three or more sides. Includes: rock yards, lumber and building materials yards, statuaries and monument sales establishments, and firewood sales lots.	P				P	
Parking garages and parking lots, commercial					P	P
Parks/community centers including playgrounds, swimming pools, and golf courses	C	C	C	C	P	
Personal care homes				P	P	
Personal service establishment includes: barber/beauty shops, tattoo/body piercing parlors, tanning studios, massage parlors, coin-operated and full service laundries and dry cleaners, photographic studios, shoe repair and shoe shine shops, dance studios, school, and halls, and travel agencies.					P	
Petroleum refining and storage						C
Printing establishments					P	P

USE DESCRIPTION	A-1	R-1	R-2	R-3	C-1	I-1
Produce stands: such structures/uses shall comply with setback requirements and current building code requirements.	P	P	P	P	P	P
Publicly owned buildings and facilities includes: government administrative buildings, police and fire stations, public health facilities and hospitals, public works facilities, parks and community centers, public roads and streets, airports, water and sanitary sewerage storage, intake, collection and treatment and pumping facilities, jails and correctional centers, animal control facilities, and solid waste transfer facilities. Even though the use descriptions herein are considered permitted in all land use districts, the board of commissioners shall nonetheless advertise public notice of its intention to build or construct a public building or facility as defined herein for a period of two weeks in the legal organ of Gilmer County as an agenda item at an upcoming regularly scheduled board meeting. The public will be afforded the opportunity for comment at said meeting prior to the adoption of any resolution by the board.	P	P	P	P	P	P
Radio, television and communication studios					P	P
Radio, television and communication (cell) broadcasting towers, provided such use is not located within 200 feet of an R-1, R-2, or R-3 district boundary	P				P	P
Recreational facilities, indoor					P	
Recreational facilities, outdoor (large)	C				C	
Recreational facilities, outdoor (small)	P				P	
Recreational vehicle park	C			C	P	
Recycling collection centers, but not including the processing, distribution or sale of recycled materials					P	P
Recycling centers, including processing, storage and distribution activities						P
Rehabilitation centers and sanitariums					P	
Rendering plant						C
Retail/trade establishment					P	
Schools, public elementary, middle and secondary, and public and private colleges and universities	P	C	C		P	
Schools, parochial, private and others offering courses in general education not operated for profit	P	C	C		P	
Semipublic/public use	C	C	C	C	C	C
Septic tank cleaning services	P					P
Service station					P	P
Shopping center					P	
Sign fabrication and painting shops					P	P
Slaughterhouses and stockyards	C					P
Smelting of tin, copper, zinc or iron ores						P
Snack and sandwich shops					P	P
Solid waste processing; but not incineration or sanitary landfilling						P
Timber harvesting (not including processing)	P	P	P	P	P	P
Truck stops and truck terminals					P	P
Welding shops	C				P	P
Wholesaling/trade establishment; warehousing facilities (See Article Two, Definitions.)					P	P
Wrecked motor vehicle compounds; salvage yards (See also junkyards)					P	P

(Res. No. 05-97, Art. 12, 8-25-2005; Res. No. 06-48, § 25, 3-8-2006; Res. No. 06-182, § 6, 10-26-2006; Res. No. 08-52, 4-24-2008; Res. No. 10-006, 1-28-2010)

Secs. 62-222—62-229. Reserved.

DIVISION 13. BOARD OF LAND USE APPEALS

Sec. 62-230. Established.

A board of land use appeals ("BOLUA") is hereby established. The BOLUA shall perform all of its duties and exercise all of its powers in such a way that the purpose and intent of the land use ordinance shall be accomplished, public health, safety and welfare secured, and substantial justice done. The BOLUA provides a mechanism for relief in individual cases where certain dimensional requirements of this code pose undue hardship, provides for appeals from the administration, interpretation, or enforcement of this code. The grant of authority to the BOLUA is limited to the provisions herein and shall be sparingly used by the BOLUA upon showing of just cause.

(Res. No. 05-97, Art. 13, 8-25-2005)

Sec. 62-231. Creation, purpose, and appointment.

The BOLUA shall be appointed by the board of commissioner and shall be composed of five members at pleasure and who shall serve without compensation. Upon initial appointment, two members shall be appointed for three years, two members for two years, and one member for one year, and thereafter terms shall be three years each. If any vacancy should occur in the membership of the board for any cause, the commissioners shall fill such vacancy by making an appointment for the unexpired term. A majority of members present shall be required to constitute a quorum.

(Res. No. 05-97, Art. 13 § 1301, 8-25-2005)

Sec. 62-232. Meetings and records.

The BOLUA shall adopt internal bylaws to establish rules of procedure as are necessary to carry out the purposes of its authority. Such bylaws shall prescribe the annual election of a chairman, vice-chairman, and secretary.

The board may appoint a secretary to keep minutes of its proceedings, showing the action of each board member upon each question, or if a member is absent or fails to vote, indicating such fact. Such records shall be public record and available to the public in accordance with the Georgia Open Records Act. The BOLUA shall have the power to subpoena and require the attendance of witnesses, administer oaths, compel testimony and the production of books, papers, files and other evidence pertinent to the matters before it. On all appeals, applications and matters before the BOLUA, said BOLUA shall inform in writing all parties involved in its decision.

The board shall establish a regular meeting date and time for its monthly meetings, however, meetings shall be held on an as-needed basis or at the call of the chairman. All meetings shall be open to the public. The board may adjourn any public hearing or meeting in order to obtain additional information or to serve further notice upon such other property owners as it decides may be interested in the application or appeal. Such adjournment shall also require the board to declare the timely rescheduling of the business at hand.

(Res. No. 05-97, Art. 13 § 1302, 8-25-2005)

Sec. 62-233. Public hearings and notice required.

All decisions or actions issued by the BOLUA shall only occur after conducting a legally advertised public hearing. Such public hearing shall require a minimum of 15 days' notice of the date, place, time, and purpose of the meeting, which shall be published in the newspaper of general circulation in Gilmer County, Georgia and a sign shall be posted on the property

affected, if applicable, also identifying the date, place, time, and purpose of the meeting. Upon the hearing, any party may appear in person or by power-of-attorney, or by attorney, or both. (Res. No. 05-97, Art. 13 § 1303, 8-25-2005)

Sec. 62-234. Powers and duties limited.

The BOLUA is a body of limited powers, and its actions are taken in a quasi-judicial capacity rather than a legislative capacity. The BOLUA is empowered to hear and decide administrative appeals where it is alleged there is an error in any order, requirement, decision or determination made by the LDO, building official, or other employee in the interpretation or enforcement of this land use ordinance. The BOLUA is empowered to hear and decide variances to the terms of this article or special exceptions as may be authorized by this article.

The BOLUA is empowered to hear, after proper filing of an application specifying the action or order being appealed and the grounds for the appeal to be heard, any person, firm, or corporation, or by any officer, department, board, or bureau affected by any decisions of the LDO, building official or other employee based on this land use ordinance. Such application shall be taken within 30 days after the action or order being appealed by filing with the LDO a notice of appeal. All papers constituting the record upon which the action appealed from was taken shall be transmitted to the BOLUA. A fee shall also be required with the application to cover the advertising costs.

An application for decision on an issue stays all legal proceedings in furtherance of the action appealed from, unless the land development officer certifies to the BOLUA after the notice of appeal shall have been filed with him/her, that by reason of facts stated in the certificate a stay would, in his/her opinion, cause imminent peril to life and property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by a court of record on application, on notice to the land development officer, and on due cause shown.

In exercising its powers, the BOLUA may, in conformity with the provisions of this article, reverse, affirm or modify its prior order, requirement, decision or determination, in whole or in part, and to that end shall have all of the powers of the LDO and/or his/her appointee or representative and may issue or direct the issuance of a permit. The BOLUA may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of this article. In cases where an issue is granted, the board shall have all necessary powers of the land development officer and may issue permits, or direct the issuance of permits, not otherwise inconsistent with this code and any other code, resolution, or ordinance adopted by the Gilmer County Board of Commissioners.

The BOLUA's secretary shall notify the applicant, in writing, of the board's final decision upon the matter that was the subject of filed application.

- (1) *Administrative appeals.* To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination by the land development officer or appointee in the enforcement of this article. Such appeals may include, but are not

limited to: 1) zone district boundary interpretations beyond the provisions of section 62-74; 2) interpretation of uses as provided in division 12; 3) interpretations relating to the existence of a nonconforming use, when applicable.

- (2) *VariANCES.* The BOLUA is hereby empowered to authorize upon application in specific cases such variances as defined herein as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this article will in an individual case, result in unnecessary hardship, so that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done. A variance may be granted upon specific findings that all of the following conditions exist. The absence of any one of the conditions shall be grounds for denial of the application for variance. Further, a variance cannot be granted for a use of land, building, or structure that is prohibited in a district by this article, nor can a variance be granted to allow an increase in the number of dwelling units per acre or a lot size smaller than authorized by this article.
- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other land or structures in the same district; and
 - b. A literal interpretation of the provisions of this land use ordinance would create an unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located; and
 - c. Granting the variance requested will not confer upon the property of the applicant any special privilege that is denied to other properties of the district in which the applicant's property is located; and
 - d. Relief, if granted, will be in harmony with the purpose and intent of this article and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value; and
 - e. The special circumstances are not the result of the actions of the applicant; and
 - f. The variance requested is the minimum variance that will make possible the legal use of the land, building, or structure.
- (3) *SPECIAL EXCEPTIONS.* To include decisions or actions, now or upon future amendment of this article, whereby the board of land use appeals is empowered to make such decisions or take such actions.

(Res. No. 05-97, Art. 13 § 1304, 8-25-2005)

Sec. 62-235. Approval period limited.

No order of the BOLUA permitting the erection or alteration of a building or other variance shall be valid for a period of longer than six months unless such use is established within such period; provided, however that such order by the BOLUA shall continue in force and effect if

a building permit for said erection or alteration is obtained within such period, and such erection or alteration is started and proceeds to completion in accordance with, and within the time prescribed by such permit.

(Res. No. 05-97, Art. 13 § 1305, 8-25-2005)

Sec. 62-236. Appeals of the BOLUA decisions.

Should the applicant wish to appeal the board's decision, he/she must do so by *Writ of Certiorari* directly to the Gilmer County Superior Court. There shall be no intermediate appeal to the Gilmer County Board of Commissioners or any other administrative body.

(Res. No. 05-97, Art. 13 § 1306, 8-25-2005)

Secs. 62-237—62-250. Reserved.

DIVISION 14. AMENDMENTS TO THIS ORDINANCE

Sec. 62-251. Land Use Procedures and Standards Ordinance of Gilmer County, Georgia.

The Gilmer County Board of Commissioners may from time to time amend the text of this article or the land use map, that is part of this article, according to the procedures separately described in the "Gilmer County Land Use Procedures and Standards Ordinance" which is included herein in Appendix B. Appendix B fully describes the applicable final land use decisions, the notice requirements to the public, the procedures for conducting public hearings, the standards used to review any proposed land use amendment, and the procedures to obtain a final land use decision.

(Res. No. 05-97, Art. 14 § 1401, 8-25-2005)

Sec. 62-252. Application process.

Any amendments to the text of this article or the land use map shall be filed upon an application form available in the Office of the Gilmer County Land Development Officer. Such form shall include a listing of any and all requirements to be included as part of the application for consideration of any matter requiring a final land use decision. Each application shall include an "Infrastructure Impact Assessment" which shall state the anticipated impact of the application upon the road system, solid waste department, school system, etc. Failure to comply with the requirements of the application shall constitute an incomplete application which will not be processed for conclusion of the requested final land use decision. An application fee, which may be adjusted from time to time by resolution adopted by the Gilmer County Board of Commissioners, may apply. Failure of the land development officer or his/her appointee to collect a fee from the Gilmer County Board of Commissioners, when the board is initiating a proposed land use amendment, shall not void the validity of the application.

(Res. No. 05-97, Art. 14 § 1402, 8-25-2005; Res. No. 07-68, § d, 4-26-2007)

Secs. 62-253—62-264. Reserved.

DIVISION 15. ADMINISTRATION, INTERPRETATION, ENFORCEMENT, PENALTIES
AND REMEDIES**Sec. 62-265. Administration and interpretation.**

The provisions of this article shall be administered by the Gilmer County Land Development Officer (LDO), or his/her appointee, who shall be appointed by the BOC and serve at its pleasure. The LDO shall be responsible for interpretation of the provisions of this article and for maintenance of the official land use map. His/her duties shall include receiving applications, inspecting premises, issuing permits and certificates of occupancy for uses and structures that meet the requirements of this article.

(Res. No. 05-97, Art. 15 § 1501, 8-25-2005)

Sec. 62-266. Land/use compliance required to receive building permit.

Any proposed use of land(s) or building(s) must comply with all provisions of this article before any building permit or grading permit is issued for any improvement, grading, land distributing activity or alteration of land(s) or building(s) commences. The LDO shall in no case approve a building permit for the use, construction, or alteration of any land or building if the land or building as proposed to be used, constructed or altered would be in violation of any of the provisions of this article or any other codes and laws. Specifically, land shall not be cleared, graded, altered, filled, or manipulated unless such land alteration is for the purpose of establishing a use allowed by the district where the site is located. False testimony regarding the proposed use of land, resulting in the issuance of a grading or building permit, shall be deemed a severe violation of this article and punishable under the provisions of section 62-273.

(Res. No. 05-97, Art. 15 § 1502, 8-25-2005)

Sec. 62-267. Building permit required.

No building, or structure, except as specifically exempted by this article, shall be erected, moved, extended, enlarged or structurally altered, nor shall any excavation or filling of any lot for the construction of any building be commenced until the building official has issued a building permit for such work in conformity with the provisions of this article and all other applicable regulations. All building permits shall be issued by the land development officer and/or his/her appointee.

(Res. No. 05-97, Art. 15 § 1503, 8-25-2005)

Sec. 62-268. Application for a building permit.

All applications for a building permit shall be made to the land development officer on forms provided by the LDO. The application will fully specify the information required to obtain such permit and failure to provide such information shall be considered an invalid application. Such building permit shall also identify the land use district that is applicable to the subject

property on the day the building permit is issued. A fully complaint application shall cause issuance of a permit upon payment of the required fee. If a building permit is refused issuance, the LDO shall state such refusal in writing with the cause.

(Res. No. 05-97, Art. 15 § 1504, 8-25-2005)

Sec. 62-269. Construction progress.

If the work authorized by the building permit is not commenced or is suspended or abandoned, so that a six-month period passes from the date of issue, then such building permit shall expire.

(Res. No. 05-97, Art. 15 § 1505, 8-25-2005)

Sec. 62-270. Certificate of occupancy required.

A certificate of occupancy (CO) is required in advance of the occupancy or use of: 1) any building, structure, land, or premises; 2) any building or structure hereafter erected or moved; 3) any building hereafter altered, so as to affect the front, side, or rear yards, or height; 4) any building, structure, or premises in which there is a change of occupancy or use.

Within five days after the application for a CO and payment of any required fees, the LDO shall sign and issue a CO if the proposed use of land or building, as stated on the CO and signed by the owner or his appointed agent, is found to conform to the applicable provisions of this article, and if the building, as finally constructed, complies with the plans submitted for the building permit. The LDO shall state in writing the reasons for denying such CO.

(Res. No. 05-97, Art. 15 § 1506, 8-25-2005)

Sec. 62-271. Records of applications and certificates of occupancy.

All records related to building permits and certificates of occupancy, including both issuance and denials, shall be kept on file in the office of the land development officer and copies shall be furnished on request to any person having a proprietary or tenancy interest in the building or land involved.

(Res. No. 05-97, Art. 15 § 1507, 8-25-2005)

Sec. 62-272. Enforcement.

The provisions of this article shall be enforced by the LDO, who shall have the authority to issue or authorize the issuance of citations for violations of this article.

(Res. No. 05-97, Art. 15 § 1508, 8-25-2005)

Sec. 62-273. Penalties and incentives.

(a) Whenever any work is done in violation of any provision of this article, the LDO may order all work on the job stopped until such violation is eliminated and any work order installation made in violation of the ordinance is corrected. Such stop order shall be in writing within 24 hours (excluding Saturday, Sunday or holidays). It shall be unlawful to do or perform

any work in violation of such stop order, except as may be necessary to prevent injury or damage to persons or property. Such stop order may be revoked by the land development officer.

(b) Whenever any building or structure is being erected, constructed reconstructed, or rehabilitated, altered, repaired, converted, or maintained in violation of any provision of this article, Gilmer County may seek injunctive or other equitable relief on emergency basis or otherwise in a court of proper jurisdiction to prevent the violation, further violation or damage resulting from such violation and shall be entitled to all relief as provided under applicable law. Such remedy shall be in addition to, and not in lieu of, any similar remedy which adjacent or neighboring property holders may already have pursuant to the laws of Georgia and shall have no effect thereon.

(Res. No. 05-97, Art. 15 § 1509, 8-25-2005)

Sec. 62-274. Criminal penalties for violation.

Any person who violates this article or fails to comply with any of its requirements, by act or omission, shall upon conviction thereof be punishable by a fine not exceeding \$1,000.00 or 12 months in jail or both, in the Magistrate or Superior Court of Gilmer County. Where such an act or omission is continued in violation of the provisions of these regulations after notice of such violation by the LDO, each day such violation continues may be deemed a separate punishable violation.

(Res. No. 05-97, Art. 15 § 1510, 8-25-2005)

Secs. 62-275—62-285. Reserved.

DIVISION 16. LEGAL STATUS PROVISIONS

Sec. 62-286. Other regulations remain in effect.

This land use ordinance shall be in addition to, and not in lieu of, all other Gilmer County Building, Housing and Development Regulations or Ordinances. All other Gilmer County Building, Housing and Development Regulations or Ordinances, including but not limited to: the building code ordinance (minimum standard codes), the land development ordinance, the manufactured home ordinance, the soil erosion and sediment control ordinance, and the flood damage prevention ordinance are and shall remain in full force and effect.

(Res. No. 05-97, Art. 16 § 1601, 8-25-2005)

Sec. 62-287. Conflict with other laws.

Whenever the provisions of this land use ordinance impose more restrictive standards than are required in or under any other ordinance, regulation, rule, statute or law, the provisions of this land use ordinance shall govern. Whenever the provisions of any other ordinance,

regulation, rule, statute or law require more restrictive standards than are required by this land use ordinance, the provisions of such ordinance, regulation, rule, statute or law shall govern.

(Res. No. 05-97, Art. 16 § 1602, 8-25-2005)

Sec. 62-288. Validity/separability.

Should any article, section or provision of this article be declared invalid or unconstitutional by any court of competent jurisdiction, such declarations shall not affect the validity of this article as a whole or any part thereof which is not specifically declared to be invalid or unconstitutional. All variances and exceptions heretofore granted by the BOC or other applicable authority shall remain in full force and effect, and all terms, conditions and obligations previously imposed shall remain in effect and binding.

(Res. No. 05-97, Art. 16 § 1603, 8-25-2005)

Sec. 62-289. Effective date.

This article shall become effective 1st day of September, 2005. Passed and adopted by the Gilmer County Board of Commissioners, this 25th day of August, 2005.

(Res. No. 05-97, Art. 16 § 1604, 8-25-2005)

APPENDIX A LAND USE PROCEDURES AND STANDARDS ORDINANCE OF GILMER COUNTY, GEORGIA

Appendix A - Land Use Procedures and Standards Ordinance of Gilmer County, Georgia was amended by the Gilmer County Board of Commissioners and adopted by Resolution No. 05-56 on April 14, 2005. A true and correct copy of this Appendix A can be found in The Code of Gilmer County Georgia at Chapter 62, Article III.

**Appendix B
Agricultural Use Acknowledgment and Notice**

I, _____, acknowledge and agree that the property proposing to use or build upon is located within, partially within, or adjacent to property zoned or identified on Gilmer County's Land Use Plan as agricultural.

I acknowledge that I have read and understand the following notice prescribed in O.C.G.A. 44-1-17.

"It is the policy of this state and this community to conserve, protect, and encourage the development and improvement of farm and forest land for the production of food, fiber, and other products, and also for its natural and environmental value. This notice is to inform prospective property owners or other persons or entities leasing or acquiring an interest in real property that the property in which they are about to acquire an interest lies within, or adjacent to an area zoned, used or identified for farm and forest activities and that farm and forest activities occur in the area. Such farm and forest activities may include intensive operations that cause discomfort and inconveniences that involve, but are not limited to,

noises, odors, fumes, dust, smoke, insects, operations of machinery during any 24 hour period, storage and disposal of manure, and the application by spraying or otherwise of chemical fertilizers, soil amendments, herbicides, and pesticides. Ore or more of these inconveniences may occur as the result of farm or forest activities which are in conformance with existing laws and regulations and accepted customs and standards."

I recognize that I 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. I recognize that I will live or operate a use near an agricultural area, and that I must be prepared to accept such inconveniences or discomforts as a normal and necessary aspect of living in an area with a strong rural character and an active agricultural sector. My signature below constitutes a voluntary acknowledgement of the forgoing and I will not bring any complaints against adjacent landowners whose property is agricultural land or in agricultural operation, or against local government(s), asserting that the adjacent agricultural operation or uses of agricultural lands constitute a nuisance.

Parcel ID Number: _____

Signature of Property Owner: _____

Sworn to and subscribed before the undersigned notary this _____ day of _____ 20____

Seal Printed Name _____

My Commission Expires _____

(Res. No. 05-97, Apps. A, B, 8-25-2005; Res. No. 06-48, § 26, 3-8-2006)

Sec 62-290. Land use ordinance fee schedule.

Application of rezoning	\$125.00 and \$20.00 per acre
Application for conditional use	\$175.00
Application for variance request	\$175.00 and \$20.00 per acre
Application for appeals	\$175.00

(Res. No. 05-97(A), Exh. A, 8-25-2005; Res. No. 06-182, § 7, 10-26-2006; Res. No. 07-68, § e(Exh. A), 4-26-2007)

Secs. 62-291—62-330. Reserved.

ARTICLE III. LAND USE PROCEDURES AND STANDARDS*

Sec. 62-331. Preamble and enactment clause.

For the purpose of insuring that due process is afforded to the general public when Gilmer County regulates the use of property through the exercise of land use powers, and pursuant to _____

***Editor's note**—See editor's note Art. II.

the authority and mandates of the Constitution of the State of Georgia of 1983, Article IX, Section II, Paragraph IV and Chapter Sixty-Six of Title Thirty-Six of the Official Code of Georgia Annotated (O.C.G.A. § 36-66-1 et seq.), Gilmer County does hereby adopt, order, and enact into law this article.

(Res. No. 05-56, § 1(App. A), 4-14-2005)

Sec. 62-332. Definitions.

When used in this article, the following terms shall have the definitions and meaning hereafter set forth:

Conditional use. A use approved within a land use district, generally considered compatible with the other uses allowed in the district, only after due consideration of objective criteria as applicable to the proposed conditional use.

Governing authority. The Gilmer County Board of Commissioners (a/k/a board of commissioners).

Land use decision. The final legislative action by Gilmer County Board of Commissioners, which results in Gilmer County's:

- (1) Adoption of a land use ordinance;
- (2) Adoption of an amendment to a land use ordinance which changes the text of the land use ordinance;
- (3) Adoption of an amendment to a land use ordinance which changes property from one and use district or another; or
- (4) Approval of a conditional use of property.

Land use districts. The power of Gilmer County, within its territorial boundaries for the districting of property for various uses and the prohibition of other or different uses within such land use districts and for the regulation of development and the improvement of real estate within such districts in accordance with the uses of property for which said land use districts were established.

Land use district ordinance. An ordinance for Gilmer County establishing procedures and land use districts within its territorial boundaries, which regulate the uses and development standards of property within such land use districts. The term also includes the land use district map (as hereinafter amended) adopted in conjunction with the Land Use Ordinance of Gilmer County, which shows the land use districts and the classifications of property therein. (Res. No. 05-56, § 2(App. A), 4-14-2005)

Sec. 62-333. Adoption.

At least one public hearing shall be held prior to the adoption of this article and/or the Land Use District Ordinance by the Gilmer County Board of Commissioners and such proceeding shall comply with section 62-38 regarding public hearings; section 62-39 regarding hearing notice; and section 62-45 regarding conduct of hearings. (Res. No. 05-56, § 3(App. A), 4-14-2005)

Sec. 62-334. Initiation of amendments.

This article and the Land Use District Ordinance of Gilmer County, Georgia may be amended from time to time subject to the following conditions:

A petition to amend this article, the land use ordinance, the land use intensity district map, or an application for a conditional use permit, may be initiated by the county board of commissioners, the county planning commission, or by any person, firm, or corporation owning property in the local jurisdiction. The property owner's permission is required before a petition for changing the land use intensity district map can be filed by anyone other than county board of commissioners or the county planning commission. Applications for amendment to the land use intensity district map, the land use ordinance, or the text of this article shall be accompanied by payment of a filing fee as established by county board of commissioners by resolution from time to time.

(Res. No. 05-56, § 4(App. A), 4-14-2005)

Sec. 62.335. Pre-application conference.

Prior to the filing of any application to amend the text of this article, the land use ordinance, the land use intensity district map, or any other application pursuant to this article, applicants are encouraged to schedule and attend a pre-application conference with the land development officer. The purpose of the pre-application conference is to provide applicants with the best available information regarding development proposals and processing requirements, and to ensure the availability of complete and accurate information for review of said application. Upon request of the applicant, the land development officer shall provide the applicant with a written summary of the pre-application conference and list any specific documents, information, or other information that must be submitted to satisfy application requirements. (Res. No. 05-56, § 5(App. A), 4-14-2005)

Sec. 62-336. Map amendment application requirements.

Each application for a map amendment or conditional use permit shall be accompanied by a legal description of the property and a survey plat of the property, a letter of intent describing the proposed use of the property, an application form supplied by the land development officer, a filing fee as specified from time to time by resolution of Gilmer County, and any other information as may be required by this article or as specified by the land development officer to evaluate compliance with this article. (Res. No. 05-56, § 6(App. A), 4-14-2005)

Sec. 62-337. Complete application.

Any application for action under this article must be complete before it shall be accepted for processing. Upon receipt of all application materials, the land development officer shall find the application complete and schedule it for hearing where required, and consideration. (Res. No. 05-56, § 7(App. A), 4-14-2005)

Sec. 62-338. Public hearing.

Within no more than 60 days after the filing of a complete application for which a hearing is required by this article, a public hearing shall be held on such applications before the appropriate body as required by and in accordance with this article, before taking action on a proposed application. (Res. No. 05-56, § 8(App. A), 4-14-2005)

Sec. 62-339. Public hearing notice.

For any proposed text amendment to this article, the land use ordinance, any application for a map amendment, and any application for a conditional use permit, a public notice shall be published in a newspaper of general circulation in the local jurisdiction at least 15 days but not more than 45 days prior to the scheduled public hearing. Such notice shall state the purpose, location, time and date of the public hearing, the location of the property involved in the application, and the nature of said application. For map amendments, the public notice shall

specifically include the current use district classification of the property, the proposed use district classification of the property. For conditional use applications, the public notice shall specifically include the proposed use of the subject property and the current use district classification of the property.

(Res. No. 05-56, § 9(App. A), 4-14-2005)

Sec. 62-340. Public notice sign on subject property.

Whenever a map amendment or an application for conditional use is proposed, the land development officer shall cause to have posted in a conspicuous place on said property one or more sign(s), the size of which may be prescribed by resolution of the county board of commissioners and each of which shall contain information as to the proposed change and the date, time and location of the public hearing before the public hearing body. For map amendments, the sign or signs shall specifically include the current use district classification of the property and the proposed use district classification of the property. For conditional use applications, the sign or signs shall specifically include the proposed use of the subject property and the current use district classification of the property. No public hearing shall take place until said sign or signs have been posted for at least 15 days in advance of the public hearing to which said notice applies.

(Res. No. 05-56, § 10(App. A), 4-14-2005)

Sec. 62-341. Criteria to consider for map amendments.

In reviewing, recommending, and acting upon applications for land use intensity district map amendments, the land development officer, the county planning commission, and the county board of commissioners shall consider the following criteria for approval, conditional approval, or disapproval as appropriate:

- (1) *Compatibility with adjacent uses and districts.* Existing uses and use districts of surrounding and nearby properties, whether the proposed use district is suitable in light of such existing uses and use districts of surrounding and nearby properties, and whether the proposal will adversely affect the existing use or usability of adjacent or nearby properties.
- (2) *Property value.* The existing value of the property contained in the petition under the existing use district classification, the extent to which the property value of the subject property is diminished by the existing use district classification, and whether the subject property has a reasonable economic use under the current use district.
- (3) *Suitability.* The suitability of the subject property under the existing use district classification, and the suitability of the subject property under proposed use district classification of the property.
- (4) *Vacancy and marketing.* The length of time the property has been vacant or unused as currently used under the current use district classification; and any efforts taken by the property owner(s) to use the property or sell the property under the existing use district classification.

- (5) *Evidence of need.* The amount of undeveloped land in the general area affected which has the same use district classification as the map change requested. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes the public health, safety, morality or general welfare.
 - (6) *Public facilities impacts.* Whether the proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, schools, parks, or other public facilities and services.
 - (7) *Consistency with comprehensive plan.* Whether the proposal is in conformity with the policy and intent of the locally adopted comprehensive plan.
 - (8) *Other conditions.* Whether there are any other existing or changing conditions affecting the use and development of the property, which give supporting grounds for either approval or disapproval of the proposal.
- (Res. No. 05-56, § 11(App. A), 4-14-2005)

Sec. 62-342. Criteria to consider for conditional uses.

In reviewing, recommending, and acting upon applications for conditional uses, the land development officer, the planning commission and the county board of commissioners shall consider the following criteria for approval or disapproval as appropriate:

- (1) Access to the site is appropriate considering the anticipated volume of traffic resulting from the use.
 - (2) The amount and location of open space and the provision of screening is such that buffering of incompatible uses is achieved.
 - (3) Hours and manner of operation of the proposed use are not inconsistent with the adjacent of nearby uses.
 - (4) Public facilities and utilities are capable of adequately serving the proposed use;
 - (5) The proposed use will not have a significant adverse effect on the level of property values or the health, safety and general welfare and character of adjacent land uses or the general area;
 - (6) The physical conditions of the site, including size, shape, topography and drainage, are suitable for the proposed development;
 - (7) The proposed use is consistent with the goals and objectives of the comprehensive plan;
 - (8) Whether all pertinent and applicable requirements of this Code, and all applicable state and federal laws have been met;
 - (9) Any other factors deemed relevant to the land development officer, planning commission, or the county board of commissioners.
- (Res. No. 05-56, § 12(App. A), 4-14-2005)

Sec. 62-343. Staff investigation and report.

The land development officer shall make an investigation of the application and shall prepare a report thereon, considering applicable criteria specified herein. Said investigation shall be submitted to the planning commission and the county board of commissioners, in cases where they have a role in the application as specified herein. Said investigation shall also be made available to the applicant prior to any public hearing scheduled on the matter or in cases where a public hearing is not required, within a reasonable time prior to action.

(Res. No. 05-56, § 13(App. A), 4-14-2005)

Sec. 62-344. Planning commission and recommendation.

The county planning commission shall consider all applications to amend the text of this article, the land use ordinance, land use intensity district map, and applications for conditional use permits. It shall render a recommendation to the county board of commissioners on all such applications, and the planning commission's action and recommendation shall be advisory only. The planning commission shall hold a public hearing on all such specified applications and shall conduct its review in accordance with the procedures established herein. The planning commission may recommend approval, approval with conditions, or denial of the application. The planning commission shall render a recommendation following the close of the public hearing or within 45 days after the public hearing on the application has been held. The land development officer shall notify the applicant in writing of the planning commission's action or recommendation within 30 days of the conclusion of the public hearing or within 30 days of its recommendation if not made at the public hearing.

(Res. No. 05-56, § 14(App. A), 4-14-2005)

Sec. 62-345. Procedures for conducting public hearings.

This section establishes procedures, which shall, unless the context specifically indicates otherwise, be applicable to the county board of commissioners, the county planning commission, (hereafter referred to as the "public hearing body") in the conduct of all public hearings. Public hearings as are herein required shall be governed by the following policies and procedures for conducting public hearing, and the public hearing body shall follow such policies and procedures for the conduct of public hearings, except in cases where it is prudent to dispense with formalities in such cases where due process of the applicant or interested parties will be unaffected. Nothing contained herein shall be construed as prohibiting the public hearing body from conducting the public hearing in an orderly and decorous manner to assure the public hearing on a proposed application is conducted in a fair and orderly manner. These rules shall be public record and shall be made available at the public hearing.

- (1) *Call of hearing.* The presiding officer of the public hearing body shall indicate that a public hearing has been called for the consideration of said applications. Thereupon, the public hearing body shall consider each application on an individual basis in the order of the published agenda or as otherwise called by the presiding officer.

- (2) *Report by land development officer.* The presiding officer shall call upon the land development officer or other appropriate staff to make a report, if any, concerning the proposed application. The land development officer or other appropriate staff shall then give report, if any, for said application.
- (3) *Presentation by applicant.* The presiding officer shall call on the applicant or applicant's agent who shall present and explain his application. It shall be the duty of the applicant to carry the burden of proof that the proposed application promotes the public health, safety, morality or general welfare.
- (4) *Determination of interested parties.* Following the applicant's presentation, the presiding officer may ask for a show of hands of those persons who wish to appear in support of/or, opposition to the petition. If it appears that the number of persons wishing to appear in support of/or opposition to the petition is in excess of that which may reasonably be heard, the presiding officer may request that a spokesperson for the group be chosen to make presentations. Proponents and opponents of each decision shall have at least ten minutes per side to present data, evidence and opinions on the proposed application.
- (5) *Public testimony.* Prior to speaking, each speaker will identify himself or herself and state his or her current address. Each speaker shall speak only to the merits or liabilities of the proposed application under consideration and shall address his or her remarks only to the public hearing body. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed application under consideration. The presiding officer may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate these procedures.
- (6) *Applicant's rebuttal.* After public testimony, the applicant or applicant's agent shall be allowed a short opportunity for rebuttal and final comment.
- (7) *Close of public hearing.* After the above procedures have been completed, the presiding officer will indicate that the public hearing is formally closed, and the public hearing shall not be reopened except upon formal vote of the public hearing body; provided, however, that this provision shall not require the closure of a public hearing where at the discretion of the public hearing body the hearing should be continued at a later time or date.
- (8) *Recess of hearing.* The public hearing body, for any reason it deems necessary or desirable, may recess or continue a hearing. Upon recessing or continuing a hearing, the public hearing body shall announce the time, date and place when the hearing or hearings will be resumed and such public announcement shall be considered sufficient notice thereof to all persons.
- (9) *Vote.* After the public hearing is closed, the public hearing body may vote upon the proposed application. Prior to voting, the public hearing body shall consider evidence and public testimony presented at the public hearing, and the public hearing body

shall apply the evidence to the applicable criteria specified in this code for said application. It will not be required that the public hearing body consider every criteria contained in this code, except for variances where all criteria for approving variances must be met. At such public hearings as herein required to be held by the Gilmer County Planning Commission, the planning commission at the conclusion of the public hearing, or within a specified time thereafter may by motion, send forth a recommendation for granting the application or a recommendation for denial of the application. If the planning commission determines from the evidence presented that the applicant has shown that the proposed application is consistent the applicable criteria for said application, then the application shall be granted an approval recommendation, and such approval may be subject to those reasonable conditions as may be imposed by the planning commission. The recommendation shall be forwarded to the county board of commissioners, within ten days after the official action has been taken place, for a final decision of approval or denial.

- (10) *Final approval or denial of an application.* Upon receipt of the recommendation from the county planning commission, the county board of commissioners shall have 45 days to render a final decision by approving or disapproving of the recommendation, by approving it with modifications or conditions, or by remanding the matter with instructions to the planning commission. Upon making this decision, the applicant shall be notified of the decision within 30 days of the date such decision is rendered. (Res. No. 05-56, § 15(App. A), 4-14-2005; Res. No. 06-48, § 27, 3-8-2006)

Sec. 62-346. Withdrawal of application.

Any petition for an amendment to the text of this article, the land use ordinance, the land use intensity district map, or for a conditional use permit may be withdrawn at any time prior to the public hearing on said application, by the person or entity initiating such a request, upon written notice to the land development officer. No filing fee for said application will be refunded by the county in the event of such withdrawal.

(Res. No. 05-56, § 16(App. A), 4-14-2005)

Sec. 62-347. Limitations on new applications.

In a case where an applicant for text amendment to this article, the land use ordinance, application for map amendment, or application for conditional use is denied by the governing body, or in the case of a variance application that has been denied by the board of land use appeals, the same or substantially similar application shall not be eligible for resubmittal and reconsideration until a period of six months has elapsed from the date of said denial.

(Res. No. 05-56, § 17(App. A), 4-14-2005)

Sec. 62-348. Distribution.

Copies of this land use procedures and standards ordinance, as amended, shall be printed and copies thereof made available for distribution to the general public in the offices of the Land Development Officer of Gilmer County, Georgia. Distribution to the general public shall

be upon request of a member of the general public who shall be entitled to one copy. The office of the land development officer, Gilmer County, Georgia is authorized to print copies of this article and any amendments thereto from time to time for purpose of public information.

(Res. No. 05-56, § 18(App. A), 4-14-2005)

Sec. 62-349. Legal status.

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

(b) *Repeal of conflicting resolutions and ordinances.* All resolutions and ordinances and parts or resolutions and ordinances in conflict herewith are repealed.

(c) *Effective date.* This article shall take effect and be enforced from and after its adoption, the public welfare of Gilmer County, Georgia requiring it.

(Res. No. 05-56, § 19(App. A), 4-14-2005)

Chapters 63—65

RESERVED

Chapter 66

BUILDINGS AND BUILDING REGULATIONS*

Article I. In General

- Sec. 66-1. Enforcement of technical codes.
- Sec. 66-2. Severability of codes.
- Sec. 66-3. Violations of codes.
- Secs. 66-4—66-30. Reserved.

Article II. Administration; Enforcement

- Sec. 66-31. Maintenance of buildings and structures generally.
- Sec. 66-32. Applicability to special historic buildings.
- Sec. 66-33. Restrictions on employees.
- Sec. 66-34. Duties and powers of the building official regarding requirements not covered by technical codes.
- Sec. 66-35. Permits.
- Sec. 66-36. Construction documents; affidavits.
- Sec. 66-37. Certificate of completion.
- Sec. 66-38. Board of appeals.
- Sec. 66-39. Removal or uncovering of work placed prior to inspection.
- Sec. 66-40. Building permit fees.
- Secs. 66-41—66-70. Reserved.

Article III. Fire Code

- Sec. 66-71. Administration.
- Secs. 66-72—66-100. Reserved.

Article IV. Unsafe Building Abatement Code

- Sec. 66-101. Administration.

***Cross references**—Signs, § 6-31 et seq.; community development, ch. 26; health and sanitation, ch. 34; planning, ch. 42; solid waste, ch. 46; utilities, ch. 54; land development ordinance general provisions, ch. 58; environment, ch. 70; floods, ch. 74; manufactured homes and trailers, ch. 78; subdivisions, ch. 82; waterways, ch. 86.

State constitution reference—Building, housing, plumbing and electrical codes, Ga. Const. art. IX, § II, ¶ III.

State law references—Building and housing, O.C.G.A. title 8; adoption and administration of codes, O.C.G.A. §§ 8-2-25, 36-13-1 et seq.; fire protection and safety, O.C.G.A. title 25; electrical contractors, plumbers, conditioned air contractors, low-voltage contractors, and utility contractors, O.C.G.A. § 43-14-1 et seq.; nonresident contractors, O.C.G.A. § 48-13-30 et seq.

ARTICLE I. IN GENERAL**Sec. 66-1. Enforcement of technical codes.**

(a) It is the intent of the board of commissioners to enforce the latest edition of the following codes, as adopted and amended by the state department of community affairs, and that all appendices listed with such codes are hereby adopted for enforcement by reference as though they were copied fully in this section, pursuant to the authority granted by Ga. Const. art. IX, § II, ¶ I, and art. IX, § II, ¶ III, and that the following be adopted:

- (1) International Building Code, including Appendix B, C, E, F, G (also see Flood Damage Prevention Ordinance, chapter 74 of the Gilmer County Code), H, I, J. The following sections of such code are hereby revised:
 - a. *Section 101.* Insert: Gilmer County.
 - b. *Section 1612.3.* Insert: Refer to Flood Damage Prevention Ordinance.
 - c. *Section 3409.2.* Insert: February 22, 1996.
- (2) International Residential Code For One- and Two-family Dwellings, including Appendix A, B, C, D, E, F, G, H, J, K.
- (3) International Fire Code, including Appendix B, C, D, E, F, G.
- (4) International Mechanical Code, including Appendix A.
- (5) International Fuel Gas Code, including Appendix A, B, C, D.
- (6) National Electrical Code, including Appendix A, B, C, D, E.
- (7) International Plumbing Code, including Appendix B, C, D, E, F, G.
- (8) Model Energy Code.

(b) The latest edition of the following code, as adopted and amended by the state department of community affairs, is hereby adopted for enforcement by reference as though it was copied fully in this section: Standard Unsafe Building Abatement Code (SBCCI), including Chapter 1.

(Ord. of 3-27-2003(4))

Sec. 66-2. Severability of codes.

If any section, subsection, sentence, clause or phrase of the technical codes is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of the technical codes.

(Ord. of 9-23-1999(7))

Sec. 66-3. Violations of codes.

Any person, firm, corporation or agent who shall violate a provision of the technical codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish or move any structure, electrical, gas, mechanical or

plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, structure, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this Code is committed or continued, and upon conviction of any such violation such person shall be punished within the limits and as provided by state laws.

(Ord. of 9-23-1999(7))

Secs. 66-4—66-30. Reserved.

ARTICLE II. ADMINISTRATION; ENFORCEMENT*

Sec. 66-31. Maintenance of buildings and structures generally.

All buildings, structures, electrical, gas, mechanical and plumbing systems, both existing and new, and all parts thereof, shall be maintained in a safe and sanitary condition. All devices or safe guards, which are required by the technical codes when constructed, altered or repaired, shall be maintained in good working order. The owner or his designated agent, shall be responsible for the maintenance of buildings, structures, electrical, gas, mechanical and plumbing systems.

(Ord. of 3-27-2003(4))

Sec. 66-32. Applicability to special historic buildings.

The provisions of the technical codes relating to the construction, alteration, repair, enlargement, restoration, relocation or moving of buildings or structures shall not be mandatory for existing buildings or structures identified and classified by the state or local jurisdiction as historic buildings when such buildings or structures are judged by the building official to be safe and in the public interest of health, safety and welfare regarding any proposed construction, alteration, repair, enlargement, restoration, relocation or moving of buildings within fire districts.

(Ord. of 3-27-2003(4))

Sec. 66-33. Restrictions on employees.

An officer or employee connected with the department of building safety, except one whose only connection is as a member of the board established by this Code, shall not be financially interested in the furnishing of labor, material or appliances for the construction, alteration, or maintenance of a building, structure, service, system, or in the making of plans or of

***Cross reference**—Administration, ch. 2.

specifications thereof, unless he is the owner, of such. This officer or employee shall not engage in any other work, which is inconsistent with his duties or conflict with the interests of the department of building safety.

(Ord. of 3-27-2003(4))

Sec. 66-34. Duties and powers of the building official regarding requirements not covered by technical codes.

Any requirements necessary for the strength, stability or proper operation of an existing or proposed building, structure, electrical, gas, mechanical or plumbing system, or for the public safety, health and general welfare, not specifically covered by the technical codes, shall be determined by the building official.

(Ord. of 3-27-2003(4))

Cross reference—Officers and employees, § 2-91 et seq.

Sec. 66-35. Permits.

(a) *Public right-of-way.* A permit shall not be given by the building official for the construction of any building or for the alteration of any building where such building is to be changed and such change will affect the exterior walls, bays, balconies or other appendages or projections fronting on any street, alley or public lane or for the placing on any lot or premises of any building or structure removed from another lot or premises, unless the applicant has made application at the office of the director of public works for the lines of the public street on which he proposes to build, erect or locate such building; and it shall be the duty of the building official to see that the street lines are not encroached upon except as provided for in the International Codes.

(b) *Contractors responsibilities.* It shall be the duty of every contractor who shall make contracts for the installation or repairs of building, structure, electrical, gas, mechanical, sprinkler or plumbing systems, for which a permit is required, to comply with state or local rules and regulations concerning licensing which the applicable governing authority may have adopted. In such case that the state requires a contractor to have obtained a state license before they are permitted to perform work. The contractor shall supply the local government with their license number before receiving a permit for work to be performed.

(c) *Permit issued on basis of an affidavit.* Whenever a permit is issued in reliance upon an affidavit or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the building official, are hazardous or complex, the building inspector shall require that computations shall supervise such work. In addition, they shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the building official written affidavit that the work has been done in conformity with the reviewed plans and with the structural provisions of the technical codes. If an architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed and approved by the building inspector.

(Ord. of 3-27-2003(4))

Sec. 66-36. Construction documents; affidavits.

The building official may accept a sworn affidavit from a registered architect or engineer, duly licensed in the state, stating that the plans submitted conform to the technical codes. For buildings and structures the affidavit shall state that the plans conform to the laws as to egress, type of construction and general arrangement and if accompanied by drawings showing the structural design, and by a statement that the plans and design conform to the requirements of the technical codes as to strength, stresses, strains, loads and stability. The building official may without any examination or inspection accept such affidavit, provided the architect or engineer who made such affidavit agrees to submit to the building inspector copies of inspection reports as inspections are performed and upon completion of the structure, electrical, gas, mechanical or plumbing systems a certification that the structure, electrical, gas, mechanical or plumbing system has been erected in accordance with the requirements of the technical codes. Where the building official relies upon such affidavit, the architect or engineer shall assume full responsibility for the compliance with all provisions of the technical codes and other pertinent laws or ordinances.

(Ord. of 3-27-2003(4))

Sec. 66-37. Certificate of completion.

Upon satisfactory completion of a building, structure, electrical, gas, mechanical or plumbing system, the building official is authorized to issue a certificate of completion. The certificate of completion is proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. The certificate of completion does not grant authority to occupy or connect a building, such as a shell building, prior to the issuance of a certificate of occupancy.

(Ord. of 3-27-2003(4))

Sec. 66-38. Board of appeals.

(a) *Membership.* The board of appeals should consist of three members. The board of appeals membership shall be the board of commissioners. A board of appeals member shall not act in a case in which they have a personal or financial interest.

(b) *Notice of appeal.* Notice of appeal shall be in writing and filed within 30 days after the decision is rendered by the building official. Appeals shall be in a form acceptable to the building official.

(c) *Quorum and voting.* A simple majority of the board of appeals shall constitute a quorum. In varying any provision of this Code, the affirmative votes of the majority present shall be required. In modifying a decision of the building official not less than two affirmative votes shall be required. If regular members are unable to attend a meeting, the alternate members, if appointed, shall vote.

(Ord. of 3-27-2003(4))

Cross reference—Other boards and commissions, § 2-61 et seq.

Sec. 66-39. Removal or uncovering of work placed prior to inspection.

The building official is authorized to order the permit holder to remove and/or uncover any work placed or erected prior to any required inspections.

(Ord. of 3-27-2003(4))

Sec. 66-40. Building permit fees.

(a) Building permit fees shall be as follows:

Residential Heated Space up to 1,000': \$250.00 : 1001' and above: \$250.00 and \$.25 sq. ft.	Mobile Home, Single Wide: \$200.00 Double Wide: \$250.00 Triple Wide: \$300.00
Garage and Unfinished Basement: .12 sq. ft. (\$50.00 min.)	Greenhouse: .12 sq. ft. (\$50.00 min)
Deck/Porch: .08 sq. ft. (\$50.00 min)	Barn .08 sq. ft. (\$50.00 min.)
Residential Addition: .25 per sq. ft..(\$50.00 min.)	Commercial .30 sq ft (\$50.00 min.)
Personal Residential Utility Building: .12 per sq. ft. (\$50.00 min.)	Sign Billboard (DOT): \$500.00
Meter Base: (up to 100 amps.): \$50.00 (above 100 amps.): \$75.00	Freestanding: \$100.00 Wall: \$50.00
Cell Tower (new service): \$700.00 (existing/add-on service): \$200.00	Land Disturbing Less than 1 Acre: \$50.00 Over 1 Acre: \$40.00 per acre
Commercial Construction Plan: \$150.00	Pool In Ground: \$150.00
Non-Subdivision Plat Review: \$50.00 per approval	Poultry House \$350.00 per house
Subdivision Preliminary Plat Review: \$40.00	Renewal of Expired Permit Less than 1 year: \$75.00 Over 1 year: Current Permit Price

Private work on county right-of-way (must have approval from board of commissioners) bond in an amount determined by the board will be required.

All inspections will be conducted in accordance with the requirements of the International Codes, state laws and county ordinances.

Should a reinspection be required, a fee for each reinspection trip of \$50.00 will be charged payable prior to scheduling a reinspection.

Any and all changes to the building permit fees contained in this section which are made after February 8, 2007, shall be by resolution adopted by the Gilmer County Board of Commissioners.

(b) It shall be unlawful for any person to do any work on any building or structure for which a permit is prescribed or a permit is required without first obtaining a permit from the building inspector and paying the fee as required.

(c) Utilities (including but not limited to gas, water, electricity and sewerage) shall not be connected to any building, dwelling, modular home, mobile home or meter base without first having obtained the written approval of the building inspector of the county and after having first obtained the permits provided for in this section.

(d) Any person who violates any provision of this section shall be guilty of a misdemeanor. Each violation of any provision thereof shall constitute a separate offense.

(e) In the case of any violation of this section the county is hereby granted the civil remedies for enforcement provided of in O.C.G.A. § 36-13-10.
(Ord. of 9-23-1999(8); Res. No. 07-27, (Exh. A), 2-8-2007)

Secs. 66-41—66-70. Reserved.

ARTICLE III. FIRE CODE

Sec. 66-71. Administration.

(a) The administration of the International Fire Code shall be revised as provided in this section.

(b) Revise section 101.1 to read as follows:

Provisions in the following chapters and section shall constitute and be known and may be cited as "The Gilmer County Fire Prevention Code" hereinafter referred to as "this code."

(c) Add section 105.8 to read as follows:

105.8. Permitting and inspection. The inspection or permitting of any building or plan under the requirements of this code shall not be construed in any court as a warranty of the physical condition of such building or the adequacy of such plan. Gilmer County nor any employee thereof shall be liable in tort for damages for any defect or hazardous or illegal condition or inadequacy in such building or plan, nor for any failure of any component of such building, which may occur subsequent to such inspection or permitting.

(d) Revise sections 102.1 and 102.2 to read as follows:

102.1. Applicability. The provisions of this code shall apply to the repair, equipment, use and occupancy, and maintenance of every existing and new building or structure or any existing and new appurtenances connected or attached to such buildings or structures. When there are specific requirements, they shall take precedence over the general provisions.

(e) Add section 102.1.1 to read as follows:

102.1.1. The provisions of this code shall not apply to the interior of one-family and two-family dwellings or the premises upon which such dwellings are located or to the interior of any apartment dwelling unit.

(f) Add section 102.1.2 to read as follows:

102.1.2. The provisions of this code shall not apply to buildings or structures used strictly for agricultural purposes and located on individually owned farms, ranches, etc., and which are not open to access by the general public. This exception shall not apply where the use or storage of hazardous materials is involved and such are regulated by the rules and regulations of the Georgia Safety Fire Commissioner and/or this code.

(g) Revise section 108.1 to read as follows:

108.1. Appointment. There is hereby established a board to be called the board of adjustment and appeals, which shall consist of three members and two alternates. The board shall be appointed by the Gilmer County Board of Commissioners.

(h) Add section 108.4 to read as follow:

108.4. Unsafe or dangerous building. In case of a building, structure or operation, which in the opinion of the fire official, is unsafe or dangerous, the fire official may, in his order, limit the time for filing the notice of an appeal to a shorter period than the time generally allowed for an appeal.

(Ord. of 9-23-1999(7), att. B)

Cross reference—Administration, ch. 2.

Secs. 66-72—66-100. Reserved.

ARTICLE IV. UNSAFE BUILDING ABATEMENT CODE

Sec. 66-101. Administration.

(a) The administration of the Standard Unsafe Building Abatement Code shall be revised as provided in this section.

(b) Wherever the term "building official" is used, revise to read "building inspector."

(c) Delete section 105 in its entirety and substitute article II, division 4, of this chapter.

(Ord. 9-23-1999(7), att. C)

Chapters 67—69

RESERVED

Chapter 70

ENVIRONMENT*

Article I. In General

Secs. 70-1—70-30. Reserved.

Article II. Soil Erosion, Sedimentation and Pollution Control

- Sec. 70-30. Title.
- Sec. 70-31. Findings.
- Sec. 70-32. Purpose.
- Sec. 70-33. Authority.
- Sec. 70-34. Jurisdiction.
- Sec. 70-35. Interpretation.
- Sec. 70-36. Definitions.
- Sec. 70-37. Exemptions.
- Sec. 70-38. Minimum requirements for erosion, sedimentation and pollution control using best management practices.
- Sec. 70-39. Application and permit process.
- Sec. 70-40. Inspection and enforcement.
- Sec. 70-41. Penalties and incentives.
- Sec. 70-42. Education and certification.
- Sec. 70-43. Administrative appeal and judicial review.
- Sec. 70-44. Effectivity, validity and liability.
- Secs. 70-45—70-69. Reserved.

Article III. Mountain Protection

- Sec. 70-70. Findings of fact.
- Sec. 70-71. Purpose.
- Sec. 70-72. Authority.
- Sec. 70-73. Jurisdiction.
- Sec. 70-74. Cite.
- Sec. 70-75. Interpretation.
- Sec. 70-76. Definitions.
- Sec. 70-77. Establishment of a protected mountain district.
- Sec. 70-78. Protection criteria.
- Sec. 70-79. Exemptions.
- Sec. 70-80. Administration and enforcement procedures.
- Secs. 70-81—70-99. Reserved.

***Cross references**—Animals, ch. 14; community development, ch. 26; health and sanitation, ch. 34; parks and recreation, ch. 38; planning, ch. 42; solid waste, ch. 46; utilities, ch. 54; land development ordinance general provisions, ch. 58; buildings and building regulations, ch. 66; floods, ch. 74; manufactured homes and trailers, ch. 78; subdivisions, ch. 82; waterways, ch. 86.

State law references—Soil and water conservation, O.C.G.A. § 2-6-1 et seq.; control of soil erosion and sedimentation, O.C.G.A. § 12-7-1 et seq.

GILMER COUNTY CODE

Article IV. Water Stewardship

- Sec. 70-100. Title.
- Sec. 70-101. Findings of fact.
- Sec. 70-102. Purpose.
- Sec. 70-103. Authority.
- Sec. 70-104. Jurisdiction.
- Sec. 70-105. Interpretation.
- Sec. 70-106. Restriction on outdoor water of landscape.

ARTICLE I. IN GENERAL

Secs. 70-1—70-29. Reserved.

ARTICLE II. SOIL EROSION, SEDIMENTATION AND POLLUTION CONTROL***Sec. 70-30. Title.**

This article will be known as "soil erosion, sedimentation and pollution control ordinance."
(Ord. of 6-24-2010)

Sec. 70-31. Findings.

Land disturbing activity potentially threatens the public health, safety, welfare, and economic progress of the county. Among other things, such land disturbing activity:

- (1) May endanger the quality of surface water by increasing erosion and stream sedimentation;
- (2) Has the potential to induce landslides;
- (3) Has the potential to adversely affect groundwater;
- (4) May damage the habitat for some species of wildlife (both plants and animals); and
- (5) May detract from the scenic and natural beauty which is vital to the recreation and tourism industry of the county.

(Ord. of 3-27-2003, § I; Ord. of 6-24-2010)

Sec. 70-32. Purpose.

The purpose of this article is to establish measures to guide and regulate land disturbing activities in the county.

(Ord. of 3-27-2003, § I(A); Ord. of 6-24-2010)

Sec. 70-33. Authority.

This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I and art. IX, § II, ¶ III, and O.C.G.A. title 12.

(Ord. of 3-27-2003, § I(B); Ord. of 6-24-2010)

Sec. 70-34. Jurisdiction.

This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(Ord. of 3-27-2003, § I(C); Ord. of 6-24-2010)

*Cross reference—Floods, ch. 74.

Sec. 70-35. Interpretation.

This article shall be interpreted in conjunction with federal, and state rules, regulations and laws, and other county ordinances contained or referenced in this article.
(Ord. of 3-27-2003, § I(E); Ord. of 6-24-2010)

Sec. 70-36. Definitions.

The following definitions shall apply in the interpretation and enforcement of this article, unless otherwise specifically stated:

Best management practices (BMPs): These include sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the "Manual for Erosion and Sediment Control in Georgia" published by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

Board: The board of natural resources.

Buffer: The area of land immediately adjacent to the banks of state waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat.

Certified personnel: A person who has successfully completed the appropriate certification course approved by the Georgia Soil and Water Conservation Commission.

Commission: The Georgia Soil and Water Conservation Commission (GSWCC).

CPESC: Certified professional in erosion and sediment control with current certification by Certified Profession in Erosion and Sediment Control Inc., a corporation registered in North Carolina, which is also referred to as CPESC or CPESC, Inc.

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

Department: The Georgia Department of Natural Resources (DNR).

Design professional: A professional licensed by the State of Georgia in the field of: engineering, architecture, landscape architecture, forestry, geology, or land surveying; or a person that is a certified professional in erosion and sediment control (CPESC) with a current certification by Certified Professional in Erosion and Sediment Control Inc. This article does not authorize a person to engage in an activity that requires licensure under state law and said person must comply with all state licensing laws that may be applicable.

Director: The director of the environmental protection division or an authorized representative.

District: The Lime Stone Valley Soil and Water Conservation District.

Division: The environmental protection division (EPD) of the department of natural resources.

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.

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 required by the Erosion and Sedimentation Act, O.C.G.A. Chapter 12-7, that includes, as a minimum protections at least as stringent as the state general permit, best management practices, and requirements in section 70-38 of this article.

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

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 percent of the soil surface is uniformly covered in permanent vegetation with a density of 70 percent 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.

Finished grade: The final elevation and contour of the ground after cutting or filling and conforming to the proposed design.

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.

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 subsection 70-37(a)(5).

Larger common plan of development or sale: A contiguous area where multiple separate and distinct construction activities are occurring under one plan of development or sale. For the purposes of this paragraph, "plan" means an announcement; piece of documentation such as a sign, public notice or hearing, sales pitch, advertisement, drawing, permit application, zoning request, or computer design; or physical demarcation such as boundary signs, lot stakes, or surveyor markings, indicating that construction activities may occur on a specific plot.

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

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.

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 or suspended particles are present.

NOI: A notice of intent form provided by EPD for coverage under the state general permit.

NOT: A notice of termination form provided by EPD to terminate coverage under the state general permit.

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 an erosion, sedimentation and pollution control 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 erosion, sedimentation and pollution control plan or to comply with other permit conditions.

Outfall: The location where stormwater 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.

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

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.

Phase or phased: Sub-parts or segments of construction projects where the sub-part or segment is constructed and stabilized prior to completing construction activities on the entire construction site.

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

Properly designed: Designed in accordance with the design requirements and specifications contained in the "Manual for Erosion and Sediment Control in Georgia" (Manual) published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted and amendments to the manual as approved by the commission up until the date of NOI submittal.

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

Sediment: Solid material, both organic and inorganic, that is in suspension, is being transported, or has been moved from its site of origin by wind, 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.

Soil and water conservation district approved plan: An erosion, sedimentation and pollution control plan approved in writing by the Lime Stone Valley Soil and Water Conservation District.

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.

State general permit: The National Pollution Discharge Elimination System (NPDES) 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 subsection (f) of [O.C.G.A.] Code Section 12-5-30.

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 Georgia which are not entirely confined and retained completely upon the property of a single individual, partnership, or corporation.

Structural erosion, sedimentation and pollution 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 and sediment traps, etc. Such practices can be found in the publication Manual for Erosion and Sediment Control in Georgia.

Trout streams: All streams or portions of streams within the watershed as designated by the Wildlife Resources 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, in the rules and regulations for Water Quality Control, Chapter 391-3-6 at www.gaepd.org. 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.

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.

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.

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.

(Ord. of 3-27-2003, § II; Ord. of 4-8-2004, § II; Ord. of 6-24-2010)

Cross reference—Definitions generally, § 1-3.

Sec. 70-37. Exemptions.

This article shall apply to any land-disturbing activity undertaken by any person on any land except for the following:

- (1) Surface mining, as the same is defined in O.C.G.A. 12-4-72, "The Georgia Surface Mining Act of 1968".
- (2) Granite quarrying and land clearing for such quarrying;
- (3) Such minor land-disturbing activities as home gardens and individual home landscaping, repairs, maintenance work, fences, and other related activities which result in minor soil erosion;
- (4) The construction of single-family residences, when such construction disturbs less than one acre and is not a part of a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre and not otherwise exempted under this paragraph; provided, however, that construction of any such residence shall conform to the minimum requirements as set forth in O.C.G.A. 12-7-6 and this paragraph. For single-family residence construction covered by the provisions of this paragraph, there shall be a buffer zone between the residence and any state waters classified as trout streams pursuant to Article 2 of Chapter 5 of the Georgia Water Quality Control Act. In any such buffer zone, no land-disturbing activity shall be

constructed between the residence and the point where vegetation has been wrested by normal stream flow or wave action from the banks of the trout waters. For primary trout waters, the buffer zone shall be at least 50 horizontal feet, and no variance to a smaller buffer shall be granted. For secondary trout waters, the buffer zone shall be at least 50 horizontal feet, but the director may grant variances to no less than 25 feet. Regardless of whether a trout stream is primary or secondary, for first order trout waters, which are streams into which no other streams flow except for springs, the buffer shall be at least 25 horizontal feet, and no variance to a smaller buffer shall be granted. The minimum requirements of subsection (b) of O.C.G.A. 12-7-6 and the buffer zones provided by this paragraph shall be enforced by the local issuing authority;

- (5) Agricultural operations as defined in O.C.G.A. 1-3-3, "definitions", to include raising, harvesting or storing of products of the field or orchard; 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 and turkeys; producing plants, trees, fowl, or animals; the production of aqua culture, horticultural, dairy, livestock, poultry, eggs and apiarian products; farm buildings and farm ponds;
- (6) Forestry land management practices, including harvesting; provided, however, that when such exempt forestry practices cause or result in land-disturbing or other activities otherwise prohibited in a buffer, as established in paragraphs (15) and (16) of subsection 70-38(c) of this article, no other land-disturbing activities, except for normal forest management practices, shall be allowed on the entire property upon which the forestry practices were conducted for a period of three years after completion of such forestry practices;
- (7) Any project carried out under the technical supervision of the natural resources conservation service (NRCS) of the United States Department of Agriculture;
- (8) Any project involving less than one acre of disturbed area; provided, however, that this exemption shall not apply to any land-disturbing activity within a larger common plan of development or sale with a planned disturbance of equal to or greater than one acre or within 200 feet of the bank of any state waters, and for purposes of this paragraph, "state waters" excludes channels and drainage ways which have water in them only during and immediately after rainfall events and intermittent streams which do not have water in them year-round; provided, however, that any person responsible for a project which involves less than one acre, which involves land-disturbing activity, and which is within 200 feet of any such excluded channel or drainage way, must prevent sediment from moving beyond the boundaries of the property on which such project is located and provided, further, that nothing contained herein shall prevent the local issuing authority from regulating any such project which is not specifically exempted by paragraphs (1), (2), (3), (4), (5), (6), (7), (9) or (10) of this section;

- (9) Construction or maintenance projects, or both, undertaken or financed in whole or in part, or both, by the department of transportation, the Georgia Highway Authority, or the state road and tollway authority; or any road construction or maintenance project, or both, undertaken by any county or municipality; provided, however, that construction or maintenance projects of the department of transportation or the state road and tollway authority which disturb one or more contiguous acres of land shall be subject to provisions of O.C.G.A. 12-7-7.1; except where the department of transportation, the Georgia Highway Authority, or the state road and tollway authority is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case a copy of a notice of intent under the state general permit shall be submitted to the local issuing authority, the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders;
- (10) Any land-disturbing activities conducted by any electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power; except where an electric membership corporation or municipal electrical system or any public utility under the regulatory jurisdiction of the public service commission, any utility under the regulatory jurisdiction of the Federal Energy Regulatory Commission, any cable television system as defined in O.C.G.A. 36-18-1, or any agency or instrumentality of the United States engaged in the generation, transmission, or distribution of power is a secondary permittee for a project located within a larger common plan of development or sale under the state general permit, in which case the local issuing authority shall enforce compliance with the minimum requirements set forth in O.C.G.A. 12-7-6 as if a permit had been issued, and violations shall be subject to the same penalties as violations by permit holders; and
- (11) Any public water system reservoir.
(Ord. of 3-27-2003, § III; Ord. of 4-8-2004, § III; Ord. of 6-24-2010)

Sec. 70-38. Minimum requirements for erosion, sedimentation and pollution control using best management practices.

(a) *General provisions.* Excessive soil erosion and resulting sedimentation can take place during land-disturbing activities if requirements of the ordinance and the NPDES general permit are not met. Therefore, plans for those land-disturbing activities which are not exempted by this article shall contain provisions for application of soil erosion, sedimentation and pollution control measures and practices. The provisions shall be incorporated into the erosion, sedimentation and pollution control plans. Soil erosion, sedimentation and pollution control measures and practices shall conform to the minimum requirements of subsections (b)

(c) of this section. The application of measures and practices shall apply to all features of the site, including street and utility installations, drainage facilities and other temporary and permanent improvements. Measures shall be installed to prevent or control erosion, sedimentation and pollution during all stages of any land-disturbing activity in accordance with requirements of this article and the NPDES general permit.

(b) *Minimum requirements / BMPs.*

- (1) Best management practices as set forth in subsections (b) and (c) of this section shall be required for all land-disturbing activities. Proper design, installation, and maintenance of best management practices shall constitute a complete defense to any action by the director or to any other allegation of noncompliance with paragraph (2) of this subsection or any substantially similar terms contained in a permit for the discharge of stormwater issued pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act". As used in this subsection the terms "proper design" and "properly designed" mean designed in accordance with the hydraulic design specifications contained in the "Manual for Erosion and Sediment Control in Georgia" specified in O.C.G.A. 12-7-6 subsection (b).
- (2) A discharge of stormwater runoff from disturbed areas where best management practices have not been properly designed, installed, and maintained shall constitute a separate violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to subsection (f) of O.C.G.A. 12-5-30, the "Georgia Water Quality Control Act", for each day on which such discharge results in the turbidity of receiving waters being increased by more than 25 nephelometric turbidity units for waters supporting warm water fisheries or by more than ten nephelometric turbidity units for waters classified as trout waters. The turbidity of the receiving waters shall be measured in accordance with guidelines to be issued by the director. This paragraph shall not apply to any land disturbance associated with the construction of single family homes which are not part of a larger common plan of development or sale unless the planned disturbance for such construction is equal to or greater than five acres.
- (3) Failure to properly design, install, or maintain best management practices shall constitute a violation of any land-disturbing permit issued by a local issuing authority or of any state general permit issued by the division pursuant to subsection (f) of Code Section 12-5-30, the "Georgia Water Quality Control Act", for each day on which such failure occurs.
- (4) The director may require, in accordance with regulations adopted by the board, reasonable and prudent monitoring of the turbidity level of receiving waters into which discharges from land disturbing activities occur.
- (5) The LIA may set more stringent buffer requirements than stated in (c)(15) and (16), in light of O.C.G.A. § 12-7-6 (c).

(c) The rules and regulations, ordinances, or resolutions adopted pursuant to O.C.G.A. 12-7-1 et. seq. for the purpose of governing land-disturbing activities shall require, as a minimum, protections at least as stringent as the state general permit; and best management practices, including sound conservation and engineering practices to prevent and minimize erosion and resultant sedimentation, which are consistent with, and no less stringent than, those practices contained in the Manual for Erosion and Sediment Control in Georgia published by the Georgia Soil and Water Conservation Commission as of January 1 of the year in which the land-disturbing activity was permitted, as well as the following:

- (1) Stripping of vegetation, regarding and other development activities shall be conducted in a manner so as to minimize erosion;
- (2) Cut-fill operations must be kept to a minimum;
- (3) Development plans must conform to topography and soil type so as to create the lowest practical erosion potential;
- (4) Whenever feasible, natural vegetation shall be retained, protected and supplemented;
- (5) The disturbed area and the duration of exposure to erosive elements shall be kept to a practicable minimum;
- (6) Disturbed soil shall be stabilized as quickly as practicable;
- (7) Temporary vegetation or mulching shall be employed to protect exposed critical areas during development;
- (8) Permanent vegetation and structural erosion control practices shall be installed as soon as practicable;
- (9) To the extent necessary, sediment in run-off water must be trapped by the use of debris basins, sediment basins, silt traps, or similar measures until the disturbed area is stabilized. As used in this paragraph, a disturbed area is stabilized when it is brought to a condition of continuous compliance with the requirements of O.C.G.A. 12-7-1 et seq.;
- (10) Adequate provisions must be provided to minimize damage from surface water to the cut face of excavations or the sloping of fills;
- (11) Cuts and fills may not endanger adjoining property;
- (12) Fills may not encroach upon natural watercourses or constructed channels in a manner so as to adversely affect other property owners;
- (13) Grading equipment must cross flowing streams by means of bridges or culverts except when such methods are not feasible, provided, in any case, that such crossings are kept to a minimum;
- (14) Land-disturbing activity plans for erosion, sedimentation and pollution control shall include provisions for treatment or control of any source of sediments and adequate sedimentation control facilities to retain sediments on-site or preclude sedimentation of adjacent waters beyond the levels specified in subsection (b)(2) of this section;

- (15) Except as provided in paragraph (16) of this subsection, there is established a 25-foot buffer along the banks of all state waters, as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, except where the director determines to allow a variance that is at least as protective of natural resources and the environment, where otherwise allowed by the director pursuant to O.C.G.A. 12-2-8, or where a drainage structure or a roadway drainage structure must be constructed, provided that adequate erosion control measures are incorporated in the project plans and specifications, and are implemented; or along any ephemeral stream. As used in this provision, the term "ephemeral stream" means a stream: that under normal circumstances has water flowing only during and for a short duration after precipitation events; that has the channel located above the ground water table year round; for which ground water is not a source of water; and for which runoff from precipitation is the primary source of water flow. Unless exempted as along an ephemeral stream, the buffers of at least 25 feet established pursuant to part 6 of Article 5, Chapter 5 of Title 12, the "Georgia Water Quality Control Act", shall remain in force unless a variance is granted by the director as provided in this paragraph. The following requirements shall apply to any such buffer:
- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
 - b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines; and
- (16) There is established a 50-foot buffer as measured horizontally from the point where vegetation has been wrested by normal stream flow or wave action, along the banks of any state waters classified as "trout streams" pursuant to Article 2 of Chapter 5 of Title 12, the "Georgia Water Quality Control Act", except where a roadway drainage structure must be constructed; provided, however, that small springs and streams classified as trout streams which discharge an average annual flow of 25 gallons per minute or less shall have a 25-foot buffer or they may be piped, at the discretion of the

landowner, pursuant to the terms of a rule providing for a general variance promulgated by the board, so long as any such pipe stops short of the downstream landowner's property and the landowner complies with the buffer requirement for any adjacent trout streams. The director may grant a variance from such buffer to allow land-disturbing activity, provided that adequate erosion control measures are incorporated in the project plans and specifications and are implemented. The following requirements shall apply to such buffer:

- a. No land-disturbing activities shall be conducted within a buffer and a buffer shall remain in its natural, undisturbed, state of vegetation until all land-disturbing activities on the construction site are completed. Once the final stabilization of the site is achieved, a buffer may be thinned or trimmed of vegetation as long as a protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; provided, however, that any person constructing a single-family residence, when such residence is constructed by or under contract with the owner for his or her own occupancy, may thin or trim vegetation in a buffer at any time as long as protective vegetative cover remains to protect water quality and aquatic habitat and a natural canopy is left in sufficient quantity to keep shade on the stream bed; and
- b. The buffer shall not apply to the following land-disturbing activities, provided that they occur at an angle, as measured from the point of crossing, within 25 degrees of perpendicular to the stream; cause a width of disturbance of not more than 50 feet within the buffer; and adequate erosion control measures are incorporated into the project plans and specifications and are implemented: (i) Stream crossings for water lines; or (ii) Stream crossings for sewer lines.

(d) Nothing contained in O.C.G.A. 12-7-1 et. seq. shall prevent any local issuing authority from adopting rules and regulations, ordinances, or resolutions which contain stream buffer requirements that exceed the minimum requirements in subsections (b) and (c) of this section.

(e) The fact that land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.

(Ord. of 3-27-2003, § IV; Ord. of 4-8-2004, § IV; Ord. of 6-24-2010)

Sec. 70-39. Application and permit process.

(a) *General.* The property owner, developer and designated planners and engineers shall design and review before submittal the general development plans. The local issuing authority shall review the tract to be developed and the area surrounding it. They shall consult the zoning ordinance, stormwater management ordinance, subdivision ordinance, flood damage prevention ordinance, this article, and any other ordinances, rules, regulations or permits,

which regulate the development of land within the jurisdictional boundaries of the local issuing authority. However, the owner and/or operator are the only parties who may obtain a permit.

(b) *Application requirements.*

- (1) No person shall conduct any land-disturbing activity within the jurisdictional boundaries of Gilmer County without first obtaining a permit from the land development office to perform such activity and providing a copy of notice of intent submitted to EPD if applicable.
- (2) The application for a permit shall be submitted to the county land development office and must include the applicant's erosion, sedimentation and pollution control plan with supporting data, as necessary. Said plans shall include, as a minimum, the data specified in subsection (c) of this section. Erosion, sedimentation and pollution control plans, together with supporting data, must demonstrate affirmatively that the land disturbing activity proposed will be carried out in such a manner that the provisions of sections 70-37 and 70-38 of this article will be met. Applications for a permit will not be accepted unless accompanied by five copies of the applicant's erosion, sedimentation and pollution control plans. All applications shall contain a certification stating that the plan preparer or the designee thereof visited the site prior to creation of the plan in accordance with EPD Rule 391-3-7-.10.
- (3) In addition to the local permitting fees, fees will also be assessed pursuant to paragraph (5) subsection (a) of O.C.G.A. 12-5-23, provided that such fees shall not exceed \$80.00 per acre of land-disturbing activity, and these fees shall be calculated and paid by the primary permittee as defined in the state general permit for each acre of land-disturbing activity included in the planned development or each phase of development. All applicable fees shall be paid prior to issuance of the land disturbance permit. In a jurisdiction that is certified pursuant to subsection (a) of O.C.G.A. 12-7-8 half of such fees levied shall be submitted to the division; except that any and all fees due from an entity which is required to give notice pursuant to paragraph (9) or (10) of O.C.G.A. 12-7-17 shall be submitted in full to the division, regardless of the existence of a local issuing authority in the jurisdiction.
- (4) Immediately upon receipt of an application and plan for a permit, the local issuing authority shall refer the application and plan to the district for its review and approval or disapproval concerning the adequacy of the erosion, sedimentation and pollution control plan. The district shall approve or disapprove a plan within 35 days of receipt. Failure of a district to act within 35 days shall be considered an approval of the pending plan. The results of the district review shall be forwarded to the local issuing authority. No permit will be issued unless the plan has been approved by the district, and any variances required by subsection 70-38(c)(15) and (16) has been obtained, all fees have been paid, and bonding, if required as per subsection 70-39(b)(6), have been obtained. Such review will not be required if the local issuing authority and the district have entered into an agreement which allows the local issuing authority to conduct

such review and approval of the plan without referring the application and plan to the district. The local issuing authority with plan review authority shall approve or disapprove a revised plan submittal within 35 days of receipt. Failure of the local issuing authority with plan review authority to act within 35 days shall be considered an approval of the revised plan submittal.

- (5) If a permit applicant has had two or more violations of previous permits, this section, or the Erosion and Sedimentation Act, as amended, within three years prior to the date of filing the application under consideration, the local issuing authority may deny the permit application.
- (6) The local issuing authority may require the permit applicant to post a bond in the form of government security, cash, irrevocable letter of credit, or any combination thereof up to, but not exceeding, \$3,000.00 per acre or fraction thereof of the proposed land-disturbing activity, prior to issuing the permit. If the applicant does not comply with this article or with the conditions of the permit after issuance, the local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance. These provisions shall not apply unless there is in effect an ordinance or statute specifically providing for hearing and judicial review of any determination or order of the local issuing authority with respect to alleged permit violations.

(c) *Plan requirements.*

- (1) Plans must be prepared to meet the minimum requirements as contained in subsection 70-38(b) and (c) of this article, or through the use of more stringent, alternate design criteria which conform to sound conservation and engineering practices. The Manual for Erosion and Sediment Control in Georgia is hereby incorporated by reference into this article. The plan for the land-disturbing activity shall consider the interrelationship of the soil types, geological and hydrological characteristics, topography, watershed, vegetation, proposed permanent structures including roadways, constructed waterways, sediment control and stormwater management facilities, local ordinances and state laws. Maps, drawings and supportive computations shall bear the signature and seal of the certified design professional. Persons involved in land development design, review, permitting, construction, monitoring, or inspections or any Land-disturbing activity shall meet the education and training certification requirements, dependent on his or her level of involvement with the process, as developed by the commission and in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.
- (2) Data required for site plan shall include all the information required from the appropriate erosion, sedimentation and pollution control plan review checklist established by the commission as of January 1 of the year in which the land-disturbing activity was permitted.

(d) *Permits.*

- (1) Permits shall be issued or denied as soon as practicable but in any event not later than 45 days after receipt by the local issuing authority of a completed application, providing variances and bonding are obtained, where necessary and all applicable fees have been paid prior to permit issuance. The permit shall include conditions under which the activity may be undertaken.
 - (2) No permit shall be issued by the local issuing authority unless the erosion, sedimentation and pollution control plan has been approved by the district and the local issuing authority has affirmatively determined that the plan is in compliance with this article, any variances required by subsection 70-38(c)(15) and (16) are obtained, bonding requirements, if necessary, as per subsection 70-39(b)(6) are met and all ordinances and rules and regulations in effect within the jurisdictional boundaries of the local issuing authority are met. If the permit is denied, the reason for denial shall be furnished to the applicant.
 - (3) Any land-disturbing activities by a local issuing authority shall be subject to the same requirements of this article, and any other ordinances relating to land development, as are applied to private persons and the division shall enforce such requirements upon the local issuing authority.
 - (4) If the tract is to be developed in phases, then a separate permit shall be required for each phase.
 - (5) The permit may be suspended, revoked, or modified by the local issuing authority, as to all or any portion of the land affected by the plan, upon finding that the holder or his successor in the title is not in compliance with the approved erosion and sedimentation control plan or that the holder or his successor in title is in violation of this article. A holder of a permit shall notify any successor in title to him as to all or any portion of the land affected by the approved plan of the conditions contained in the permit.
 - (6) The LIA may reject a permit application if the applicant has had two or more violations of previous permits or the Erosion and Sedimentation Act permit requirements within three years prior to the date of the application, in light of O.C.G.A. 12-7-7(f)(1).
- (Ord. of 3-27-2003, § V; Ord. of 4-8-2004, § V; Ord. of 6-24-2010)

Sec. 70-40. Inspection and enforcement.

(a) The land development office will periodically inspect the sites of land-disturbing activities for which permits have been issued to determine if the activities are being conducted in accordance with the plan and if the measures required in the plan are effective in controlling erosion and sedimentation. Also, the local issuing authority shall regulate primary, secondary and tertiary permittees as such terms are defined in the state general permit. Primary permittees shall be responsible for installation and maintenance of best management practices where the primary permittee is conducting land-disturbing activities. Secondary permittees shall be responsible for installation and maintenance of best management practices where the

secondary permittee is conducting land-disturbing activities. Tertiary permittees shall be responsible for installation and maintenance where the tertiary permittee is conducting land-disturbing activities. If, through inspection, it is deemed that a person engaged in land-disturbing activities as defined herein has failed to comply with the approved plan, with permit conditions, or with the provisions of this article, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article.

(b) The local issuing authority must amend its ordinances to the extent appropriate within 12 months of any amendments to the Erosion and Sedimentation Act of 1975.

(c) The land development office shall have the power to conduct such investigations as it may reasonably deem necessary to carry out duties as prescribed in this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigation and inspecting the sites of land-disturbing activities.

(d) No person shall refuse entry or access to any authorized representative or agent of the local issuing authority, the commission, the district, or division who requests entry for the purposes of inspection, and who presents appropriate credentials, nor shall any person obstruct, hamper or interfere with any such representative while in the process of carrying out his official duties.

(e) The district or the commission or both shall semi-annually review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to O.C.G.A. 12-7-8(a). The districts or the commission or both may provide technical assistance to any county or municipality for the purpose of improving the effectiveness of the county's or municipality's erosion, sedimentation and pollution control program. The districts or the commission shall notify the division and request investigation by the division if any deficient or ineffective local program is found.

(f) The division may periodically review the actions of counties and municipalities which have been certified as local issuing authorities pursuant to [O.C.G.A.] Code Section 12-7-8(a). Such review may include, but shall not be limited to, review of the administration and enforcement of a governing authority's ordinance and review of conformance with an agreement, if any, between the district and the governing authority. If such review indicates that the governing authority of any county or municipality certified pursuant to O.C.G.A. 12-7-8(a) has not administered or enforced its ordinances or has not conducted the program in accordance with any agreement entered into pursuant to O.C.G.A. 12-7-7(e), the division shall notify the governing authority of the county or municipality in writing. The governing authority of any county or municipality so notified shall have 90 days within which to take the necessary corrective action to retain certification as a local issuing authority. If the county or municipality does not take necessary corrective action within 90 days after notification by the division, the division shall revoke the certification of the county or municipality as a local issuing authority. All applicable permit holders in Gilmer County shall comply with monitor-

ing and reporting requirements as set forth by this article and the NPDES program administered by Georgia EPD. Further, all permit holders shall be required to submit copies of such monitoring and reporting to Gilmer County Planning and Zoning to demonstrate such compliance. Such documentation shall be submitted to Gilmer County within the same deadlines as set by Georgia EPD, and may be hand delivered, delivered via certified mail, or by verified email delivery.

(Ord. of 3-27-2003, § VI; Ord. of 4-8-2004, § VI; Ord. of 6-24-2010)

Sec. 70-41. Penalties and incentives.

(a) *Failure to obtain a permit for land-disturbing activity.* If any person commences and land-disturbing activity requiring a land-disturbing permit as prescribed in this article without first obtaining said permit, the person shall be subject to revocation of his business license, work permit or other authorization for the conduct of a business and associated work activities within the jurisdictional boundaries of the local issuing authority.

(b) *Stop-work orders.*

- (1) For the first and second violations of the provisions of this article, the director or the local issuing authority shall issue a written warning to the violator. The violator shall have five days to correct the violation. If the violation is not corrected within five days, the director or the local issuing authority shall issue a stop-work order requiring that land-disturbing activities be stopped until necessary corrective action or mitigation has occurred; provided, however, that, if the violation presents an imminent threat to public health or waters of the state or if the land-disturbing activities are conducted without obtaining the necessary permit, the director or the local issuing authority shall issue an immediate stop-work order in lieu of a warning;
- (2) For a third and each subsequent violation, the director or the local issuing authority shall issue an immediate stop-work order;
- (3) All stop-work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred; and
- (4) When a violation in the form of taking action without a permit, failure to maintain a stream buffer, or significant amounts of sediment, as determined by the local issuing authority or by the director or his or her designee, have been or are being discharged into state waters and where best management practices have not been properly designed, installed, and maintained, a stop work order shall be issued by the local issuing authority or by the director or his or her designee. All such stop work orders shall be effective immediately upon issuance and shall be in effect until the necessary corrective action or mitigation has occurred. Such stop work orders shall apply to all land-disturbing activity on the site with the exception of the installation and maintenance of temporary or permanent erosion and sediment controls.

(c) *Bond forfeiture.* If, through inspection, it is determined that a person engaged in land-disturbing activities has failed to comply with the approved plan, a written notice to comply shall be served upon that person. The notice shall set forth the measures necessary to achieve compliance with the plan and shall state the time within which such measures must be completed. If the person engaged in the land-disturbing activity fails to comply within the time specified, he shall be deemed in violation of this article and, in addition to other penalties, shall be deemed to have forfeited his performance bond, if required to post one under the provisions of subsection 70-39(b)(6). The local issuing authority may call the bond or any part thereof to be forfeited and may use the proceeds to hire a contractor to stabilize the site of the land-disturbing activity and bring it into compliance.

(d) *Monetary penalties.*

- (1) Any person who violates any provisions of this article, or any permit condition or limitation established pursuant to this article, or who negligently or intentionally fails or refuses to comply with any final or emergency order of the director issued as provided in this article shall be liable for a civil penalty not to exceed \$2,500.00 per day. For the purpose of enforcing the provisions of this article, notwithstanding any provisions in any City Charter to the contrary, municipal courts shall be authorized to impose penalty not to exceed \$2,500.00 for each violation. Notwithstanding any limitation of law as to penalties which can be assessed for violations of county ordinances, any magistrate court or any other court of competent jurisdiction trying cases brought as violations of this article under county ordinances approved under this article shall be authorized to impose penalties for such violations not to exceed \$2,500.00 for each violation. Each day during which violation or failure or refusal to comply continues shall be a separate violation.

Any person who violates any provisions of this article, the rules and regulations adopted or who negligently or intentionally fails or refuses to comply with any final or emergency order issued as provided in the article, may be held liable for a sentence of imprisonment not to exceed 60 days in jail or monetary penalty or \$2,500.00 per day or both.

(Ord. of 3-27-2003, § VII; Ord. of 4-8-2004, § VII; Ord. of 6-24-2010)

Sec. 70-42. Education and certification.

(a) Persons involved in land development design, review, permitting, construction, monitoring, or inspection or any land-disturbing activity shall meet the education and training certification requirements, dependent on their level of involvement with the process, as developed by the commission in consultation with the division and the stakeholder advisory board created pursuant to O.C.G.A. 12-7-20.

(b) For each site on which land-disturbing activity occurs, each entity or person acting as either a primary, secondary, or tertiary permittee, as defined in the state general permit, shall have as a minimum one person who is in responsible charge of erosion and sedimentation control activities on behalf of said entity or person and meets the applicable education or training certification requirements developed by the commission present on site whenever

land-disturbing activities are conducted on that site. A project site shall herein be defined as any land-disturbance site or multiple sites within a larger common plan of development or sale permitted by an owner or operator for compliance with the state general permit.

(c) Persons or entities involved in projects not requiring a state general permit but otherwise requiring certified personnel on site may contract with certified persons to meet the requirements of this article.

(d) If a state general permittee who has operational control of land-disturbing activities for a site has met the certification requirements of paragraph (1) of subsection (b) of O.C.G.A. 12-7-19, then any person or entity involved in land-disturbing activity at that site and operating in a subcontractor capacity for such permittee shall meet those educational requirements specified in paragraph (4) of subsection (b) of O.C.G.A. 12-7-19 and shall not be required to meet any educational requirements that exceed those specified in said paragraph. (Ord. of 4-8-2004, § VIII; Ord. of 6-24-2010)

Sec. 70-43. Administrative appeal and judicial review.

(a) *Administrative remedies.* The suspension, revocation, modification or grant with condition of a permit by the local issuing authority upon finding that the holder is not in compliance with the approved erosion, sediment and pollution control plan; or that the holder is in violation of permit conditions; or that the holder is in violation of any ordinance; shall entitle the person submitting the plan or holding the permit to a hearing before the board of commissioners within 30 days after receipt by the local issuing authority of written notice of appeal.

(b) *Judicial review.* Any person, aggrieved by a decision or order of the local issuing authority, after exhausting his administrative remedies, shall have the right to appeal de novo to the Superior Court of Gilmer County. (Ord. of 3-27-2003, § VIII; Ord. of 4-8-2004, § IX; Ord. of 6-24-2010)

Sec. 70-44. Effectivity, validity and liability.

(a) *Effectivity.* This article shall become effective on the 24th day of June 2010.

(b) *Validity.* If any section, paragraph, clause, phrase, or provision of this article shall be adjudged invalid or held unconstitutional, such decisions shall not affect the remaining portions of this article.

(c) *Liability.*

(1) Neither the approval of a plan under the provisions of this article, nor the compliance with provisions of this article shall relieve any person from the responsibility for damage to any person or property otherwise imposed by law nor impose any liability upon the local issuing authority or district for damage to any person or property.

- (2) The fact that a land-disturbing activity for which a permit has been issued results in injury to the property of another shall neither constitute proof of nor create a presumption of a violation of the standards provided for in this article or the terms of the permit.
- (3) No provision of this article shall permit any persons to violate the Georgia Erosion and Sedimentation Act of 1975, the Georgia Water Quality Control Act or the rules and regulations promulgated and approved thereunder or pollute any waters of the state as defined thereby.

(Ord. of 3-27-2003, § IX; Ord. of 4-8-2004, § X(C); Ord. of 6-24-2010)

Secs. 70-45—70-69. Reserved.

ARTICLE III. MOUNTAIN PROTECTION

Sec. 70-70. Findings of fact.

The mountains of the state are characterized by steep slopes, thin soils, and, because of the natural stresses placed on such environments, they require special protection. Land disturbing activity on the high elevation, steep slope mountains of the state potentially threatens the public health, safety, welfare, and economic progress of the state. Such land disturbing activity:

- (1) May endanger the quality of surface water by increasing erosion and stream sedimentation;
- (2) Has the potential to induce landslides;
- (3) Has the potential to adversely affect groundwater due to the difficulty in providing proper sewage disposal in areas of steep slope and high elevation;
- (4) May damage the habitat for some species of wildlife (both plants and animals); and
- (5) May detract from the mountains' scenic and natural beauty which is vital to the recreation and tourism industry of North Georgia.

(Ord. of 2-8-2001(1), § I)

Sec. 70-71. Purpose.

The purpose of this article is to establish measures to guide future growth and development in the areas within protected mountains as defined in this article.

(Ord. of 2-8-2001(1), § I(A))

Sec. 70-72. Authority.

This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I and art. IX, § II, ¶ III, and O.C.G.A. §§ 12-2-8(b), 50-8-2(a)(18)(B) and 50-8-7.1(b).

(Ord. of 2-8-2001(1), § I(B))

Sec. 70-73. Jurisdiction.

This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(Ord. of 2-8-2001(1), § I(C))

Sec. 70-74. Cite.

This article shall be known and cited as "Gilmer County Mountain Protection Ordinance."

(Ord. of 2-8-2001(1), § I(D))

Sec. 70-75. Interpretation.

This article shall be interpreted in conjunction with federal and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

(Ord. of 2-8-2001(1), § I(E))

Sec. 70-76. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designated hazardous waste means any solid waste identified as such in regulations promulgated by the state board of natural resources. The state board of natural resources may identify as designated hazardous waste any solid waste which the board concludes is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed, based on the factors set forth in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are codified as 40 CFR 261.11(a)(3), in force and effect on February 1, 1996, if such solid waste contains any substance which is listed on any one or more of the following lists:

- (1) List of Hazardous Constituents, codified as 40 CFR 261, Appendix VIII, in force and effect on February 1, 1996;
- (2) Groundwater Monitoring List, codified as 40 CFR 264, Appendix IX, in force and effect on February 1, 1996;
- (3) List of Hazardous Substances and Reportable Quantities, codified as 40 CFR Table 302.4, and all appendices thereto, in force and effect on February 1, 1996;
- (4) List of Regulated Pesticides, codified as 40 CFR 180, in force and effect on February 1, 1996;
- (5) List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 CFR 355, Appendix A, in force and effect on February 1, 1996; or
- (6) List of Chemicals and Chemical Categories, codified as 40 CFR 372.65 in force and effect on February 1, 1996.

Federal act means the federal Solid Waste Disposal Act, as amended, particularly by the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 USC 6901 et seq.), as amended, particularly by but not limited to the Used Oil Recycling Act of 1980 (Public Law 96-463), the Solid Waste Disposal Act Amendments of 1980 (Public Law 96-482), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public

Law 96-510), the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616), and the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499), as amended.

Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act, which are in force and effect on February 1, 1996, codified as 40 CFR 261.3 and any designated hazardous waste. (Note: This is same definition as used in the Georgia Hazardous Waste Management Act, O.C.G.A. § 12-8-60 et seq.)

Land disturbing activity means any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. The term "land disturbing activity" shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.

Multifamily dwelling means a structure that contains multiple dwelling units.

Plat map means a large-scale map that shows the location of tracts of land within a jurisdiction, and the tax status of such tracts.

Protected mountain means all land area 2,200 feet or more above mean sea level, that has a percentage slope of 25 percent or greater for at least 500 feet horizontally, and shall include the crests, summits, and ridge tops which lie at elevations higher than any such area.

Quadrangle map means the most recently published U.S. Geological Survey 7.5 minute topographic map prepared at a scale of 1:24,000.

Reforestation plan means a plan, prepared by a registered forester, for replacing of harvested timber by replanting (as described in the Recommended Best Management Practices for Forestry in Georgia, published by the Georgia Forestry Commission) or by natural regenerative processes (such as coppicing, seed trees, etc.).

Sensitive natural area means any area, as identified now or hereafter by the state department of natural resources, which contains one or more of the following:

- (1) Habitat, including nesting sites, occupied by rare or endangered species;
- (2) Rare or exemplary natural communities;
- (3) Significant landforms, hydroforms, or geological features; or
- (4) Other areas so designated by the state department of natural resources; and which is sensitive or vulnerable to physical or biological alteration.

Single-family dwelling means a dwelling structure that is designed for the use of one family.

Written notification means a notice to an applicant which shall be given in writing and mailed by certified mail, return receipt requested, to the last known mailing address

submitted by applicant to the land development officer. Notice to the land development officer shall be given in writing and mailed by certified mail, return receipt requested, or delivered personally to and a receipt obtained from the land development officer.

(Ord. of 2-8-2001(1), § II)

Cross reference—Definitions generally, § 1-3.

State law reference—Similar provisions, O.C.G.A. § 12-8-62.

Sec. 70-77. Establishment of a protected mountain district.

The mountain protection district is hereby designated and shall comprise all land area within the jurisdiction of the county that is 2,200 feet or more above mean sea level that has a percentage slope of 25 percent or greater for at least 500 feet horizontally. The mountain protection district shall also include the crests, summits, and ridge tops which lie at elevations higher than any such area. The mountain protection district shall be further defined and delineated on the mountain protection district map. The mountain protection district map is hereby incorporated into and made a part of this article by reference.

(Ord. of 2-8-2001(1), § III)

Sec. 70-78. Protection criteria.

(a) Proposed land disturbing activity shall meet all applicable requirements of the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.) and all applicable local ordinances on soil erosion and sedimentation control.

(b) When one or more septic tanks are to be used for individual sewage disposal, the proposed land disturbing activity shall meet all applicable requirements imposed by the governing authority.

(c) Where one or more wells are to be used for individuals water supply, the proposed land disturbing activity shall meet all applicable requirements of the Water Well Standards Act of 1985; the requirements of the rules and regulations of the state department of human resources regarding individual or nonpublic wells; and, any more stringent requirements imposed by the governing authority.

(d) If sewage treatment is to be provided by any means other than one or more individual septic tanks, the sewage treatment shall meet all applicable requirements of the Georgia Water Quality Control Act (O.C.G.A. § 12-5-20 et seq.).

(e) If a public water supply system is to be provided, the water supply system shall meet all applicable requirements of the Georgia Safe Drinking Water Act of 1977 (O.C.G.A. § 12-5-170 et seq.).

(f) Single-family dwellings shall not be constructed at a density of more than one per acre and no such acre shall be less than 100 feet wide at the building site. This density restriction shall not apply to:

- (1) Any lot of less than one acre, if such a lot was, as of the date of the adoption of the ordinance from which this article is derived, owned and described as a discrete parcel of real property according to the instrument of title of the person or persons owning the lot on such date.

- (2) Any lot of less than one acre, if such a lot was, as of the date of the adoption of the ordinance from which this article is derived, shown as a discrete parcel of real property on a plat of survey properly recorded in the real property records of the clerk of superior court by the person or persons owning the lot on such date.
- (3) Any land, or part of any land, which was contained in or subject to any master plan, planned unit development plan, special approved development plan, or any other development plan if such plan was filed with and approved by the local governing authority prior to the date of the adoption of the ordinance from which this article is derived, pursuant to a duly enacted planning and zoning ordinance; provided further, that any such planning and zoning ordinance must have provided for rules and procedures and governed lot sizes, density, types of buildings, and other limitations usually associated with the implementation of local zoning ordinances.

(g) Multifamily dwellings, in the absence of a public water supply and sewerage system, shall not be constructed at a density of more than four dwelling units per acre. If there is a public water supply and sewage system available to this property, then the density may be increased to no more than six dwelling units per acre. Regardless of which type of system, no such acre shall be less than 100 feet wide at the building site.

(h) Structures shall not extend more than 40 feet, as measured from the highest point at which the foundation of such structure intersects the ground, above the uppermost point of the crest, summit, or ridge top of the protected mountain on which the structure is constructed. The height restriction in this subsection shall not apply to water, radio, or television towers; to any equipment for the transmission of electricity, to minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires; or to windmills.

(i) Any application for a building permit to construct a commercial structure shall contain a detailed landscaping plan. Such landscaping plan shall:

- (1) Identify all trees which are to be removed that exceed eight inches in diameter as measured at a point on the tree 4½ feet above the surface of the ground;
- (2) Contain a plan for replacement of any such trees that are removed; and
- (3) Include a topographical survey of the project site and an assessment of the effect that the project will have on the environment of the protected mountain after the project has been completed and is in operation.

Nothing in this subsection shall be construed to require commercial structures to comply with the density provision of subsections (f) and (g) of this section.

(j) No person engaging in land disturbing activity shall remove more than 50 percent of the existing trees that exceed eight inches in diameter as measured at a point on such a tree 4½ feet above the surface of the ground, unless such person has filed with the application a plan of reforestation developed by a registered forester.

(k) Handling areas for the receiving and storage of hazardous waste are prohibited from protected mountains.

(l) Hazardous waste or solid waste disposal facilities are prohibited from protected mountains. Disposal facilities permitted by the state department of natural resources, environmental protection division, prior to the promulgation of a mountain protection plan shall be exempt from this criterion.

(m) All roads on protected mountains shall be designed and constructed to minimize the potential for landslides, erosion and runoff.
(Ord. of 2-8-2001(1), § IV)

Sec. 70-79. Exemptions.

The following shall be exempted from the provisions of this article:

- (1) Agriculture and forestry on protected mountains provided that:
 - a. Agriculture and forestry activities are consistent with the best management practices established by the state forestry commission or the state soil and water conservation commission;
 - b. Agricultural and forestry activities are consistent with all state and federal laws, and all regulation promulgated by the state department of agriculture.
- (2) Mining activity on protected mountains if such activity is permitted by the state department of natural resources.

(Ord. of 2-8-2001(1), § V)

Sec. 70-80. Administration and enforcement procedures.

(a) *Site plans.* Application for a local development permit within the mountain protection district shall include a site plan, drawn at a scale of one inch equals 50 feet by a registered land surveyor or professional engineer licensed by the state with the following information:

- (1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross sectional drawings.
- (2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (3) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
- (4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.

- (5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
- (6) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- (7) All proposed temporary disruptions or diversions of local hydrology.
- (8) The site plan shall contain a surveyor's or engineer's certification that the project site is or is not located within a water supply watershed district, a wetlands protection district, the Coosawattee River Corridor Protection District or the mountain protection district, as applicable.

(b) *Activities to comply with site plan.* All development activities or site work conducted after approval of the site plan shall conform with the specifications of the site plan. Significant changes to the site plan that would, alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill, or removal of the overall appearance of the development as proposed, can be amended only with the approval of the land development officer or his designated appointee. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

(c) *Exemptions to site plan requirements.* The following activities and developments are exempt from the requirement for detailed site plans: Repairs to a facility that are part of a previously approved and permitted development.

(d) *Powers of the land development officer.* The land development officer shall have the power to enforce the provisions of this article. The land development officer shall have the authority to issue stop work orders and cite violators of this article to court. The land development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his duties of enforcing this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.

(e) *Review procedures.* The application shall be made to the land development officer or his designated appointee and will be reviewed within 30 days. At the time of the application, the applicant shall pay a filing fee as specified by the board of commissioners. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the land development officer or his designated appointee. The applicant will receive written notification of the findings of the land development officer or his designated appointee. Decisions of the land development officer or his designated appointee may be appealed to the board of commissioners.

(f) *Duration of permit validity.* The development permit approval shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the development permit approval shall be null and void.

(g) *Penalties and fines for noncompliance.*

- (1) When a building or other structure has been constructed in violation of this section, the violator shall be required to remove the structure at the direction of the land development officer.
- (2) When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the direction of the land development officer.
- (3) If the land development officer discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the land development officer shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.
- (4) Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-9. Other ordinances incorporated in this article may specify other penalties which shall govern over this section.

(h) *Suspension, revocation.* The land development officer or his designated appointee shall suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The land development officer or his designated appointee shall issue written notification of denial, issuance, conditional issuance, revocation or suspension to the applicant.

(i) *Administrative appeals.* Any party aggrieved by any decision of the land development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the land development officer written notification of appeal specifying the judgement of decision from which appeal is taken. A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the land development officer.

(j) *Judicial review.* All final decisions of the board of commissioners concerning denial, approval, or conditional approval of a permit shall be reviewable in the superior court of the county.

(k) *Amendments.* This article and the mountain protection district map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

(l) *Relief assessment.* Assessors and boards of assessors shall consider requirements of these regulations in determining the fair market value of land.

(m) *Variations.*

- (1) *When issued.* The board of commissioners may authorize, upon appeal in individual cases, variations from the terms of this article as will not be contrary to the public

interest. Variances will only be issued in cases where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship. Such variance may be granted in individual cases of practical difficulty or unnecessary hardship only upon a finding by the board of commissioners that all of the following conditions exist:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
 - b. The application of this article to the particular piece of property would create an unnecessary hardship;
 - c. Relief if granted, would not cause substantial detriment to the mountains of the county or impair the purposes and intent of this article;
 - d. The special circumstances surrounding the request for a variance are not the result of acts by the applicant; and
 - e. The variance is not a request to permit a use of land, buildings or structures that is not permissible in the district involved.
- (2) *Conditions.* The board of commissioners may, as a condition of the variance to certain provisions of this article, require that alternative measures be taken by the applicant such that the purposes of this article may be achieved through alternative means.
- (Ord. of 2-8-2001(1), § VI)

Secs. 70-81—70-99. Reserved.

ARTICLE IV. WATER STEWARDSHIP

Sec. 70-100. Title.

This article will be known as the "water stewardship" ordinance.
(Res. No. 10-082, 10-28-2010)

Sec. 70-101. Findings of fact.

Gilmer County recognizes an imminent need to create a culture of water conservation and to plan for water supply enhancement during future extreme drought conditions and other water emergencies and the General Assembly of the State of Georgia has required all counties in Georgia to adopt an ordinance to be in effect no later than January 1, 2011 to allow outdoor watering of landscape between the hours of 4:00 p.m. and 10:00 a.m. (with certain exceptions).
(Res. No. 10-082, 10-28-2010)

Sec. 70-102. Purpose.

The purpose of this article is to establish measures for the outdoor watering of landscape.
(Res. No. 10-082, 10-28-2010)

Sec. 70-103. Authority.

This article is enacted pursuant to the authority contained in Ga. Const. Art. IX, § II, ¶ I and Art. IX, § II, ¶ III, and O.C.G.A. § 12-5-7.

(Res. No. 10-082, 10-28-2010)

Sec. 70-104. Jurisdiction.

This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(Res. No. 10-082, 10-28-2010)

Sec. 70-105. Interpretation.

This article shall be interpreted in conjunction with federal and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

(Res. No. 10-082, 10-28-2010)

Sec. 70-106. Restriction on outdoor water of landscape.

Persons may irrigate outdoors daily for purposes of planting, growing, managing, or maintaining ground cover, trees, shrubs, or other plants only between the hours of 4:00 p.m. and 10:00 a.m.

This section shall not create any limitation upon the following outdoor water uses:

- (1) Commercial agricultural operations as defined in O.C.G.A. § 1-3-3;
- (2) Capture and reuse of cooling system condensate or storm water in compliance with applicable local ordinances and state guidelines;
- (3) Reuse of gray water in compliance with O.C.G.A. § 31-3-5.2 and applicable local board of health regulations adopted pursuant thereto;
- (4) Use of reclaimed waste water by a designated user from a system permitted by the environmental protection division of the department to provide reclaimed waste water;
- (5) Irrigation of personal food gardens;
- (6) Irrigation of new and replanted plant, seed, or turf in landscapes, golf courses, or sports turf fields during installation and for a period of 30 days immediately following the date of installation;
- (7) Drip irrigation or irrigation using soaker hoses;
- (8) Handwatering with a hose with automatic cutoff or handheld container;
- (9) Use of water withdrawn from private water wells or surface water by an owner or operator of property if such well or surface water is on said property;
- (10) Irrigation of horticultural crops held for sale, resale, or installation;
- (11) Irrigation of athletic fields, golf courses, or public turf grass recreational areas;

ENVIRONMENT

§ 70-106

- (12) Installation, maintenance, or calibration of irrigation systems; or
 - (13) Hydroseeding.
- (Res. No. 10-082, 10-28-2010)

Chapters 71—73

RESERVED

Chapter 74

FLOODS*

Article I. In General

Secs. 74-1—74-30. Reserved.

Article II. Flood Damage Prevention

Division 1. Generally

- Sec. 74-31. Definitions.
- Sec. 74-32. Authorization.
- Sec. 74-33. Findings of fact.
- Sec. 74-34. Statement of purpose.
- Sec. 74-35. Lands to which this article applies.
- Sec. 74-36. Basis for area of special flood hazard.
- Sec. 74-37. Establishment of development permit.
- Sec. 74-38. Compliance.
- Sec. 74-39. Abrogation and greater restrictions.
- Sec. 74-40. Interpretation.
- Sec. 74-41. Warning and disclaimer of liability.
- Sec. 74-42. Penalties for violation.
- Secs. 74-43—74-60. Reserved.

Division 2. Administration

- Sec. 74-61. Designation of article administrator.
- Sec. 74-62. Permit procedures.
- Sec. 74-63. Duties and responsibilities of the administrator.
- Secs. 74-64—74-80. Reserved.

Division 3. Provisions for Flood Hazard Reduction

- Sec. 74-81. General standards.
- Sec. 74-82. Specific standards.
- Sec. 74-83. Building standards for streams without established base flood elevations and/or floodway (A-zones).
- Sec. 74-84. Standards for areas of special flood hazard (zones AE) with established base flood elevations without designated floodways.
- Sec. 74-85. Standards for areas of shallow flooding (AO zones).

***Cross references**—Civil emergencies, ch. 22; health and sanitation, ch. 34; planning, ch. 42; utilities, ch. 54; land development ordinance general provisions, ch. 58; buildings and building regulations, ch. 66; environment, ch. 70; soil erosion, sedimentation and pollution control, § 70-30 et seq.; manufactured homes and trailers, ch. 78; subdivisions, ch. 82; waterways, ch. 86.

State law references—Conservation and natural resources, O.C.G.A. title 12; emergency management, O.C.G.A. § 38-3-1 et seq.

GILMER COUNTY CODE

- Sec. 74-86. Standards for subdivisions.
- Sec. 74-87. Standards for critical facilities.
- Secs. 74-88—74-109. Reserved.

Division 4. Variance Procedures

- Sec. 74-110. Variance procedures.
- Sec. 74-111. Conditions for variances.

ARTICLE I. IN GENERAL

Secs. 74-1—74-30. Reserved.

ARTICLE II. FLOOD DAMAGE PREVENTION***DIVISION 1. GENERALLY****Sec. 74-31. Definitions.**

Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the meaning they have in common usage and to give this article its most reasonable application.

Accessory structure means a structure having minimal value and used for parking, storage and other nonhabitable uses, such as garages, carports, storage sheds, pole barns, hay sheds and the like.

Addition (to an existing building) means any walled and roofed expansion to the perimeter of a building in which the addition is connected by a common load-bearing wall other than a firewall. Any walled and roofed addition, which is connected by a firewall or is separated by an independent perimeter load-bearing wall, shall be considered "new construction".

Appeal means a request for a review of the building inspector's interpretation of any provision of this article.

Area of shallow flooding means 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 is the land in the floodplain within a community subject to a one percent 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 section 74-36.

Base flood means the flood having a one percent chance of being equaled or exceeded in any given year.

Base flood elevation (BFE) 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.

***Editor's note**—Res. No. 12-025, Arts. 1—6, adopted Apr. 26, 2012, amended the former Art. II, §§ 74-31—74-44, 74-61—74-63, 74-81—74-85 and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from Ord. of Sept. 23, 1999, Arts. 1—6; Res. No. 07-74, § a, adopted May 10, 2007.

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

Building means any structure built for support, shelter, or enclosure for any occupancy or storage.

Critical facility means 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.

Development means 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 storage of materials or equipment.

Elevated building means 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.

Existing construction means for the purposes of determining rates, structures for which the "start of construction" commenced before October 10, 1989.

Existing manufactured home park or subdivision means 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 October 10, 1989.

Expansion to an existing manufactured home park or subdivision means 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.

Flood or flooding means 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.

Flood hazard boundary map (FHBM) means an official map of a community, issued by the Federal Insurance Administration, where the boundaries of areas of special flood hazard have been defined as Zone A.

Flood insurance rate map (FIRM) means 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 means any land area susceptible to flooding.

Floodproofing means 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 means 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.

Freeboard means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. "Freeboard" tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, bridge openings, and the hydrological effect of urbanization of the watershed.

Highest adjacent grade means the highest natural elevation of the ground surface, prior to construction, adjacent to the proposed foundation of a building.

Historic structure means 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.

Lowest floor means 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 code.

Manufactured home means a building, transportable in one or more sections built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. The term also includes park trailers, travel trailers, and similar transportable structures placed on a site for 180 consecutive days or longer and intended to be improved property.

Manufactured home park or subdivision means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

Mean sea level means 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.

National Geodetic Vertical Datum (NGVD) as corrected in 1929 is a vertical control used as a reference for establishing varying elevations within the floodplain.

New construction means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced after October 10, 1989 and includes any subsequent improvements to such structures. For floodplain management purposes, "new construction" means structures for which the "start of construction" commenced after October 10, 1989 and includes any subsequent improvements to such structures.

New manufactured home park or subdivision means 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 after October 10, 1989.

North American Vertical Datum (NAVD) has replaced the National Geodetic Vertical Datum of 1929 in existing and future FEMA Flood Modernization Maps.

Recreational vehicle means a vehicle, which is:

- (1) Built on a single chassis;
- (2) Four hundred 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.

Start of construction means the date the 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. (NOTE: accessory structures are NOT exempt from any ordinance requirements). 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.

Structure means a walled and roofed building that is principally above ground, a manufactured home, a gas or liquid storage tank.

Subdivision the division of a single lot into two or more lots for the purpose of sale or development.

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

Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, taking place during a five-year period, in which the cumulative cost equals or exceeds 50 percent of the market value of the structure prior to the "start of construction" of the improvement. NOTE: The market value of the structure 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 (1) those improvements of a structure required to comply with existing violations of state or local health, sanitary, or safety code specifications which are solely necessary to assure safe living conditions and which have been identified by the code enforcement official, and not solely triggered by an improvement or repair project, or (2) any alteration of a "historic structure" provided that the alteration will not preclude the structure's continued designation as a "historic structure".

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

Variance is a grant of relief from the requirements of this article, which permits construction in a manner otherwise prohibited by this article.

Violation means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, or other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

(Res. No. 12-025, Art. 2, 4-26-2012)

Cross reference—Definitions generally, § 1-3.

Sec. 74-32. 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.

(Res. No. 12-025, Art. 1, § A, 4-26-2012)

Sec. 74-33. Findings of fact.

(a) The flood hazard areas of Gilmer 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, floodproofed, or otherwise unprotected from flood damages, and by the cumulative effect of obstructions in floodplains causing increases in flood heights and velocities.

(Res. No. 12-025, Art. 1, § B, 4-26-2012)

Sec. 74-34. Statement of purpose.

It is the purpose of this article 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:

- (1) Require that uses vulnerable to floods, including facilities, which serve such uses, be protected against flood damage at the time of initial construction;

- (2) 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;
- (3) Control filling, grading, dredging and other development which may increase flood damage or erosion, and;
- (4) Prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards to other lands;
- (5) Control the alteration of natural floodplains, stream channels, and natural protective barriers, which are involved in the accommodation of floodwaters.

(Res. No. 12-025, Art. 1, § C, 4-26-2012)

Sec. 74-35. Lands to which this article applies.

This article shall apply to all areas of special flood hazard within the jurisdiction of Gilmer County, Georgia.

(Res. No. 12-025, Art. 3, § A, 4-26-2012)

Sec. 74-36. Basis for area of special flood hazard.

The areas of special flood hazard identified by the Federal Emergency Management Agency in its flood insurance study (FIS), dated April 17, 2012, with accompanying maps and other supporting data and any revision thereto, are adopted by reference and declared a part of this article.

For those land areas acquired by a municipality through annexation, the current effective FIS dated April 17, 2012, with accompanying maps and other supporting data and any revision thereto, for Gilmer County are hereby adopted by reference.

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. Board of commissioner the repository for public inspection of the flood insurance study (FIS), accompanying maps and other supporting data is located: Gilmer County Planning and Zoning.

(Res. No. 12-025, Art. 3, § B, 4-26-2012)

Sec. 74-37. Establishment of development permit.

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

(Res. No. 12-025, Art. 3, § C, 4-26-2012)

Sec. 74-38. Compliance.

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

(Res. No. 12-025, Art. 3, § D, 4-26-2012)

Sec. 74-39. Abrogation and greater restrictions.

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

(Res. No. 12-025, Art. 3, § E, 4-26-2012)

Sec. 74-40. Interpretation.

In the interpretation and application of this article all provisions shall be: (1) considered as minimum requirements; (2) liberally construed in favor of the governing body, and; (3) deemed neither to limit nor repeal any other powers granted under state statutes.

(Res. No. 12-025, Art. 3, § F, 4-26-2012)

Sec. 74-41. Warning and disclaimer of liability.

The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur; flood heights may be increased by manmade or natural causes. This article 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. This article shall not create liability on the part of Gilmer County, or by any officer or employee thereof for any flood damages that result from reliance on this article or any administrative decision lawfully made hereunder.

(Res. No. 12-025, Art. 3, § G, 4-26-2012)

Sec. 74-42. Penalties for violation.

Failure to comply with the provisions of this article or with any of its requirements, including conditions and safeguards established in connection with grants of variance or special exceptions shall constitute a violation. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction thereof, be fined not more than \$1,000.00 or imprisoned for not more than 60 days, or both, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense. Nothing herein contained shall prevent the Gilmer County, from taking such other lawful actions as is necessary to prevent or remedy any violation.

(Res. No. 12-025, Art. 3, § H, 4-26-2012)

Secs. 74-43—74-60. Reserved.

DIVISION 2. ADMINISTRATION*

Sec. 74-61. Designation of article administrator.

The building inspector is hereby appointed to administer and implement the provisions of this article.

(Res. No. 12-025, Art. 4, § A, 4-26-2012)

*Cross reference—Administration, ch. 2.

Sec. 74-62. Permit procedures.

Application for a development permit shall be made to the building inspector 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:

- (1) *Application stage.*
 - a. Elevation in relation to mean sea level (or highest adjacent grade) of the lowest floor, including basement, of all proposed structures;
 - b. Elevation in relation to mean sea level to which any nonresidential structure will be floodproofed;
 - c. Design certification from a registered professional engineer or architect that any proposed nonresidential floodproofed structure will meet the floodproofing criteria of section 74-82(2);
 - d. Description of the extent to which any watercourse will be altered or relocated as a result of a proposed development, and;
- (2) *Construction stage.* For all new construction and substantial improvements, the permit holder shall provide to the administrator an as-built certification of the regulatory floor elevation or floodproofing level immediately after the lowest floor or floodproofing is completed. 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. When floodproofing is utilized for nonresidential structures, said certification shall be prepared by or under the direct supervision of a professional engineer or architect and certified by same.

Any work undertaken prior to submission of these certifications shall be at the permit holder's risk.

The building inspector shall review the above referenced certification data submitted. Deficiencies detected by such review shall be corrected by the permit holder immediately and prior to further progressive work being allowed to proceed. Failure to submit certification or failure to make said corrections required hereby, shall be cause to issue a stop-work order for the project.

(Res. No. 12-025, Art. 4, § B, 4-26-2012)

Sec. 74-63. Duties and responsibilities of the administrator.

Duties of the building inspector shall include, but shall not be limited to:

- (1) Review proposed development to assure that the permit requirements of this article have been satisfied.

- (2) 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.
- (3) Review all permit applications to determine whether proposed building sites will be reasonably safe from flooding.
- (4) When base flood elevation data or floodway data have not been provided in accordance with section 74-36, then the building inspector 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 division 2.
- (5) 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 74-62(2).
- (6) Review and record the actual elevation, in relation to mean sea level to which any new or substantially improved structures have been floodproofed, in accordance with section 74-62(2).
- (7) When floodproofing is utilized for a structure, the building inspector shall obtain certification of design criteria from a registered professional engineer or architect in accordance with section 74-62(1)c and section 74-82(2) or section 74-84(2).
- (8) Make substantial damage determinations following a flood event or any other event that causes damage to structures in flood hazard areas.
- (9) 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 the Federal Emergency Management Agency (FEMA).
- (10) For any altered or relocated watercourse, submit engineering data/analysis within six months to the FEMA to ensure accuracy of community flood maps through the letter of map revision process. Assure flood carrying capacity of any altered or relocated watercourse is maintained.
- (11) 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 inspector 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 article.
- (12) All records pertaining to the provisions of this article shall be maintained in the office of the building inspector and shall be open for public inspection.

(Res. No. 12-025, Art. 4, § C, 4-26-2012)

Secs. 74-64—74-80. Reserved.

DIVISION 3. PROVISIONS FOR FLOOD HAZARD REDUCTION

Sec. 74-81. General standards.

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

- (1) New construction and substantial improvements of existing structures shall be anchored to prevent flotation, collapse or lateral movement of the structure;
- (2) New construction and substantial improvements of existing structures shall be constructed with materials and utility equipment resistant to flood damage;
- (3) New construction or substantial improvements of existing structures shall be constructed by methods and practices that minimize flood damage;
- (4) 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;
 - a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
 - (i) Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding;
 - (ii) The bottom of all openings shall be no higher than one foot above grade; and,
 - (iii) Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwater in both direction.
 - b. So as not to violate the "lowest floor" criteria of this article, 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
 - c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.
- (5) 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;
- (6) 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;
- (7) New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system;

- (8) 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;
 - (9) On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding, and;
 - (10) Any alteration, repair, reconstruction or improvement to a structure, which is not compliant with the provisions of this article, shall be undertaken only if the nonconformity is not furthered, extended or replaced.
- (Res. No. 12-025, Art. 5, § A, 4-26-2012)

Sec. 74-82. Specific standards.

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

- (1) New construction and/or substantial improvements—Where base flood elevation data are available, new construction and/or substantial improvement of any structure or manufactured home shall have the lowest floor, including basement, elevated no lower than two 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 section 74-81(4), "elevated buildings".
 - a. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated at or above two foot above the base flood elevation.
- (2) Nonresidential construction—New construction and/or the substantial improvement of any structure located in A1-30, AE, or AH zones, may be floodproofed in lieu of elevation. The structure, together with attendant utility and sanitary facilities, must be designed to be water tight to two 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 74-63(6).
- (3) Standards for manufactured homes and recreational vehicles—Where base flood elevation data are available:
 - a. All manufactured homes placed and/or substantially improved on: (1) individual lots or parcels, (2) in new and/or substantially improved manufactured home parks or subdivisions, (3) in expansions to existing manufactured home parks or subdivisions, or (4) 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 two foot above the base flood elevation.

- b. Manufactured homes placed and/or substantially improved in an existing manufactured home park or subdivision may be elevated so that either:
 - (i) The lowest floor of the manufactured home is elevated no lower than two foot above the level of the base flood elevation, or
 - (ii) 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. (Ref. section 74-81(6) above)
 - d. All recreational vehicles placed on sites must either:
 - (i) Be on the site for fewer than 180 consecutive days;
 - (ii) 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
 - (iii) The recreational vehicle must meet all the requirements for "new construction", including the anchoring and elevation requirements of subsections (3)a through (3)c, above.
- (4) Floodway—Located within areas of special flood hazard established in section 74-36, are areas designated as floodway. 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:
- a. 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.
 - b. ONLY if subsection (4)a above is satisfied, then any new construction or substantial improvement shall comply with all other applicable flood hazard reduction provisions of division 2.

(Res. No. 12-025, Art. 5, § B, 4-26-2012)

Sec. 74-83. Building standards for streams without established base flood elevations and/or floodway (A-zones).

Located within the areas of special flood hazard established in section 74-36, where streams exist but no base flood data have been provided (A-zones), OR where base flood data have been provided but a floodway has not been delineated, the following provisions apply:

- (1) When base flood elevation data or floodway data have not been provided in accordance with section 74-36, then the building inspector 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 division 2. ONLY if data are not available from these sources, then the following provisions of subsections (2) and (3) shall apply:
- (2) No encroachments, including structures or fill material, shall be located within an area equal to the width of the stream or 20 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 more than a one foot increase in flood levels during the occurrence of the base flood discharge.
- (3) 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 five feet above the highest adjacent grade at the building site. (NOTE: Require the lowest floor to be elevated one foot above the estimated base flood elevation in A-Zone areas where a limited detail study has been completed). Openings sufficient to facilitate the unimpeded movements of floodwaters shall be provided in accordance with standards of section 74-81(4), "elevated buildings".
 - a. All heating and air conditioning equipment and components (including ductwork), all electrical, ventilation, plumbing, and other service facilities shall be elevated no less than three feet above the highest adjacent grade at the building site.

The building inspector shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

(Res. No. 12-025, Art. 5, § C, 4-26-2012)

Sec. 74-84. Standards for areas of special flood hazard (zones AE) with established base flood elevations without designated floodways.

Located within the areas of special flood hazard established in section 74-36, where streams with base flood elevations are provided but no floodways have been designated, (zones AE) the following provisions apply:

- (1) 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.

- (2) New construction or substantial improvements of buildings shall be elevated or floodproofed to elevations established in accordance with section 74-62.

(Res. No. 12-025, Art. 5, § D, 4-26-2012)

Sec. 74-85. Standards for areas of shallow flooding (AO zones).

Areas of special flood hazard established in section 74-36, may include designated "AO" shallow flooding areas. These areas have base flood depths of one to three feet above ground, with no clearly defined channel. The following provisions apply:

- (1) All new construction and substantial improvements of residential and nonresidential 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 above the highest adjacent grade. Openings sufficient to facilitate the unimpeded movements of flood waters shall be provided in accordance with standards of section 74-81(4), "elevated buildings".

The building inspector shall certify the lowest floor elevation level and the record shall become a permanent part of the permit file.

- (2) New construction or the substantial improvement of a nonresidential structure may be floodproofed 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 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 sections 74-62(1)c and 74-62(2).

- (3) Drainage paths shall be provided to guide floodwater around and away from any proposed structure.

(Res. No. 12-025, Art. 5, § E, 4-26-2012)

Sec. 74-86. Standards for subdivisions.

- (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 and facilities 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, and;

(d) For subdivisions and/or developments greater than 50 lots or five 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. (Res. No. 12-025, Art. 5, § F, 4-26-2012)

Sec. 74-87. Standards for critical facilities.

(a) Critical facilities shall not be located in the 100-year floodplain or the 500-year floodplain.

(b) All ingress and egress from any critical facility must be protected to the 500-year flood elevation.

(Res. No. 12-025, Art. 5, § G, 4-26-2012)

Secs. 74-88—74-109. Reserved.

DIVISION 4. VARIANCE PROCEDURES

Sec. 74-110. Variance procedures.

(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 article.

(b) The board shall hear and decide appeals when it is alleged an error in any requirement, decision, or determination is made by the building inspector in the enforcement or administration of this article.

(c) Any person aggrieved by the decision of the planning commission may appeal such decision to the Superior Court of Gilmer County, 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 article 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 article.

Sec. 74-111. Conditions for variances.

(a) A variance shall be issued ONLY when there is:

- (1) A finding of good and sufficient cause,
 - (2) A determination that failure to grant the variance would result in exceptional hardship, and;
 - (3) 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.
- (2) The provisions of this article are minimum standards for flood loss reduction; therefore any deviation from the standards must be weighed carefully. 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 historic structure, a determination that the variance is the minimum necessary so as not to destroy the historic character and design of the building.
- (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 inspector shall maintain the records of all appeal actions and report any variances to the Federal Emergency Management Agency upon request.

(b) Upon consideration of the factors listed above and the purposes of this article, the planning commission may attach such conditions to the granting of variances as it deems necessary to further the purposes of this article.

(Res. No. 12-025, Art. 6, 4-26-2012)

Chapters 75—77

RESERVED

Chapter 78

MANUFACTURED HOMES AND TRAILERS*

Article I. In General

Secs. 78-1—78-30. Reserved.

Article II. Mobile Homes/Manufactured Homes

- Sec. 78-31. Jurisdiction and authority.
- Sec. 78-32. Purpose.
- Sec. 78-33. Definitions.
- Sec. 78-34. Nonconforming mobile home/manufactured home parks.
- Sec. 78-35. Location disclosure and decal required.
- Sec. 78-36. Issuance of mobile home/manufactured home permit.
- Sec. 78-37. Permit application procedures.
- Sec. 78-38. Exception to issuance of mobile home permit.
- Sec. 78-39. Mobile home/manufactured home minimum construction standards.
- Sec. 78-40. Penalties and fines.
- Sec. 78-41. Process of inspection for mobile/manufactured homes.
- Secs. 78-42, 78-43. Reserved.
- Sec. 78-44. Enforcement.
- Sec. 78-45. Appeals and variances.
- Sec. 78-46. Conflict with other ordinances.
- Sec. 78-47. Effective date.
- Secs. 78-48—78-80. Reserved.

Article III. Recreational Vehicle Parks and Campgrounds

- Sec. 78-81. Findings of fact.
- Sec. 78-82. Intent and purpose.
- Sec. 78-83. Applicability.
- Sec. 78-84. Alternative materials, equipment and procedures.
- Sec. 78-85. Definitions.
- Sec. 78-86. Procedures for development of RV parks and campgrounds.
- Sec. 78-87. Design and construction standards.
- Sec. 78-88. RV parks and campgrounds operation.
- Sec. 78-89. Administration and enforcement.

***Cross references**—Health and sanitation, ch. 34; planning, ch. 42; solid waste, ch. 46; utilities, ch. 54; land development ordinance general provisions, ch. 58; buildings and building regulations, ch. 66; environment, ch. 70; floods, ch. 74; subdivisions, ch. 82; waterways, ch. 86.

State constitution reference—Taxation of trailers and mobile homes, Ga. Const. art. VII, § I, ¶ III.

State law references—Factory built buildings and dwelling units, O.C.G.A. § 8-2-110 et seq.; The Uniform Standards Code for Manufactured Homes Act, O.C.G.A. § 8-2-130 et seq.; tourist courts, O.C.G.A. § 31-28-1 et seq.; manufacture, sale and transport of mobile homes, O.C.G.A. § 40-2-38; taxation of mobile homes, O.C.G.A. § 48-5-490 et seq.; excise tax on rooms, lodgings and accommodations, O.C.G.A. § 48-13-50 et seq.

GILMER COUNTY CODE

Sec. 78-90. Conflict with other ordinances; effect of partial invalidity.
Sec. 78-91. Amendments.

ARTICLE I. IN GENERAL

Secs. 78-1—78-30. Reserved.

ARTICLE II. MOBILE HOMES/MANUFACTURED HOMES***Sec. 78-31. Jurisdiction and authority.**

This article shall govern the use and operation of all mobile home/manufactured homes on single lots or within parks used for permanent residential occupancy in the unincorporated areas of the county. It is the intent of this article to empower the planning commission, the health department, and the building inspections department to review the development of mobile home/manufactured home sites and mobile home/manufactured home parks within the unincorporated areas of the county for the purposes stated in this article.

(Res. No. 10-072, 8-26-2010)

Sec. 78-32. Purpose.

This article is being promulgated to protect the health, safety and general welfare of the citizens of the county. The county recognizes that mobile home/manufactured housing meets the needs of many county residents for affordable housing and is compatible with site-built housing if developed in accordance with comparable standards.

(Res. No. 10-072, 8-26-2010)

Sec. 78-33. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Applicant means any person seeking to install a pre-owned manufactured home in the unincorporated area of Gilmer County.

Approved mobile home / manufactured home space means any lot or parcel of land designed and designated for the location of one mobile home/manufactured home, its accessory buildings or structures, and accessory equipment for exclusive use of the home meeting the requirements of this article, as administered by the building inspector.

Building inspector means the person appointed, employed, or otherwise designated as the director of planning, permits and inspections; the county building official or any of his or her assistants.

***Editor's note**—Res. No. 10-072, adopted Aug. 26, 2010, amended the former Art. II, §§ 78-31—78-41, 78-44—78-47, and enacted a new Art. II as set out herein. The former Art. II pertained to similar subject matter and derived from (Ord. of Mar. 27, 2003(2), §§ 1—8, 10—12, 15—17; Res. No. 05-30, §§ 1—5, 7—9, 11, 13, 14, adopted Feb. 24, 2005; Res. No. 06-41, §§ 1—4, adopted Feb. 23, 2006.

Certificate of occupancy means a document issued by the building inspector certifying that a pre-owned manufactured home is in compliance with applicable requirements set forth by this article, and indicating it to be in a condition suitable for residential occupancy

Dwelling means any mobile home or manufactured home which contains one or two dwelling units used, intended, or designed to be used, rented, leased, let or hired out to be occupied, or which are occupied for living purposes.

Dwelling unit means a single unit providing complete independent living facilities for one or more persons including permanent provisions for living, sleeping, eating, cooking and sanitation.

Industrialized building means any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly and installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof. Industrialized buildings are constructed and regulated in accordance with the "Industrialized Buildings Act: Georgia Law 1982 PP 1637-1643 (O.C.G.A., Title 8, and Chapter 2, Art. 2, Part 1).

Install means to construct a foundation system and to place or erect a manufactured home on such foundation system. Such term includes, without limitation, supporting, blocking, leveling, securing, or anchoring such manufactured home and connecting multiple or expandable sections of such manufactured home.

Jurisdiction means the unincorporated areas of Gilmer County, Georgia.

Lot means a portion of a subdivision, or any other parcel of land, intended as a unit of transfer or ownership, or for development, or both, and shall not include any part of the right-of-way of a street or road.

Manufactured home means 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.

Mobile home/manufactured home park means a premises where three or more mobile home/manufactured home dwelling units are parked for living or sleeping purposes, regardless of whether or not a charge is made for such accommodation, or where spaces or lots are set aside and offered for rent for use by mobile homes/manufactured homes for living or sleeping

purposes, including any land, building, structure or facility used by occupants of mobile homes/manufactured homes on such premises. The term "mobile home/manufactured home park" shall not include mobile homes/manufactured home sales lots.

Modular home means a factory fabricated dwelling over 32 feet in length and at least 24 feet wide designed and constructed without carriage of hitch collar as stationary house construction for placement upon permanent foundation, to be permanently connected to utilities, for year-round occupancy. It can consist of two or more components that can be separated when transported but designed to be jointed into one integral unit. Modular homes are not governed by this article, but shall meet the minimum standard codes, as adopted by the board of commissioners.

Pre-owned manufactured home means any manufactured home that has been previously used as a residential dwelling and has been titled.

Planning commission means the county planning commission.

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

(Res. No. 10-072, 8-26-2010)

Cross reference—Definitions generally, § 1-3.

Sec. 78-34. Nonconforming mobile home/manufactured home parks.

Nonconforming mobile home/manufactured home parks lawfully existing at the time of adoption of the ordinance from which this article is derived may be continued, but if such nonconforming use is discontinued for a period of 90 days, the mobile home/manufactured home park shall be made to conform with the requirements of these regulations prior to its being occupied again. Any expansion or addition to an existing manufactured home park shall be in compliance with this article.

(Res. No. 10-072, 8-26-2010)

Sec. 78-35. Location disclosure and decal required.

Every person holding title to or possessing a mobile home/manufactured home which is placed or located within the limits of the county shall report the location to, and obtain a location decal for such mobile home/manufactured home from the tax commissioner annually, no later than May 1 of each year. Such location decal shall be designed in such manner and affixed to the mobile/manufactured home in such manner as to cause it to be easily visible for inspection.

(Res. No. 10-072, 8-26-2010)

Sec. 78-36. Issuance of mobile home/manufactured home permit.

Any owner of a mobile home/manufactured home, whether locating or relocating said mobile home/manufactured home, shall obtain a permit from the building inspector, as set forth in section 78-37, indicating compliance with all applicable codes before any person or persons are authorized to occupy any newly installed mobile home/manufactured home.

(Res. No. 10-072, 8-26-2010)

Sec. 78-37. Permit application procedures.

(a) Mobile home/manufactured home permit to move a mobile home/manufactured home into or within the county shall not be issued by the building inspector until the following conditions have been met in accordance with established administrative procedures:

- (1) A valid location decal must be issued from the tax commissioner's office.
- (2) All mobile home/manufactured homes located in an approved mobile home/manufactured home space, as defined within section 78-33, or in an approved mobile home/manufactured home park subject to the requirements of this article, shall meet the provisions stated in this article.
- (3) A sanitary permit must be obtained from health department for on-site sewage disposal, or in the event that a municipality will provide sewer hookup, a letter must be provided by that municipality verifying that they will allow public sewer hookup.
- (4) Satisfactory pre-move inspection must be completed either by a Gilmer County Building Inspector, an International Code Council certified home inspector or a certified member of the Georgia Association of Home Inspectors. Such pre-move inspection shall demonstrate compliance with section 78-39 of this article.
- (5) An affidavit from the owner of the real property upon which the home is to be placed, stating that the placement of the home is agreeable with them and acknowledgement of responsibility for all aspects of having the home placed on said property.
- (6) An affidavit from the licensed mobile home mover who moves the home and certifies that the home will be placed in accordance with all applicable rules and laws and that such work will be done in accordance with standard level of care and timeliness that is normally expected of such work.

(b) For purposes of this section, the tax commissioner shall issue the location decal, the building inspector shall issue the aforementioned mobile home/manufactured home permit, and the health department shall issue the sanitary permit. Upon the issuance of the above permits, a mobile home/manufactured home may be moved into the county or within the county and installed for occupancy.

(c) Upon receipt of a permit, applicants may relocate the manufactured home on a residential site for the purposes of inspection. Applicant must follow inspection procedures as outlined in permit application package

(d) *Certificate of occupancy.* A certificate of occupancy shall be issued to the applicant at such time that the building inspector certifies that the requirements of this article have been met.

(e) Permit and inspection fees as provided by the office of planning and zoning shall be charged to cover the cost to process the permit application and inspect the pre-owned manufactured home. Such fees shall cover all inspections. The applicant shall be charged per fee schedule for each additional follow-up inspection that may be necessary.

(Res. No. 10-072, 8-26-2010)

Sec. 78-38. Exception to issuance of mobile home permit.

A mobile home permit shall be required to locate a mobile home/manufactured home in the county except under the following exceptions:

- (1) Mobile home/manufactured homes may be brought into the county and located on a sales lot of a state approved dealer as listed in the office of the state safety fire commissioner for sale without a building or sanitary permit. However, under no exceptions shall any mobile home/manufactured home, which is located on a sales lot, be occupied unless all permit requirements in these regulations are met. Installation must comply with the rules and regulations for manufactured homes, made and promulgated by the state safety fire commissioner pursuant to authority set forth in O.C.G.A. § 8-2-160 et seq.

(Res. No. 10-072, 8-26-2010)

Sec. 78-39. Mobile home/manufactured home minimum construction standards.

Each newly installed mobile home/manufactured home in the county shall conform to the minimum construction standards required by the U.S. Department of Housing and Urban Development, as required by the National Mobile Home and Safety Standards Act of 1974, 42 U.S.C., Section 5401, et seq., before that mobile home/manufactured home is entitled to receive any utility service to such mobile home/manufactured home. It is the intent of this section to prohibit moving mobile homes/manufactured homes into the county that do not conform to the applicable Housing and Urban Development Construction Standards, as expressed in 42 U.S.C. Section 5401, et seq., and regulations established pursuant to that act. To that end, no mobile home/manufactured home shall be allowed to locate for permanent or temporary occupancy in the county unless that mobile home/manufactured home complies with the minimum construction standards required by the U.S. Department of Housing and Urban Development, which compliance must be evidenced by the affixation of a permanently affixed label or tag certifying to the compliance as required by 42 U.S.C. Section 5415. Mobile homes/manufactured homes which do not display the certification required by 42 U.S.C. Section 5415 shall not be eligible for a county mobile home and/or occupancy permit; provided however, any mobile home which legally exists in the county at the time of the passage of the ordinance from which this article is derived shall not require such certification. Said existing

mobile home shall be freely transferable and re-locatable in Gilmer County, provided that said mobile home has been inspected and approved by the building inspector for the following items.

- (1) *Interior condition.* Every floor, interior wall, and ceiling of a pre-owned manufactured home shall be in sound condition. Doors and windows shall be operable, watertight and in good working condition. The floor system shall be in sound condition and free of warping, holes, water damage, or deterioration.
- (2) *Exterior condition.* The exterior of all pre-owned manufactured homes shall be free of loose or rotting boards or timbers and any other conditions that might admit rain or moisture to the interior portions of the walls or to occupied spaces. The exterior siding shall be free of rot and rust. Roofs shall be structurally sound and have no obvious defects that might admit rain or cause moisture to collect on the interior portion of the home.
- (3) *Sanitary facilities.* Every plumbing fixture, water, and waste pipe of a pre-owned manufactured home shall be in a sanitary working condition when properly connected, and shall be free from leaks and obstructions. Each home shall contain a kitchen sink. Each bathroom 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 upon being connected to ensure they are in good working condition.
- (4) *Heating systems.* Heating shall be safe and in working condition. Un-vented heaters shall be prohibited.
- (5) *Electrical systems (switches, receptacles, fixtures, etc.)* shall be properly installed and wired and shall be in working condition. Distribution panels 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. The home shall be subject to an electrical continuity test to assure that all metallic parts are properly bonded. Each pre-owned manufactured home shall contain a water heater in safe and working order.
- (6) *Hot water supply.* Each home shall contain a water heater in safe and working condition.
- (7) *Egress windows.* Each bedroom of a manufactured home shall have at least one operable window of sufficient size to allow egress if necessary.
- (8) *Ventilation.* The kitchen in the home shall have at least one operating window or other ventilation device.
- (9) *Smoke detectors.* Each pre-owned manufactured home shall contain one operable battery-powered smoke detector in each bedroom and in the kitchen, which must be installed in accordance with the manufacturer's recommendations.

(Res. No. 10-072, 8-26-2010)

Sec. 78-40. Penalties and fines.

Each newly installed manufactured home or mobile home shall be installed according to installation standards adopted by the state and administered by the state fire commissioner's office, Installation of Manufactured Homes and Mobile Homes, O.C.G.A. §§ 8-2-160—8-2-168.

- (1) It is the intent of this section that the moving and installation of a non-complying mobile home/manufactured home within the county shall, for the purpose of determining any violation of the terms of this section, be considered separate acts, each punishable as provided in this article.
- (2) Upon the determination that any mobile home/manufactured home in the county is in violation of this section, each day shall be a separate violation of this section, and any owner, broker, lessee, renter or other person in possession of such a non-complying mobile home/manufactured home shall be subject to a fine not to exceed \$500.00 per day.
- (3) If any owner, broker, lessee, renter or other person in possession of a mobile home/manufactured home willfully violates this section, such person or entity shall be subject to a fine not to exceed \$500.00, and a sentence not to exceed one day in jail for each day of such violation.
- (4) Any mobile/manufactured home that is not issued a certificate of occupancy after a reasonable and diligent effort to address deficiencies shall be considered and addressed as an abandoned mobile/manufacture home according to section 46-32 of Gilmer County Code.

(Res. No. 10-072, 8-26-2010)

Sec. 78-41. Process of inspection for mobile/manufactured homes.

The following requirements shall pertain to the installation of mobile homes/manufactured homes on individual lots or in parks.

- (1) *Foundation.* The building inspector shall require the foundation to be inspected to ensure compliance with the Rules and Regulations for Manufactured Homes, as may be subsequently revised, and which are incorporated as a part of this article by reference. The location of the dwelling shall comply with all aspects of the Gilmer County Land Use Ordinance, Chapter 62, Article II.
- (2) *Plumbing.* The building inspector shall require the external plumbing system to be inspected, including water and sewage hookups, to ensure compliance with the Rules and Regulations for Manufactured Homes and the Standard Plumbing Code as adopted by the board of commissioners, and as may be subsequently revised.
- (3) *On-site sewage.* Where individual on-site sewage systems are installed in conjunction with public or community water systems, the minimal lot size shall conform to standards established in Table 1. All on-site sewage systems shall be subject to the approval of the health department. Where individual on-site sewage systems are installed in conjunction with private water systems, the minimal lot size shall conform

to standards established in Table 2. Mobile home/manufactured home lots located in subdivisions shall meet the size requirements in chapter 82. Any building site so determined by the health department to fall within a designated groundwater recharge area shall be subject to additional restrictions pursuant to Chapter 391-3-16.02, Section 3(m), Criteria for Protection of Groundwater Recharge Areas, Rules for Environmental Planning Criteria, Georgia Department of Natural Resources, as amended.

- (4) *Electrical.* The building inspector shall require inspection of the electrical system to ensure compliance with the Rules and Regulations for Manufactured Homes and the National Electrical Code, as adopted by the board of commissioners, and as may be subsequently revised. All electrical work shall be conducted by a licensed electrician and certified with a signed affidavit provided to the inspection department.
- (5) *Gas.* The building inspector shall require inspection of the gas system to ensure compliance with the Standard Gas Code, as adopted by the board of commissioners, and as may be subsequently revised. Until the preceding inspections have been made and the mobile home/manufactured home is found to be in compliance with all applicable codes, no permanent power may be installed, and no occupancy shall be permitted. Evidence of compliance will be shown by a certificate of completion, which includes written documentation provided to the applicant and a sticker attached to the electrical meter base. Occupancy is permitted upon issuance of the certificate of occupancy.
- (6) *Underpinning/skirting; stairs and landings.* The following must be completed within 30 days after the first inspection and/or after final connection of electrical service to the home:
 - a. *Underpinning/skirting.* Each newly installed manufactured home or mobile home shall have the area beneath each such structure enclosed with materials manufactured for such purposes, including but not limited to brick, concrete, rock or other materials which have been approved by the county building inspector. The enclosure of this area is generally referred to as underpinning or skirting.
 - b. *Stairs and landings.* Each newly installed manufactured home or mobile home shall have the area beneath and descending from the main egress door of the home a landing that is a minimum of 36 inches by 48 inches. Such landing with steps shall descend to the ground or grade level. The landing, steps and rails must be constructed of all-weather materials or manufactured kits. All construction and/or manufactured kits shall comply with the requirements of the Georgia State Minimum Standard Codes, including all amendments thereto, as adopted by the board of commissioners, and as may be subsequently revised.

(Res. No. 10-072, 8-26-2010)

Editor's note—It should be noted that the Table 1 And Table 2 referenced in this section are not set out at length herein, but are on file and available for inspection in the board of commissioners' office and the office of planning and community development.

Secs. 78-42, 78-43. Reserved.

Sec. 78-44. Enforcement.

(a) *Generally.* The board of commissioners is hereby authorized to adopt, after a public hearing, such written regulations as may be necessary for the proper enforcement of the provisions of this article. Such regulations shall have the same force effect as the provision of this article and the penalty for violation of the provisions thereof shall be the same as the penalty for violation of the provisions of this article, as provided in this section.

(b) *Violations; notice.* In cases where a violation of this article has been found by the building inspector, he shall notify the owner of the property on which such violation is found by certified mail sent to the address of the owner of the mobile home/manufactured home is different from the property owner, the violation notice shall also be sent by certified mail to the owner of the mobile home/manufactured home. In the case no valid mailing address can be obtained, or if the certified mail is returned to the building inspector, the notice of violation may be hand delivered to the person deemed responsible for said violation. The notice of violation shall clearly state the nature of the violation, including specific provisions of this article which have not been complied with, and the date upon which said violation(s) will be remedied. Such date will be determined by the building inspector based on the nature and extent of the violation, but in no case shall exceed 30 days from the date the certified mail was received. In cases where the notice of violation is hand delivered, the date upon which said violations will be remedied shall not exceed 30 days from the date of delivery.

(c) *Issuance of stop work orders.* The building inspector is authorized to issue stop work orders in any instance where a violation of this article is found. The procedure for issuance of stop work orders shall be the same as the notification procedure for violations as specified in subsection (b) of this section.

- (1) *Procedure for noncompliance.* In cases where a violation of this article has occurred, and the violator has not remedied the violation within the specified time period, or in cases where stop work orders have not been fully complied with, the sheriff's department, upon written notification from the building inspector of such violation or noncompliance, shall issue a citation requiring appearance in the county magistrate court and, upon conviction, shall be subject to the punishment provided in section 1-9. This section is adopted pursuant to the provision of O.C.G.A. § 36-1-20(a), (b), (c) and (d). Such citation shall include any and all violations found by the building inspector.

(Res. No. 10-072, 8-26-2010)

Sec. 78-45. Appeals and variances.

(a) *Decision of the building inspector.* The owner of a mobile home/manufactured home, or his duly authorized agent, may, appeal a decision of the building inspector to construction board of adjustment and appeals as established in section 66-38 and in accordance with the provisions and procedures established in such section.

(b) *Decision of the planning commission.* Any party aggrieved by any decision of the planning commission is entitled to a hearing before the board of commissioners within 30 days after receipt by the planning commission of a written notice of appeal.

(c) *Judicial appeals.* Any party aggrieved by any decision or order of the building inspector and/or planning commission, after exhausting his administrative remedies, shall have the right to appeal de novo to the superior court of the county.

(Res. No. 10-072, 8-26-2010)

Sec. 78-46. Conflict with other ordinances.

In any case where a provision of this article is found to be in conflict with a provision of any other ordinance or code of the county existing on the effective date of the ordinance from which this article is derived, the provision which in the judgment of the board of commissioners establishes the higher standard for the promotion and protection of the health and safety of the people shall be deemed to prevail, and such other ordinances which establishes a lower standard for the promotion and protection of the health and safety of the people are hereby declared to be repealed to the extent that they may be found in conflict with this article.

(Res. No. 10-072, 8-26-2010)

Sec. 78-47. Effective date.

This article shall become effective on the next business day following its approval by the Board of Commissioners of Gilmer County, Georgia.

(Res. No. 10-072, 8-26-2010)

Secs. 78-48—78-80. Reserved.

ARTICLE III. RECREATIONAL VEHICLE PARKS AND CAMPGROUNDS***Sec. 78-81. Findings of fact.**

The board of commissioners finds that:

- (1) The freedom to travel is among America's most cherished liberties;
- (2) The recreational vehicle and automobile are key modes of travel for those enjoying this freedom;
- (3) RV parks and campgrounds provide secure places of refuge for recreational vehicles and campers;
- (4) A comprehensive set of standards has been developed by nationally recognized organizations and institutions and these standards adequately provide for the health, safety and welfare of the public; and
- (5) The public interest and safety is best served by having uniform standards for RV park and campground development and operation.

(Ord. of 9-23-1999(3), § 1)

Sec. 78-82. Intent and purpose.

(a) *Intent.* It is the intent of the board of commissioners to provide a safe environment in urban, rural and wilderness settings which RV accommodate the full range of camping units desired by the consumer. Further, it is the intent of the board of commissioners to allow the greatest latitude in designing RV parks and campgrounds according to the desires of the RV and camping public while serving and protecting the health and safety needs of the RV and camping public. Further, it is the intent of the board of commissioners to meet the overall spirit of national codes referenced in this article. Where slight wording differences occur between this article and those of national codes, they are not intended to change the public health and safety goals of such national codes, but rather to foster consistency between code language and the terminology of the RV park and campground industry and the general RV and camping public.

(b) *Purpose.* The purpose of this article shall be to provide rules, regulations, requirements, and standards for development of RV parks and campgrounds in the unincorporated areas of the county, ensuring that the public health, safety and general welfare are protected; that orderly growth and development together with the conservation, protection and proper use of land shall be insured; and that proper provisions for all public facilities shall be made.

(Ord. of 9-23-1999(3), § 2)

Sec. 78-83. Applicability.

This article shall apply to all RV parks and campgrounds as defined in section 78-85. No person or organization or government entity shall establish and maintain an RV park or

***Cross reference**—Parks and recreation, ch. 38.

campground within the unincorporated areas of the county except in conformity with this article. Facilities provided in existing RV parks and campgrounds may be continued in use providing such facilities do not constitute a recognized health or safety hazard.

(Ord. of 9-23-1999(3), § 3)

Sec. 78-84. Alternative materials, equipment and procedures.

The provisions of this article are not intended to prevent the use of any material, method of construction, or installation procedure not specially prescribed by this article, provided any such alternate is of equal or greater quality and verified by the authority having jurisdiction. The authority having jurisdiction shall require that sufficient evidence be submitted to substantiate any claims made regarding the safety of such alternates. Evidence shall also be required to show, to the satisfaction of the authority having jurisdiction, that the alternate material, method of construction or installation procedure have met or exceed the level of health and safety protection provided by the standards of this article.

(Ord. of 9-23-1999(3), § 4)

Sec. 78-85. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Such definitions are adopted for use in this article. In addition to standards contained in local ordinances, other laws of the state and standards adopted by reference in section 78-87.

Accessory cabana means a portable room enclosure.

Accessory storage means a structure located on a camping unit site which is designed and used solely for the storage and use of personal equipment and possessions of the RV or camper and may include storage buildings and greenhouses not exceeding 120 square feet of roof area.

Accessory structure means structures maintained within RV parks or campgrounds which serve the principal camping unit. Accessory structures are not attached to the camping unit (see "Add-on structure") and contain no plumbing or electrical fixtures.

Accessory uses means offices, employee or operator living units, recreational facilities, grocery stores, convenience stores, gift shops, service buildings, rest rooms, dumping stations, showers, laundry facilities, storage units; and other uses and structures customarily a part of the RV park or campground operation.

Add-on structures means structures attached to the principal camping unit which provide additional space or service.

Approved means acceptable to the authority having jurisdiction.

ARVC means National Association of RV Parks and Campgrounds (ARVC). The national trade organization representing the outdoor hospitality industry.

Authority having jurisdiction means the organization, office or individual responsible for approving equipment, equipment installation, a permit or a procedure.

Awning means a shade structure supported by posts or columns and partially supported by the camping unit.

Cabin, camping, means a hard sided tent or shelter less than 400 square feet in area which is on skids designed to facilitate relocation from time to time.

Cabin, housekeeping, means a rustic cabin providing guests with full service amenities as an alternative to other forms of rental lodging.

Camper means a person participating in RV or camping.

Campground means any parcel or tract of land under the control of any person, organization, or governmental entity wherein two or more camping unit sites are offered for the use of the public or members of an organization for rent or lease. Campgrounds may or may not necessarily be designed to accommodate recreational vehicles.

Campground, developed, means a campground accessible by vehicular traffic where sites are substantially developed with two or more utilities, i.e., sewer, water or electricity etc. are provided and refuse disposal and restrooms are available.

Camping unit means a portable structure, shelter or vehicle designed and intended for occupancy by persons engaged in RV or camping. The basic units are: recreational vehicle, camping cabin, housekeeping cabin, tent, teepee, yurt, and other rental accommodations for enjoying the outdoor experience.

Camping unit seal means a camping unit meeting the criteria as set forth in ARVC guidelines.

Camping unit separation means a specific area within a RV park or campground that is set aside for a camping unit.

Carport means a structure located upon a camping unit site used for parking of vehicles.

Day use means daytime activities within a RV park or campground for less than a 12-hour period. (See also: "Site Night.")

Density means the number of camping unit sites on a unit of land area.

Density, gross, means the total land area devoted to a RV park or campground use divided by the total number of camping unit sites contained within the RV park or campground.

Greenbelt means a strip of land, containing landscaping, or other aesthetic site obscuring features, intended to buffer potentially incompatible uses. Greenbelts may include utilities and other underground facilities but not camping units.

Guest means an invited visitor to a RV park or campground.

Holiday, major, means i.e. Labor Day, Memorial Day, Independence Day, Thanksgiving, Christmas, New Years and Easter.

Liquefied petroleum gas, LP gas and LPG mean any material having a vapor pressure not exceeding that allowed from commercial propane composed predominantly of the following hydrocarbons, either by themselves or as mixtures: propane, propylene, butanes (normal butane or isobutane) and butylenes (including isomers).

Liquid waste (gray water) means a discharge from a fixture, appliance, or appurtenance in connection with a plumbing system which does not receive any fecal matter.

Listed means equipment or materials included in a list published by an organization acceptable to the authority having jurisdiction and concerned with product evaluation, that maintains periodic inspection of production of listed equipment or materials and whose listing states either that the equipment or material meets appropriate standards or has been tested and found suitable for use in a specified manner.

Minimum parcel size means the minimum land area required to accommodate a RV park or campground.

Occupancy means the presence of a guest in a camping unit for a site night where rent is received.

Offset (sewer lines) means a combination of elbows or bends in a line of piping that brings one section of the pipe out of line but into a line parallel with the other section.

Operator means the owner of a RV park or campground or his designee.

Owner means the owner of a RV park or campground or his designee.

Public water supply means a municipally or privately owned or community water supply system designed to distribute water to guests within a defined geographical area.

Recreation area means a specific area of the recreational park or campground, either of land or an area of water or a combination of land and water which are designed and intended for the use or enjoyment of guests of the RV park or campground.

Recreational vehicle (RV) means a vehicular-type camping unit certified by the manufacturer as complying with ANSI AI 19.2 or AI 19.5 and primarily designed to provide travel and destination RV that either has its own motive power or is mounted on or towed by another vehicle. The basic units are: camping trailer, fifth wheel trailer, motor home, park trailer, travel trailer, and truck camper.

- (1) *Camping trailer* means a recreational vehicle that is mounted on wheels and constructed with collapsible partial side walls that fold for towing by another vehicle and unfold for use.
- (2) *Fifth wheel trailer* means a recreational vehicle designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above forward of the tow vehicle's rear axle.
- (3) *Motor home* means a recreational vehicle built on or permanently attached to a self propelled motor vehicle chassis or on a chassis cab or van that is an integral part of the completed vehicle.

- (4) *Park trailer* means a recreational vehicle that meets the following criteria:
 - a. Built on a single chassis mounted on wheels.
 - b. Having a gross trailer area not exceeding 400 square feet in the set-up mode.
 - c. Certified by the manufacturer as complying with ANSI AI 19.5.
- (5) *Travel trailer* means a recreational vehicle designed to be towed by a motorized vehicle containing a towing mechanism that is mounted behind the tow vehicle's bumper.
- (6) *Truck camper* means a recreational vehicle consisting of a roof, floor, and sides designed to be loaded onto and unloaded from the bed of a pickup truck.

Recreational vehicle, dependent, means a recreational vehicle not containing sanitary facilities and/or devices for connecting such facilities to a community waste disposal system.

Recreational vehicle, gross trailer area, means the total plan area measured to the maximum horizontal projections of exterior walls in the set-up mode. Measurements shall be taken on the exterior floor plan. Square footage includes all siding, corner trims, moldings, storage spaces, areas enclosed by windows but not the roof overhangs (Ref. HUD Interpretive Bulletin A-I-88). Expandable room sections, regardless of height shall be included. Storage lofts contained within the basic unit which have ceiling heights less than five feet at the peak of the roof would not constitute additional square footage.

Recreational vehicle, independent, means a recreational vehicle containing sanitary facilities and devices for connecting such facilities to a community waste disposal system. This type of RV is also referred to as a self-contained recreational vehicle.

Recreational vehicle park means any parcel or tract of land under the control of any person, organization, or governmental entity wherein two or more camping unit sites are offered for the use of the public or members of an organization by rent or lease, including park-owned recreational vehicles held out for rent. RV parks are primarily designed to accommodate recreational vehicles. (See also: "Campgrounds.")

- (1) *Ownership/membership and specialty* means a RV park or campground that is either opened to members or owners only, or where the sites are individually owned. This category also includes RV parks or campgrounds that are owned or cater to specific audiences such as religious organizations, square dancers, clothing optional clubs, etc.
- (2) *Destination* means an RV park or campground containing facilities (e.g. swimming pools, restaurants, golf courses and formal recreational programs, etc.) and catering to RVs or campers who will typically travel extended distances to stay for extended periods (e.g. a weekend, a week or longer).
- (3) *Extended stay* means a RV park or campground which caters to extended stays, full-timers and seasonal rather than for short term accommodations. Extended stay facilities tend to occur in certain geographical areas.

- (4) *Senior adult* means a RV park or campground for the exclusive use of senior individuals 55 years of age or older and which complies with the U.S. Department of Housing and Urban Development Fair Housing Act.
- (5) *Traveler* means a RV park or campground where RVs and campers stay for a day or a week as an alternative to other types of lodging while traveling or vacationing or to enjoy the local attractions within a given area.

Rent means compensation or other consideration given for a prescribed right, use, possession, or occupancy of a RV park or campground as defined by the operator.

Rental, on-site, means a camping unit placed within a RV park or campground which is available for rental to guests.

RVers means individuals who use recreational vehicles for RVing and camping including, but not limited to the following categories:

- (1) *Daily/overnighter*. Typical are the many RVers and campers who stay for a day or a week as an alternative to other types of lodging. Typically travelers, area visitors, or tourists enjoying local attractions of a given area.
- (2) *Extended stay*. Those who stay in a given recreational vehicle park or campground for an extended period of time. The term "extended stays" is generally used in describing four groups as follows:
 - a. Individuals who have selected a recreational-centered lifestyle and who list a specific location for a traditional season ("sunbirds" and "snowbirds").
 - b. Individuals who have selected interim lodging during temporary transfer to a new locality or while awaiting construction of conventional housing.
 - c. Individuals who frequently relocate for employment purposes.
 - d. Individuals who have selected a recreational vehicle as a housing alternative for extended periods.
- (3) *Full timers*. Individuals who have opted, because of the benefits of a recreation oriented RV lifestyle or for economic reasons, to use their RV as their only or primary residence. Individuals who move from facility to facility and area to area, depending upon weather, attractions, or activity they normally spend extended periods at each location. These extended periods may be for a few days, weeks or months.
- (4) *Seasonal*. Individuals who have chosen to leave their camping unit in special storage areas or "on the site" at a specific RV park or campground. Many seasonal leave their RVs on-site for the season and will typically occupy their RVs from time to time to enjoy organized recreational programs.
- (5) *Snowbirds*. Snowbirds are mostly comprised of RVers who own homes in the snow areas. Many of these individuals migrate from north to south in the winter months and from south to north in the spring. Areas of dry and warmer climate are sought by the snowbirds for varying periods during the north's cold season.

- (6) *Sunbirds*. Sunbirds are mostly comprised of retired RVers. Sunbirds typically own homes in the warmer desert areas of the state where they spend the winter months, moving north toward cooler climate during the extremely hot desert summer months. Sunbirds tend to have similar travel characteristics as snowbirds.

RVing lifestyle means traveling and/or living independently where one chooses and camping for the enjoyment of the outdoors; being a way of life use; using a camping unit for recreation; associated with the fraternity of other like RVers and campers.

Sanitary disposal station means a facility provided for the emptying of the waste holding tanks of recreational vehicles.

Service building means a structure of portion thereof that is used to house sanitary facilities, such as water closets or lavatories. A service building may include other facilities for the convenience of the RV park or campground guests.

Sewage means any liquid waste containing animal or vegetable matter in suspension or solution or the water-carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

Sewer branch means the portion of a sewer system that receives the discharge from more than one sewer lateral.

Sewer inlet connection. See ANSI Standard 4-8.3.

Sewer lateral means the portion of a sewer system that serves a single camping unit site or building.

Sewer main means the portion of a sewer system that receives the discharge from all sewer laterals or branches within the RV park or campground.

Site means the portion of a RV park or campground where the camping unit is situated.

Site night means the equivalent of one camping unit occupying one site for one overnight stay whether occupied or not.

Site, rear, means a line designating the rear most part of the site.

Slideout means an extended portion of a recreational vehicle which exceeds the allowable dimensions in the traveling mode.

Stand means the area within the camping unit site set aside for the placement of the camping unit. For all camping units without slideouts the stand shall be a minimum of eight feet wide. For camping units with slideouts the stand shall be a minimum of ten feet wide.

Submetering means a form of conservation whereby the guest pays for utilities used. Submetering can be for consumption of electricity, gas, water, and sewer, etc.

Teepee means a cone-shaped tent.

Tent means a portable shelter, consisting of synthetic fabrics or natural skins stretched over a flexed or rigid framework.

Tent, hard shell. See "Cabin, camping."

Utility connection assembly means a single hookup assembly located on the site and containing connections for potable water, sewer inlets, electrical power, phone and television.

Water riser pipe means the portion of the water connection serving the camping unit site, which extends from the water supply main through a lateral branch and terminates at a water connection.

Watering station means a facility for supply potable water to RVers and campers.

Yurt means a portable structure for lodging especially designed for minimal environmental impact in difficult terrain.

(Ord. of 9-23-1999(3), § 5)

Cross reference—Definitions generally, § 1-3.

Sec. 78-86. Procedures for development of RV parks and campgrounds.

All RV parks and campgrounds, or expansions of sites of existing parks, developed after April 11, 1996, shall meet the following site plan requirements:

- (1) *Site plan approval required.* All RV park and campground developments shall require site plan approval by the planning commission in accordance with the procedures and requirements established in this article. Site plans required under this article shall contain the seal of a state registered engineer or surveyor. No permits shall be issued for any development until final approval is granted subject to all requirements.
- (2) *Submission of preliminary plan.* Prior to making any street improvements or installing any utilities, or other improvements, the developer shall submit five copies of a preliminary plan prepared in accordance with the provisions of this article to the planning commission a minimum of ten working days prior to the meeting date that the developer desires planning commission action. The preliminary plan shall include the following information:
 - a. The name, of proposed park and campground, and the name, address, and telephone number of the applicant.
 - b. The name, address, seal and signature of a registered surveyor or engineer certifying the accuracy of the plan.
 - c. Location map and legal description of the RV park and campground; north point (designated magnetic or true).
 - d. Complete plans to scale of one inch equals not more than 100 feet and specifications of the proposed park showing:
 1. The area and dimensions of the tract of land.
 2. The number, location, and dimensions of all sites.

3. The locations and width of streets, the location and size of drainage mechanisms proposed, including the size of each application drainage area.
 4. The location of service buildings and other proposed structures.
 5. The location of water and sewer lines and riser pipes.
 6. Plans and specifications of the water supply and refuse and sewage disposal facilities.
 7. Plans and specifications of all buildings constructed or to be constructed within the RV park and campground.
 8. The location of all street lights.
 9. The location of bulk refuse containers, perimeter walls, and park identification signs.
 10. The location, dimensions, and treatment of all required buffer or screening areas.
 11. A soil erosion and sedimentation plan meeting the requirements of chapter 70, article II, as may be subsequently amended.
 12. Identification of areas of special flood hazard.
 13. Written tentative approval for an on-site sewage management system by the board of health, after having submitted a preliminary plan to the board of health with all information required in this subsection, including soil types, soil charts, and contours in compliance with the soil erosion and sedimentation control provisions contained in chapter 70, article II, as may be subsequently amended.
- e. A brief description of the type of RV park or campground proposed, the type of RV or other camping units to be permitted and/or provided and the type of camper/RV targeted and/or permitted in the proposed park or campground.
- (3) *Approval/disapproval of preliminary plan.* The planning commission shall have 30 days from the date of preliminary plan submission to approve or disapprove the preliminary plan for the proposed RV park and campground. Failure of the planning commission to act within 45 days shall be deemed approval of such plan.
- (4) *Submission of final plan.*
- a. Approval of the preliminary plan by the planning commission shall authorize the developer to proceed with actual construction and development of the proposed RV park and campground. Upon completion of all required improvements, the developer shall submit the original and five copies of a final plan to the planning commission a minimum of ten working days prior to the meeting date that the developer desires planning commission action. The final plan shall be drawn on reproducible material to a scale one inch equals not more than 100 feet and shall include the following:
 1. Name of RV park and campground.

2. Name and address of owner.
 3. Scale, north arrow, and date.
 4. Location sketch map.
 5. Total number of acres in park.
 6. Sufficient data to determine readily on the ground the location, bearing, and length of every street line, boundary line, and lot lines, and location of each site and buildings.
 7. Final plan of sewage treatment system including location and size of sewer lines, septic tanks, drainfields, and points of discharge (if applicable).
 8. Final plan of storm sewer system with grade, pipe sizes, and location of outlets.
 9. Final plan of the water supply system including location and size of water lines, wells, storage tanks, and pumping stations, if any.
 10. Final plan of buffer areas and screening, if required.
 11. Final plan of the refuse collections system including size and location of dumpsters.
 12. Designation and data on any flood hazard areas in accordance with chapter 74, as may subsequently be amended.
- b. The final plan shall also include the following signed certifications:
1. Certification by a registered engineer or surveyor attesting to the accuracy of the plan.
 2. Certification of approval of the water supply and sewerage systems by the appropriate authority.
- c. The final plan shall be accompanied by a copy of the proposed rules and regulations for the operation of the proposed RV park or campground.
- (5) *Approval of final plan.* Within 30 days after submission of the final plan together with all required supporting data and certifications, the planning commission shall review and approve or disapprove the plan. Failure of the planning commission to act within 45 days shall be deemed approval of such plan.
- (6) *Development compliance.* At least 100 percent of each phase of all planned spaces, as well as all streets, utilities, and other required improvements necessary to serve them pursuant to these regulations must be completely constructed according to the RV park and campground plan approved by the planning commission before the first building permit will be issued. Failure of the developer or applicant to construct this minimum phase within two years after approval by the planning commission shall cause such approval to expire.

(Ord. of 9-23-1999(3), § 6)

Cross references—Community development, ch. 26; planning, ch. 42.

Sec. 78-87. Design and construction standards.

In addition to the following standards, all RV parks and campgrounds must comply with the applicable provisions of all state, federal and local laws including, but not limited to, chapters 66 and 74 and article II of chapter 70, of this Code, O.C.G.A. § 30-3-1 et seq., and Rules of Department of Human Resources Chapter 290-5-26 governing on-site sewage management systems, as may be subsequently amended.

(1) *General standards.*

- a. *Use of mobile homes / manufactured homes.* Mobile homes/manufactured homes shall not be permitted in any RV park or campground, except that a mobile home/manufactured home may be permitted for use as an office and/or residence of park/campground owner/manager/caretaker.
- b. *Continuous camping or occupancy.* Continuous camping or occupancy of a camping unit on a rental site with a RV park or campground shall be restricted to a maximum of 180 days. Such lots shall not be utilized as a permanent residence by the RV owner or any user thereof. Check in and check out within the succeeding 180 days, following the initial 180 days or any additional 180-day period thereafter, will not be allowed. Those parties desiring a longer stay shall, upon payment of the appropriate fee therefor, procure a special exception permit. Any special exception permit will only be effective for a maximum of one year.
- c. *Buildings and other structures.* Any building or other structure constructed within a RV park or campground must be permitted and constructed in accordance with chapter 66, as may be subsequently amended.
- d. *Density.* The average density shall not exceed 18 camping unit sites per acre.
- e. *Camping unit site access.*
 1. Each camping unit site shall be designed and constructed at such elevation, distance, and angle with respect to its access to provide for safe and efficient placement and removal of camping units and other vehicles.
 2. Each occupied RV unit site shall have a vehicular access. Any site designed for the exclusive use of a tent, teepee or yurt may be permitted to be accessible only by a walkway, but shall be located within 100 feet of parking areas.
 3. RV sites shall provide a sufficient parking space to accommodate an RV plus one passenger vehicle, unless parallel parking is provided along the road in accordance with subsection (1)g.1 of this section.
- f. *Camping unit separation.* Camping units shall not be located closer than 20 feet from any other camping unit or permanent building within or adjacent to the RV park or campground.

- g. *Roads and driveways.*
 - 1. Minimum widths of recreational vehicle parks or campground roads and driveways designed to accommodate all recreational vehicles shall be 15 feet for one way roads, 22 feet for double lane roads, and include eight feet per parallel parking lane when provided by operator.
 - 2. Roads and driveways shall be easily traversable and have a well-drained surface. They shall follow existing contours as much as possible and not exceed a 16 percent slope.
 - 3. Road and driveway curves designed for use by all types and sizes of recreational vehicles shall have a minimum internal radius of 25 feet.
 - 4. T-Turnarounds or equivalent shall be provided for all dead-end driveways over 100 feet in length. Those designed for use by recreational vehicles shall have a minimum internal radius of 25 feet.
 - h. *Site identification.* Each camping unit site shall be marked for identification. Such markers shall be easily readable from the driveways.
 - i. *Utility connection assembly.* When potable water supply connection, sewer inlet connection, electrical power, television connection and phone connection supply or discharge outlets are provided for a individual RV site they may be grouped together in one assembly under the following conditions:
 - 1. The assembly shall be located on the left rear half of the site (left side of recreational vehicle) within four feet of the stand. Recreational vehicles with slideouts shall maintain a minimum distance of two feet from the utility connection assembly to the slideout in its extended position.
 - 2. The assembly shall be capable of supporting the utilities as attached thereto and is designed for the purpose of providing such services to individual recreational vehicles.
 - j. *Swimming and bathing facilities.* If provided, such facilities shall be designed in accordance with the requirements of the authority having jurisdiction.
- (2) *Fire safety standards.* In addition to standards contained in the Standard Fire Prevention Code and the NFPA 501-D, the following standards shall apply to recreational vehicle parks and campgrounds.
- a. *Campfires.* Designated outdoor campfire locations, if provided, shall be in safe and convenient areas where they will not constitute fire hazards to vegetation, undergrowth, trees, and camping units.
 - b. *Refuse.* Areas under and around units shall be kept free from accumulation of refuse. A refuse disposal system shall be provided. Burning of refuse, when permitted, shall be done only in approved incinerators.
 - c. *Empty LP-gas containers.* Empty liquefied petroleum gas containers shall not be placed or stored under recreational vehicles. Container shall be stored in an area designated for such storage.

- d. *Filling LP-gas containers.* Filling of LP-gas containers shall conform with NFPA 58, The Liquefied Petroleum Gas Code, or be in conformance with guidelines established by the state safety fire commissioner.
 - e. *Building detection systems.* Fire detection and alarm systems installed in buildings open to the public shall be installed in accordance with NFPA 72A, Standards on Local Protective Signaling Systems. See also NFPA 71, Signaling Systems for Central Station Service; NFPA 72B, Auxiliary Protective Signaling Systems; NFPA 72C Remote Station Protective Signaling Systems; or NFPA 72D, Proprietary Protective Signaling Systems, for other suitable types of fire protection signaling systems.
 - f. *Fire extinguishers.* Portable fire extinguishers provided by the park operator shall be of the multipurpose dry chemical type or equal. Such extinguishers shall have a minimum rating of 2A:20B:C and shall be installed in accordance with NFPA 10, Standard for Portable Fire Extinguishers.
 - g. *Use of fire protection equipment.* The RV park and campground operator shall provide instruction for the park staff in the use of the fire protection equipment available and define their specific duties in the event of fire.
 - h. *Evacuation plan.* Each RV park and campground shall have a written evacuation plan approved by the authority having jurisdiction.
 - i. *Fire safety rules and regulations.* Fire safety rules and regulations shall be conspicuously posted by the operator. These regulations shall contain the following information and/or as required by the local fire department:
 - 1. The telephone number of the fire department.
 - 2. The location of the nearest emergency medical facility.
 - 3. The telephone number of the sheriff's office.
 - 4. The telephone number of the RV park or campground owner/manager.
 - 5. The location of the RV park or campground.
 - 6. The location of the nearest public telephone.
- (3) *Water supply standards.* In addition to the Standard Plumbing Code, including Appendix B, as adopted by the board of commissioners and as may be subsequently amended, the following standards shall apply to RV parks and campgrounds:
- a. *Potable water supply and distribution.*
 - 1. The supply or supplies of water shall comply with the requirements of the state department of human resources and the state department of natural resources.
 - 2. An RV park or campground located within 1,000 feet of an existing public water system is required to connect to such public water system.

3. Where the RV park or campground has its own water supply system, the components of the system shall be approved by the authority having jurisdiction.
 4. A potable watering station, if provided, for filling RV potable water tanks, shall be located at least 50 feet from a waste disposal station. When such is provided, adjacent to the potable water outlet, there shall be posted a sign of durable material, not less than two feet by two feet and inscribed thereon in clearly legible letters shall be: "POTABLE WATER. NOT TO BE USED FOR FLUSHING WASTE TANKS." or other similar warning.
 5. The potable water system shall be protected from backflow by means of a listed vacuum breaker located downstream from the last shutoff valve.
- b. *Minimum water supply.* The water supply system shall be designed and constructed in accordance with the following:
1. A minimum of 25 gallons per day per site for sites without individual water connections.
 2. A minimum of 50 gallons per day per site for sites with individual water connections.
 3. A minimum of 50 gallons per day per site if water flush closets are provided in restrooms.
- c. *Pressure and volume.* Where water is distributed under pressure, the water supply system shall be designed to provide a minimum flow pressure of 20 psi with a minimum flow of two gallons per minute at any outlet. The maximum pressure at any site shall not exceed 80 psi.
- d. *Water supplies for fire protection.* Water supplies for fire protection purposes shall meet the requirements of the authority having jurisdiction.
- e. *Outlets.* Water outlets shall be conveniently located and, when not piped to individual camping unit sites, shall not be located farther than 200 feet from any site. Provisions shall be made to prevent accumulations of standing water or the creation of muddy conditions at each water outlet.
- f. *Drinking fountains.* If provided, drinking fountains shall be in conformance with the Standard for Drinking Fountains and Self-Contained, Mechanically Refrigerated Drinking Water Coolers, ANSI/ARI 1010-1994.
- g. *Prohibited connections.* The potable water supply shall not be connected to any nonpotable or unapproved water supply.
- h. *Potable water connections at individual camping unit sites.* All wells, springs, and similar sources of water intended for potable purposes shall be properly constructed, located and protected to exclude surface contamination and to minimize the potential of contamination from sanitary hazards. Each potable water

connection shall consist of a water riser pipe that shall be equipped with a threshold male spigot, one-half inch minimum eight gpm backflow preventor, located at least 12 inches but not more than 24 inches above grade level.

- i. *Storage tanks.* Water storage tanks shall be constructed of impervious materials, protected against contamination, and provided with locked, watertight covers. Any overflow or ventilation openings shall be down facing and provided with corrosion resistant screening of not less than number 24 mesh to prevent the entrance of insects and vermin. Water storage tanks shall not have direct connections to sewers.
- (4) *Sanitary conveniences.* In addition to the Standard Plumbing Code, including Appendix B, as adopted by the board of commissioners and as may be subsequently amended, and the Rules of the Department of Human Resources Chapter 290-5-26 governing on-site sewage management systems, the following standards shall apply to RV parks and campgrounds. All sanitary conveniences shall be installed in accordance with standards of this article.
- a. *Sewage facilities approval.* Each sewage disposal system shall be approved by the health department. Stormwater sewers shall be separate and apart from any sewers intended for the conveyance of sewage.
 - b. *Pipe materials, sizes and installation.*
 1. Piping material and design layout for sewers shall be approved by the authority having jurisdiction. If such material and layout are not provided, the requirements of this article shall apply.
 2. The minimum diameters of sewer laterals, branches, and mains serving camping unit sites shall be in accordance with Table 1.
 3. When the sewage system is sized in accordance with Table 1, the minimum grade or slope of drainage pipe shall be not less than shown in Table 2.
 4. The sewer lines shall be located to prevent damage from vehicular traffic and frost heaving.
 5. All sewer line joints and sewer connections shall be watertight.
 6. Cleanouts shall be provided at the upper terminal of each sewer main or branch and at intervals not exceeding 50 feet along any straight run or portion thereof.
 7. Every change in alignment or grade in excess of 22 degrees shall be served by a cleanout except that a cleanout shall not be required for a single 45-degree bend or a single offset that comprises two 45-degree bends.
 8. Manholes may be used in lieu of cleanouts and shall not be spaced more than 400 feet apart.
 9. Horizontal-to-horizontal changes in direction shall be made with 45-degree "Y" branches, combination "Y" and 1/8 bend branches, or other approved fittings of equivalent sweep.

10. Materials used must comply with the Standard Plumbing Static Water Test.
11. Each main sewer line must be vented (four feet).
12. Sewer inlets must be four inches and trapped.
13. Service laterals longer than 30 feet must be vented.

TABLE 1

<i>Maximum Number of Camping Unit Sites Served</i>	<i>Maximum Pipe Sizes Inches (ID) Nominal</i>
Up to 36	4
71	5
400	6

TABLE 2

Minimum Grade or Slope of Drainage Pipe Slope per 100 Feet

<i>Inches</i>	<i>Inches</i>	<i>Millimeters</i>
4	15	381
5	11	279
6	8	203

- c. *Sewer inlet connections at individual recreational vehicle unit sites.*
1. All sites designed for RV's to which connection will be provided between the RV water supply system and the RV park or campground water supply system must provide a sewer inlet for connection to the individual RV sewage and gray water drainage system.
 2. When provided, the sewer connections for individual recreational vehicle unit sites shall be located so as to minimize damage by the parking of recreational vehicle or automobiles.
 3. The connection shall consist of a sewer riser extending vertically to grade. The minimum diameter of the sewer riser pipe shall be four inches and it shall be provided with a four-inch inlet or a minimum four-inch female fitting.
 4. The sewer riser pipe shall be firmly embedded in the ground and be protected against damage from heaving or shifting and the entrance of surface water. It shall be provided with a light fitting plug or cap that shall be secured by a durable chain (or equivalent) to prevent loss.
 5. The sewer riser pipe shall not be required to be individually vented, regardless of the use of traps at each inlet.

6. A drain connector shall be sealed and fit to the camping stand inlet connector.
- d. *RV sanitary disposal stations.*
1. One recreational vehicle sanitary disposal station shall be provided for each 100 recreational vehicle sites, or parts thereof, that are not equipped with individual sewer connections.
 2. Each station, where provided, shall be convenient to access from the service driveway, and shall provide easy ingress and egress for recreational vehicles.
 3. Unless other approved means are used, each station shall have a concrete slab with a center drain inlet located so as to be on the driveway (left) side of the recreational vehicle.
 4. The slab shall be not less than three feet by three at least 3½-inch thick and properly reinforced, the surface of which is troweled to a smooth finish and sloped from each side inward to a sewer inlet.
 5. The sewer inlet shall consist of a four inch self-closing, foot-operated hatch of approved material with a tightfitting cover. The hatch body shall be set in the concrete of the slab with the up of the opening flush with its surface to facilitate the cleansing of the slab with water. The hatch shall be properly connected to a sewer inlet, which shall discharge to an approved sanitary sewage disposal facility constructed in accordance with ANSI AI 19.4 Section 4-8.1, or the International Private Sewage Disposal Code, ANSI ICC IPSDC-2000.
- e. *Holding tank flushing facilities.*
1. Where holding tank flushing facilities are provided by the operator, the following standards shall apply.
 2. Holding tank flushing facilities shall consist of a piped supply of water under pressure, terminating in a valved outlet located and installed to minimize damage by automobiles or recreational vehicles. The flushing device shall consist of a properly supported riser terminating at least two feet above the ground surface with a three-quarter-inch valved outlet to which is attached a flexible hose.
 3. The water supply to the flushing device shall be protected from backflow by means of a listed vacuum breaker located downstream from the last shutoff valve.
 4. Adjacent to the flushing arrangement there shall be posted a sign of durable material, not less than two feet by two feet in size, and inscribed thereon in clearly legible letters shall be: "DANGER — NOT TO BE USED FOR DRINKING OR DOMESTIC PURPOSES" or similar warning.

- f. *Gray water.* Adequate provisions shall be made for the disposal of dish water and other gray water into the park's sewage system or into facilities approved by the health department and planning commission.
- g. *Sanitary facilities.*
1. Toilets shall be provided at one or more locations in every RV park and campground in accordance with Appendix B of the Standard Plumbing Code.
 2. Toilet facilities shall have convenience of access and shall be located within 200 feet from any camping units not provided with an individual sewer connection.
 3. Each female toilet room shall be provided with a receptacle for sanitary napkins. The receptacle shall be of durable, nonpervious, and ready to clean material and shall be provided with a lid.
 4. All bathroom facilities shall comply with the Americans with Disabilities Act, specifically O.C.G.A. title 30, chapter 3.
 5. Each toilet shall be in a separate compartment and shall be provided with a latch for privacy and holder or dispenser for toilet paper. Dividing walls or partitions shall be at least five feet high and if separated from the floor, shall be by a space not greater than 12 inches.
 6. Every toilet building shall have a minimum ceiling height of seven feet.
 7. Facilities for males and for females shall be appropriately marked.
 8. Unless artificial light is provided, the total window or skylight area shall be equal to at least ten percent of the floor area.
 9. Unless provided with listed nonclosable ventilation system, every toilet room shall have permanent, nonclosable, screened opening having a total area not less than five percent of the floor area opening directly to the exterior in order to provide proper ventilation.
 10. All openable windows and vents to the outside shall be provided with flyproof screens of not less than number 16 mesh.
 11. All doors to the exterior shall open outward, be self-closing, and shall be visually screened by means of a vestibule or wall to prevent direct view of the interior when the exterior doors are open. Such screening shall not be required on single toilet units.
 12. The interior finish of walls shall be moisture resistant to a height of four feet to facilitate washing and cleaning.
 13. The floors shall be constructed of material impervious to water and shall be easy to clean. Any toilet building having flush toilets shall be provided with a floor drain in the toilet room. This drain shall be provided with means to protect the trap seal as required by this article.

- h. *Showers.* Showers shall be of the individual type, and each shower area shall be visually screened from view. All shower compartments, regardless of shape, shall have a minimum finished interior of 1,024 square inches (0.66 m²) and shall also be capable of encompassing a 30 inches (762 mm) circle. The minimum required area and dimensions shall be measured at a height equal to the top of the threshold and at a point tangent to its centerline. The minimum area and dimension shall be maintained to a point 70 inches (1778 mm) above the shower drain outlet with no protrusions other than the fixture valve or valves, shower head, and safety grab bars or rails. Each shower area shall be designed to minimize the flow of water in to the dressing area and shall be properly connected to the sewage system by means of a trapped inlet.
1. If showers are provided, and individual dressing area, visually screened from view, shall also be provided with minimum floor area of 36 inches by 36 inches (0.9 mm by 0.9 mm) per shower, and such dressing areas shall be equipped with a minimum of one clothing hook and stool (or equivalent bench area).
 2. The floor of showers and dressing areas shall have an impervious skid-resistant surface.
 3. Open showers provided exclusively for the removal of sand, etc., following beach activities need not comply with the provisions of this subsection.

(5) *Refuse disposal standards.*

- a. Each RV park or campground shall be provided with a sanitary method of solid waste collection and disposal. Collection facilities shall be either in the form of bulk containers (dumpsters) of sufficient size and adequately distributed throughout the park to meet the needs of the park residents. Bulk containers shall either be screened or sited so as to remain hidden from the public right-of-way enclosed with a minimum four-foot high chainlink fence, and placed upon a concrete pad, extending at least 18 inches around each container perimeter. If individual containers are utilized, stands must be provided to hold the refuse containers upright. Collection services shall be provided at least once weekly and conveyed to the nearest approved salutary landfill. Refuse areas shall be maintained in a clean, sanitary manner so as not to attract, harbor, or breed insects, rodents or any manner of vermin or pest. Refuse areas shall be located a minimum of 50 feet away from any public right-of-way.
- b. Care shall be taken to maintain the park area free of dry brush, leaves, and weeds which might spread fires between camping units and service or recreation buildings in the RV park or campground.

(6) *Electrical.*

- a. All sites designed for RV's shall provide electrical connections in accordance with the National Electrical Code, as adopted by the board of commissioners.

- b. All service buildings and other facilities shall be built in accordance with the National Electrical Code.
- c. The recreational vehicle park shall be adequately lighted with outdoor lighting facilities located no more than every 150 feet along interior access roads. The first light shall be within 100 feet from the entrance to the recreational vehicle park.

(Ord. of 9-23-1999(3), § 7)

Sec. 78-88. RV parks and campgrounds operation.

(a) *Rules/policies.* Any operator of a RV park or campground may establish reasonable rules and regulations for the management of the establishment and its guests and employees and each guest or employee staying or employed in the establishment shall conform to and abide by such rules and regulations so long as the guest shall remain in or at the RV park or campground. Such rules and regulations shall control the liabilities, responsibilities, and obligations of all parties. These rules or regulations established pursuant to this section shall be printed in a readable form to allow reasonable communications with the guest and shall be available in the office to RVers and campers.

(b) *Fees.* In each RV park or campground there shall be made available to RVers or campers in the registration area the rates at which each site is rented. This rate sheet shall show the amount charged for occupancy, the amount charged for extra conveniences and people, more complete accommodations, or additional furnishings, and the dates during the year when such charges prevail.

(c) *Evictions.* The operator of any RV park or campground may remove or cause to be removed from such facility in the manner provided by law, any guest of the RV park or campground who, while on the promises of the establishment, disturbs the peace and comfort of other persons, who cause harm to the physical establishment, fails to follow rules, policies or regulations or who fails to make payment of rent.

(d) *Registration of RV park or campground guests.* It is the duty of each operator of a RV park or campground to maintain at all times registration receipts, signed by or for guests within the establishment, showing the dates upon which the sites were occupied by such guests and the rates charged for their occupancy. These registration receipts shall be available for inspection by the local jurisdiction during any regular business hours of the facility. The owner shall not be required to retain receipts for the purpose of this article which are more than two years old.

(Ord. of 9-23-1999(3), § 8)

Sec. 78-89. Administration and enforcement.

(a) *Agency with authority to enforce.* The planning commission, or its designated representative, shall be responsible for compliance with the standards adopted as part of this article.

(b) *Violations.* In cases where a violation of this article has been found by the planning commission, or its designated representative, he shall notify the owner of the property on which such violation is found by certified mail sent to the address of the owner of the RV park or campground. In the case no valid mailing address can be obtained, or if the certified mail is returned to the planning commission, or its designated representative, the notice of violation may be hand delivered to the person deemed responsible for such violation. The notice of violations shall clearly state the nature of the violation, including specific provisions of this article which have not been complied with, and the date upon which such violation will be remedied. Such date will be determined by the planning commission, or its designated representative, based on the nature and extent of the violation, but in no case shall exceed 30 days from the date the certified mail was received. In cases where the notice of violation is hand delivered, the date upon which such violation will be remedied shall not exceed 30 days from the date of delivery.

(c) *Issuance of stop work orders.* The planning commission, or its designated representative, is authorized to issue stop work orders in any instance where a violation of this article is found. The procedure for issuance of stop work orders shall be the same as the notification procedure for violations as specified in subsection (b) of this section.

(d) *Procedure for noncompliance.* In cases where a violation has occurred, and the violator has not remedied the violation within the specified time period, or in cases where stop work orders have not been fully complied with, the sheriff's department, upon written notification from the planning commission, or its designated representative, of such violation or noncompliance, shall issue a citation requiring appearance in the county magistrate court and, upon conviction, shall be punished as provided in section 1-9. This section is adopted pursuant to the provisions of O.C.G.A. § 36-1-20(a), (b), (c) and (d). The citation shall include any and all violations found by the planning commission, or its designated representative.

(e) *Appeals and variances.*

(1) *Decision of the planning commission.* Any party aggrieved by any decision of the planning commission is entitled to a hearing before the board of commissioners within 30 days after receipt by the planning commission of a written notice of appeal.

(2) *Judicial appeals.* Any party aggrieved by any decision or order of the building inspector and/or planning commission, after exhausting his administrative remedies, shall have the right to appeal de novo to the superior court of the county.

(Ord. of 9-23-1999(3), § 9)

Cross reference—Administration, ch. 2.

Sec. 78-90. Conflict with other ordinances; effect of partial invalidity.

(a) In any case where a provision of this article is found to be in conflict with a provision of any other ordinance or code of the county existing on the effective date of the ordinance from which this article is derived, the provision which in the judgment of the board of commissioners establishes the higher standard for the promotion and protection of the health and safety

of the people shall be deemed to prevail, and such other ordinances which establishes a lower standard for the promotion and protection of the health and safety of the people are hereby declared to be repealed to the extent that they may be found in conflict with this article.

(b) If any section, subsection, paragraph, sentence, clause, or phrase of this article shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this article which shall remain in full force and effect. To this end the provisions of this article are hereby declared to be severable.

(Ord. of 9-23-1999(3), § 10)

Sec. 78-91. Amendments.

Any section, subsection, or provision of this article proposed for amending shall be published as provided by law for the publication of ordinances. Before adoption, a public hearing, as described by law, shall be held on such amendment. Any amendment must be duly adopted by the board of commissioners as prescribed by law.

(Ord. of 9-23-1999(3), § 11)

Chapters 79—81

RESERVED

Chapter 82

SUBDIVISIONS*

Article I. In General

- Sec. 82-1. Compliance with chapter.
Secs. 82-2—82-30. Reserved.

Article II. Process for Plat Approval

- Sec. 82-31. Approval steps.
Sec. 82-32. Reserved.
Sec. 82-33. Subdivisions which must comply with plat approval process.
Secs. 82-34—82-60. Reserved.

Article III. Preliminary Plat Standards and Review Process

- Sec. 82-61. Purpose.
Sec. 82-62. Information required on preliminary plat or accompanying the preliminary plat.
Sec. 82-63. Preliminary plat review process.
Sec. 82-64. Preliminary plat certificates.
Secs. 82-65—82-90. Reserved.

Article IV. Final Plat Standards and Review Process

- Sec. 82-91. Purpose.
Sec. 82-92. Information required on final plat or accompanying final plat.
Sec. 82-92.1. Minor subdivision plat requirements.
Sec. 82-93. Final plat review process.
Sec. 82-94. Final plat certificates.
Secs. 82-95—82-120. Reserved.

Article V. General Principles of Design

- Sec. 82-121. Reserved.
Sec. 82-122. Conformance to other rules and regulations.
Sec. 82-123. Restrictive covenants.
Sec. 82-124. Name of subdivision.
Secs. 82-125, 82-126. Reserved.
Sec. 82-127. City limits and lot lines.

***Cross references**—Any ordinance dedicating or accepting any plat or subdivision in the county saved from repeal, § 1-10(10); community development, ch. 26; planning, ch. 42; utilities, ch. 54; land development ordinance general provisions, ch. 58; buildings and building regulations, ch. 66; environment, ch. 70; floods, ch. 74; manufactured homes and trailers, ch. 78; waterways, ch. 86.

State law references—Entry of approval of subdivision plat prior to recording, O.C.G.A. § 32-6-150 et seq.; Georgia Land Sales Act, O.C.G.A. § 44-3-1 et seq.

GILMER COUNTY CODE

- Secs. 82-128—82-132. Reserved.
- Sec. 82-133. Panhandle or flag lots.
- Sec. 82-134. Greenspace developments.
- Sec. 82-135. Street access.
- Sec. 82-136. Easements.
- Sec. 82-137. Monuments and lot pins.
- Secs. 82-138—82-170. Reserved.

Article VI. Streets

- Sec. 82-171. Reserved.
- Sec. 82-172. Continuation of existing street pattern.
- Sec. 82-173. Culs-de-sac and turnarounds.
- Sec. 82-174. Access to arterials and collectors.
- Sec. 82-175. Arrangement of continuing and dead-end streets.
- Sec. 82-176. Intersections.
- Sec. 82-177. Cut and fill slopes.
- Sec. 82-178. Additional width on existing streets.
- Sec. 82-179. Street names.
- Sec. 82-180. Reserved.
- Sec. 82-181. Bridges.
- Sec. 82-182. Half streets.
- Sec. 82-183. Split level streets.
- Sec. 82-184. Security gates.
- Sec. 82-185. Geometric design standards for streets and entrances to county or public roads including deceleration lane.
- Sec. 82-186. Ownership of road right-of-way.
- Sec. 82-187. Drainage.
- Sec. 82-188. Stabilizing the right-of-way.
- Sec. 82-189. Signs.
- Sec. 82-190. Street classification.
- Sec. 82-191. Permit for roadwork.
- Secs. 82-192, 82-193. Reserved.
- Sec. 82-194. Language required in private road maintenance agreements.
- Sec. 82-195. Language required on plats of developments/subdivisions served by private roads.
- Secs. 82-196—82-199. Reserved.
- Sec. 82-200. Liability for damages and additional penalties.
- Sec. 82-201. Reserved.
- Sec. 82-202. Inspections.
- Secs. 82-203—82-230. Reserved.

Article VII. Reserved

- Secs. 82-231—82-260. Reserved.

Article VIII. Maintenance Security

- Sec. 82-261. Security required.
- Secs. 82-262—82-290. Reserved.

SUBDIVISIONS

Article IX. Performance Security

- Sec. 82-291. Purpose.
- Sec. 82-292. Letter of credit requirements.
- Sec. 82-293. Time limits.
- Sec. 82-294. Release of guarantee.
- Secs. 82-295—82-320. Reserved.

Article X. Variances

- Sec. 82-321. Authorized.
- Secs. 82-322—82-350. Reserved.

Article XI. Reserved

- Sec. 82-351. Reserved.

ARTICLE I. IN GENERAL**Sec. 82-1. Compliance with chapter.**

(a) Unless exempted by law, all subdivisions of land or development of land in the county shall comply with the provisions of this chapter. Any plat that is recorded by exemption in [O.C.G.A. §] 15-6-67 is not considered to be a legal subdivision and will not be eligible for permits unless fully compliant with the requirements of this Code.

(b) All plats submitted for approval and recording shall include an agricultural acknowledgement as set forth in section 62-130 and the parcel(s) number of the property being submitted, and a chart or statement of the property's proximity to mountain protection district, wetlands protection district, Cartecay River Watershed Protection District, Ellijay River Watershed Protection District, Coosawattee Watershed Protection District and Coosawattee River Corridor.

(Ord. of 3-27-2003(5), ch. III, art. I; Res. No. 06-47, 3-8-2006; Res. No. 10-006, 1-28-2010)

Secs. 82-2—82-30. Reserved.**ARTICLE II. PROCESS FOR PLAT APPROVAL****Sec. 82-31. Approval steps.**

The plat approval process is a three-step process. The process is designed to provide a logical sequence of reviews and events in the subdivision development process. The plat approval process is as follows:

Major subdivision

- (1) *Preliminary plat and design plans.* The process begins with the preparation of a preliminary plat and, if appropriate, supporting design plans of the proposed development by a surveyor and/or a qualified design professional, duly licensed in Georgia. The preliminary plat and design plans shall contain the information outlined in section 82-62 and be reviewed and approved as outlined in section 82-63. A county application form shall accompany the preliminary plat and design plans when submitted.
- (2) *Construction of improvements.* The second step in the subdivision process shall be the construction of the necessary improvements to the subdivision (i.e., streets, lot corner stakes, monuments, drainage and water system, if applicable). The improvements shall closely approximate the plan approved on the preliminary plat.

Note: No lot shall be conveyed in any subdivision until such time as the final plat has been recorded.

The developer may choose to exercise the provisions of article IX of this chapter in the second step of the review process.

- (3) *Final plat.* Upon the completion of the necessary improvements, or following the provisions contained in article IX of this chapter, the developer shall provide a final plat which will serve as an as-built drawing for the subdivision. The final plat shall contain the information outlined in section 82-92 and be reviewed and approved as outlined in section 82-93. Upon obtaining approval of the final plat, the developer shall be authorized to record the plat in the county office of the clerk of superior court. A county application form shall accompany the final plat when submitted.

(Ord. of 3-27-2003(5), § 3.100; Res. No. 06-47, 3-8-2006)

Sec. 82-32. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-32, which pertained to subdivisions exempt from the platting process and derived from Ord. of Mar. 27, 2003(5), § 3.101.

Sec. 82-33. Subdivisions which must comply with plat approval process.

All subdivisions of land shall comply with the platting approval process as outlined in this chapter and O.C.G.A. § 15-6-67 and section 82-1.

(Ord. of 3-27-2003(5), § 3.102; Res. No. 06-47, 3-8-2006; Res. No. 10-006, 1-28-2010)

Secs. 82-34—82-60. Reserved.

ARTICLE III. PRELIMINARY PLAT STANDARDS AND REVIEW PROCESS

Sec. 82-61. Purpose.

The purpose of the preliminary plat is to provide the development officer, the health department and other reviewing parties an opportunity to review the proposed subdivision for compliance with design standards, utility easements, flood hazard potential, adequacy of the lot size for septic tank use, soil erosion control measures and the adequacy of a potable water supply. Such review and approval shall in no way be limited to only those issues identified in this section or relieve the developer from compliance with the requirements of this chapter or of other ordinances, laws, rules and regulations.

(Ord. of 3-27-2003(5), ch. III, art. II; Res. No. 06-47, 3-8-2006)

Sec. 82-62. Information required on preliminary plat or accompanying the preliminary plat.

The following information is required for preliminary plat review:

- (1) A completed preliminary plat application.
- (2) The proposed layout of lots and streets shall be shown on a drawing at a scale of not less than one inch equals 200 feet.

- (3) The drawing shall contain a graphic scale, north arrow, date, acreage to be subdivided, tax map and parcel number, land use district and the owner/developer's name, address, and 24-hour telephone number.
- (4) A location sketch map shall be provided which shows the location of the site in relation to existing public roads, streams, power transmission lines, etc.
- (5) Topography shall be shown at vertical intervals of not more than five feet. The drawing shall indicate how or from what source topography was determined. Topography shall be site specific (not from U.S.G.S. "Quad" Maps) and either developed from a field survey or by photogrammetric methods.
- (6) The names and land use district of adjoining property owners shall be shown in relation to the proposed development.
- (7) The plat shall contain the proposed name of the development and street names and a statement as to whether the streets are proposed to be dedicated to Gilmer County or to be privately maintained. If streets are to be privately maintained, preliminary plat shall also include private road construction acknowledgement. If streets are to be dedicated to Gilmer County, developer must insure full compliance with section 82-186.
- (8) All buffers, setbacks, and reserve strips shall be graphically shown and shall demonstrate minimum lot width at the building site.
- (9) All right-of-way widths shall be shown, along with street width and surface types.
- (10) The proposed vertical and horizontal alignment of streets shall be shown including centerline curve data. The vertical profile must be designed from field ran or photogrammetric data. U.S.G.S. Quad Map Topography shall not be acceptable. The source of information shall be stated.
- (11) A detailed plan of the developer's proposal of how to enter the county or public right-of-way shall be furnished. The plan may be a separate sheet or a detail but must contain the data required by section 82-186 [82-185]. Where entrances occur on state routes, the developer must obtain and submit an entrance permit from the state department of transportation.
- (12) Soil classification data and soil scientist report related to sewage systems (if required by health department).
- (13) A permanent fixed benchmark on-site shall be shown, from which the vertical design is referenced. Assumed datum is allowable unless a 100-year floodplain is within or adjacent to the site in which case the established floodplain elevation shall be identified, noted, and used. Datum for 100-year floodplains shall be mean sea level. To distinguish the on-site benchmark from permanent monuments set by U.S.G.S., T.V.A., G.D.O.T., N.G.S., etc., the acronym "TBM" (for Temporary Bench Mark) is allowed.

- (14) Permits and variances, if any, (such as FEMA, DNR, DHR, etc.) documentation indicating compliance with the National Pollutant Discharge Elimination System (NPDES permit) and U.S. Army Corps of Engineers Regulations.
 - (15) If the subdivision is to use a Georgia Department of Natural Resources permitted water system, documentation to that effect must be provided and shall be stated on the preliminary plat. If the subdivision is to use public water supply, documentation must be provided demonstrating that the public water supply agency agrees to supply water to the subdivision and same shall be stated on the preliminary plat.
 - (16) Lot sizes and dimensions (to nearest foot).
 - (17) Indicate the boundary of any flood hazard areas and the base flood elevations. Provide flood study prepared by a Georgia licensed professional engineer if data is not available from a Federal Emergency Management Agency published study. If the site is not located in an identified flood hazard area, provide a statement to that effect. State the applicable flood insurance rate map (F.I.R.M) panel and date.
 - (18) Sediment, erosion and pollution control plan.
 - (19) Hydrology data and design of surface drainage and drainage structures. All storm drainage design must be for the 25-year storm unless crossing a stream with a mapped or studied floodplain, which crossing must be designed for the 100-year storm. The increase in runoff from the development shall be addressed and engineering design for managing the runoff shall be provided.
 - (20) Certificates required in section 82-64.
 - (21) As applicable, seal of the surveyor and/or engineer.
 - (22) The minimum lot size, water source, and sewerage source.
 - (23) Temporary cul-de-sac and phase lines.
 - (24) Typical roadway sections for all proposed roads.
 - (25) Other data necessary to complete the review required by this chapter by reviewing authorities required by this chapter.
 - (26) All documents which will be required with the final plat shall be provided, in draft form, with the preliminary plat submittal. This may include property owners associations, private road maintenance agreements, covenants and restrictions.
- (Ord. of 3-27-2003(5), § 3.200; Res. No. 06-47, 3-8-2006; Res. No. 06-190, §§ c—f, 11-9-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-63. Preliminary plat review process.

(a) The developer shall submit ten copies of the preliminary plan, erosion control plan, hydrology data, permit (e.g. FEMA, DNR, DHR, etc.) to the county development office. The developer shall distribute copies to any applicable utility provider and shall coordinate such utility services with said provider(s). The zoning administrator shall distribute the copies to the:

- (1) County health department;
- (2) County commissioner's office;
- (3) County road department;
- (4) Limestone Valley Soil Conservation Service;
- (5) Planning staff;
- (6) Others as appropriate.

(b) The preliminary plat review process shall be undertaken as expediently as possible and shall be determined by planning commission policy. The zoning administrator shall review and take action on the final plat according to procedures established by the planning commission.

(c) The preliminary plat approval shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the preliminary plat approval shall be null and void. Approved copies shall be provided to all departments listed in subsection (a) of this section.

(Ord. of 3-27-2003(5), § 3.201; Res. No. 06-47, 3-8-2006)

Sec. 82-64. Preliminary plat certificates.

The following certificates shall be placed on the preliminary plat, or a cover sheet to the preliminary plat, and be signed by the appropriate authorities prior to submission of the preliminary plat to the planning commission for approval. The developer is responsible for obtaining the required signatures.

Preliminary Design Certificate

I certify that this preliminary plat(s) correctly represents data compiled or verified through a survey completed by a registered land surveyor. I further certify that the design of the proposed streets (including geometric design), lots and other improvements comply with the minimum design standards of the Gilmer County Land Development Ordinance. Additionally, I certify that all requirements of the County's Flood Damage Prevention Ordinance with respect to the preliminary plat(s) has been complied with.

/s/ _____
Signature:

Date: _____

* Land Surveyor License Number: _____ Seal:

Stormwater Design Certificate

I certify that the stormwater conveyance structures designed herein are designed in accordance with the Gilmer County Land Development Ordinance and with sound Hydrology and Hydraulic principles.

Date: _____

Name: _____

Registered Civil Engineer or Land Surveyor License Number: _____ Seal:

Tentative Approval for Private Subsurface Sewage Disposal

The lots proposed hereon are generally suitable for subsurface sewage disposal with the listed or attached restrictions.

This certificate does not constitute final approval of the sewage disposal system for this subdivision.

Date: _____

Gilmer County Health Department Representative:

Soil Erosion and Sedimentation Control Plan

I have reviewed a soil erosion and sedimentation control plan for the noted subdivision and have found the plan to meet the design requirements of the State of Georgia and the Gilmer County Soil Erosion and Sedimentation Control Standards. This certificate is for plan approval only and does not certify proper implementation.

Date: _____

Natural Resources Conservation Service Representative:

Street Name(s) Approval

The proposed street name(s) do not appear to conflict with any existing street name(s) in the county.

Date: _____

911 Representative: _____

Preliminary Plat Approval

This preliminary plat has been reviewed by the Gilmer County Planning Office and is hereby approved under the provisions of the Gilmer County Land Development Ordinance. The proposed development is consistent with the land use district in which it is located.

Date: _____

Gilmer County Zoning Administrator:

Developers Certificate

This is to certify that the undersigned has delivered copies of these plans to all applicable utility providers that may be associated with the project. It is further agreed that the undersigned will comply with all requirements of the Code of Gilmer County.

Date: _____

Developer:

Private Road Construction Acknowledgement

This is to certify that the roads or streets within this proposed development will be constructed according to standards set forth in sections 82-177, 82-187, and 82-190. It will be the responsibility of the developer to provide photographs of each section of the road as it was constructed, especially topsoil removal, culvert placement, and building of fill slopes, along with detailed weekly construction reports (may use the same as required of the primary or secondary permittee under NPDES requirements). It is also acknowledged that the road construction contractor will be required to sign a Private Road Construction Certificate on the final plat which will further attest to the construction of the roads or streets.

Developer Date

(Ord. of 3-27-2003(5), § 3.202; Res. No. 06-47, 3-8-2006; Res. No. 10-006, 1-28-2010)

Secs. 82-65—82-90. Reserved.

ARTICLE IV. FINAL PLAT STANDARDS AND REVIEW PROCESS**Sec. 82-91. Purpose.**

The purpose of the final plat is to provide an as-built drawing which accurately reflects the size and layout of lots, streets, setbacks, water system, easements, and other important information which is necessary for the public record. The following requirements also apply to minor subdivision plats.

(Ord. of 3-27-2003(5), ch. III, art. III; Res. No. 06-47, 3-8-2006)

Sec. 82-92. Information required on final plat or accompanying final plat.

The final plat shall conform to O.C.G.A. § 15-6-67 and the following:

- (1) A completed final plat application.
- (2) The final plat shall be drawn in permanent ink on reproducible material at a scale of not less than one inch equals 200 feet. The sheet size shall not exceed 17 inches by 22 inches. If more than one sheet is necessary to show the area the sheets shall be edge matched.
- (3) The plat shall contain sufficient engineering data to enable a surveyor to duplicate the plat on the ground.
- (4) The plat and related documents shall show:
 - a. Name of subdivision;
 - b. Name, address, and telephone number of developer (and property owner if different);
 - c. Location map;
 - d. Graphic scale, north arrow, date;
 - e. Total number of acres being subdivided; minimum lot size, water source, and sewerage source;
 - f. Location and description of monuments; and lot delineations such as iron pins;
 - g. The tax map, parcel number and land use district of the parcel being subdivided, and the names and zoning classifications of all adjacent tracts;
 - h. Names of streets and designation as to whether they are to be dedicated to Gilmer County or to be privately maintained. If privately maintained, final plat must include an executed private road construction certificate;
 - i. Total length of streets in the subdivision by street class;
 - j. All buffers, setbacks, and reserve strips shall be graphically shown and shall demonstrate minimum lot width at the building site;
 - k. State sources of base flood elevations. Graphically show 100-year floodplain. If the subdivision is not located in a flood hazard area, a note to that effect shall be provided. The panel number and date of the FEMA issued flood insurance rate map shall be provided;
 - l. If the new roads within the subdivision are to be privately maintained, the language within section 82-195 shall be placed on each sheet of the final plat;
 - m. Certifications in section 82-94 which are applicable;
 - n. As applicable, the seal of the surveyor and/or engineer with signature;
 - o. Recordable copy of restrictive covenants and declarations;

- p. State "this property is subject to all buffers as required in this code and state and federal law";
 - q. If the development is to have a property owners association, provide a certified copy of record from the secretary of state's office establishing the property owners' association or certificate of good standing for the association;
 - r. If the roads are to be privately maintained, provide a recordable copy of the private road maintenance agreement. Each private road maintenance agreement must contain the language specified in section 82-194;
 - s. Deed for all rights-of-way dedicated to and accepted by the board of commissioners and all other necessary bonds and documents;
 - t. Other data necessary to complete the review required by this chapter by reviewing authorities;
 - u. Agriculture notice as required in section 62-130.
- (Ord. of 3-27-2003(5), § 3.300; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § g, 11-9-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-92.1. Minor subdivision plat requirements.

(See the Gilmer County Land Use Ordinance for the Definition.)

- (1) A completed final plat application;
- (2) The final plat shall be drawn in permanent ink on reproducible material at a scale of not less than one inch equals 200 feet. The sheet size shall not exceed 17 inches by 22 inches. If more than one sheet is necessary to show the area the sheets shall be edge matched;
- (3) For purposes of a minor subdivision, an existing road must meet the requirements of the class of roads of this code or shall have been previously platted as a road. Old logging trails or periodically used accesses to property shall not meet the definition of an existing road;
- (4) The plat shall contain sufficient engineering data to enable a surveyor to duplicate the plat on the ground and shall show the following:
 - a. Name of subdivision (may also be owner's name);
 - b. Name, address, and telephone number of developer (and property owner if different);
 - c. Location map;
 - d. Graphic scale, north arrow, date;
 - e. Total number of acres being subdivided; minimum lot size, water source, and sewerage source;
 - f. Location and description of monuments; and lot delineations such as iron pins;

- g. The tax map, parcel number and land use district of the parcel being subdivided, and the names and zoning classifications of all adjacent tracts;
 - h. Names of all streets and designations as to whether they are county maintained or privately maintained, also state surface width and type and right-of-way (or easement) width. Provide adequate private road maintenance documentation to be recorded with the plat:
 - j. Graphically indicate all building setback lines, buffers, and reservation of easements and reserve strips;
 - k. State sources of base flood elevations. Graphically show 100-year floodplain. If the subdivision is not located in a flood hazard area, a note to that effect shall be provided. The panel number and date of the FEMA issued flood insurance rate map shall be provided;
 - l. The following certificates from section 82-94:
 1. Developers certificate.
 2. Final surveyor's certificate.
 3. Subsurface sewage disposal certificate.
 4. Tax assessor.
 5. Development office approval.
 6. Sections 82-194 and 82-195.
 - m. Unless each lot will be served by an individual well, the applicable public or private water system certificate;
 - n. Disclosure notes as required by this chapter, in regards to privately maintained roads and proximity to agricultural tracts;
 - o. Agriculture notice as required in section 62-130.
- (Res. No. 06-47, 3-8-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-93. Final plat review process.

The developer shall submit ten copies of the final plat to the development office. The zoning administrator shall distribute the copies as appropriate. Except for review by the county attorney, it shall be the responsibility of the developer to obtain the appropriate signatures on the applicable certificates. The zoning administrator shall review and take action on the final plat according to procedures established by the planning commission.

(Ord. of 3-27-2003(5), § 3.301; Res. No. 06-47, 3-8-2006)

Sec. 82-94. Final plat certificates.

(a) The following applicable certificates shall be placed on the final plat, or a cover sheet to the final plat, and be signed by the appropriate authorities prior to submission of the final plat to the planning commission.

Developers Certificate

I certify that all requirements of the Gilmer County Land Development Ordinance and applicable state and federal rules, regulations and laws have been complied with and that no lot(s) have been conveyed in said subdivision.

Date: _____

Developer: _____

Address: _____

Sworn to and subscribed before me this _____ day of _____, _____

Notary Public

My commission expires:

Final Surveyor's Certificate

I certify that this plat(s) is true and correct and contains sufficient surveying information to permit the plat to be duplicated on the ground. All monuments and lot pins shown hereon actually exist and their location, size and type are correctly shown. I further certify that all requirements of the Gilmer County Land Development Ordinance have been complied with.

Date: _____

Registered Land Surveyor License Number: _____ Seal:

Name, address and telephone number:

Sworn to and subscribed before me this _____ day of _____, _____

Notary Public (Seal)

My Commission Expires:

Certificate of Private Water System

The drinking water supply for this development is a private system permitted by the Georgia [Department] of Natural Resources and has been installed in accordance with plans approved by the same. The undersigned certifies ownership and responsibility for the operation of the system.

Water System Owner/Operator _____ Date _____
(Provide name, address, and telephone no.)

Or

Certificate of Public Water Supply

The drinking water supply for this development is the public system listed below. All lines and fixtures have been installed in a manner acceptable to the public system.

Public Water System Representative _____ Date _____
(Provide name, address, and telephone no.)

Subsurface Sewage Disposal

I have reviewed the final plat(s) and have found the plat(s) in conformance with Gilmer County Health Department requirements. This approval does not relieve individual lot owners from obtaining sewage disposal permits.

Date: _____

Gilmer County Health Department Representative:

Streets and Drainage

I have visited the site and it appears that the streets and drainage structures shown on this final plat(s) have been installed in conformance with the approved preliminary plat(s) and the Gilmer County street requirements.

Date: _____

Gilmer County Road Department: _____

Tax Assessor

I have reviewed the final plat for incorporation into the County Tax Digest.

Date: _____

Chief Appraiser or Deputy: _____

Property Owners Association (If Applicable)

I have reviewed the legal document creating the property owners association for the noted development and have found the association is duly created and covenants, conditions and restrictions applying to the property appear sufficient to assure continued maintenance of commonly owned property and improvements in the development

Date: _____

Gilmer County Attorney: _____

Private Road Maintenance Review

I have reviewed the legal documentation that will govern the maintenance of the private roads within this subdivision and find it to be adequate.

Date: _____

Gilmer County Attorney: _____

Private Road Maintenance Acknowledgement (If Applicable)

The new streets created by this subdivision are to be privately maintained as further described in the attached or referenced documentation. These streets do not meet the requirements for dedication into the county road system and will not be considered by the Board of Commissioners for acceptance into the county road system until all such requirements are met. It is generally understood that these streets will remain privately maintained.

Date: _____

/s/ _____

Developer

Certificate of Road Dedication (If Applicable)

The new streets created by this subdivision are hereby dedicated to Gilmer County as evidence by the accompanying right-of-way deed. The Board of Commissioners have voted to accept said roads subject to the terms of maintenance security for a period of 2 years from the date of said vote.

Date: _____

/s/ _____

County Clerk

Development Office Approval

The final subdivision plat shown hereon has been reviewed by Gilmer County Planning Office and is hereby approved under the provisions of the Gilmer County Land Use Ordinance, and the Gilmer County Development Ordinance

Date: _____

Gilmer County Zoning Administrator: _____

Private Road Construction Certificate

The undersigned road construction contractor hereby certifies that the construction standards set forth in Gilmer County Code, sections 82-177, 82-187, and 82-190 were complied with during the construction of the private roads or streets shown on this final plat.

Road Construction Contractor Company:

Address & Phone Number:

Authorized person signature printed name date

SUBSCRIBED AND SWORN
BEFORE ME ON THIS THE _____ DAY OF _____, 20__

Notary Public
My Commission Expires:

(b) No plat will be approved with contingencies. Any issues raised by the planning commission shall be addressed by the developer and resubmitted for review and approval.

(c) The approval of the final plat by the planning commission indicates to the developer that the plat is approved for recording in the county office of superior court clerk. The approved plat along with any covenants and declarations or road maintenance documents or road dedication documents shall be recorded within ten working days or the approval is invalid.

Note: No lot shall be conveyed in any subdivision until the final plat is recorded.
(Ord. of 3-27-2003(5), § 3.302; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § h, 11-9-2006; Res. No. 10-006, 1-28-2010)

Secs. 82-95—82-120. Reserved.

ARTICLE V. GENERAL PRINCIPLES OF DESIGN

Sec. 82-121. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-121, which pertained to suitability of area proposed for subdividing and derived from Ord. of Mar. 27, 2003(5), § 3.400.

Sec. 82-122. Conformance to other rules and regulations.

In addition to the minimum standards outlined in this chapter, all proposed subdivisions shall comply with all applicable state and federal rules, regulations and laws. The planning commission will withhold approval of any subdivision which is known to be in conflict with any known regulations.

(Ord. of 3-27-2003(5), § 3.401; Res. No. 06-47, 3-8-2006)

Sec. 82-123. Restrictive covenants.

If the developer wishes to place restrictive covenants on the subdivision, such covenants shall be submitted with the final plat and shall upon approval be recorded on a separate form along with the final plat.

(Ord. of 3-27-2003(5), § 3.402; Res. No. 06-47, 3-8-2006)

Sec. 82-124. Name of subdivision.

The name of the subdivision shall be at the discretion of the subdivider so long as the name does not closely approximate or conflict with the name of a previously platted subdivision in the county. The decision as to such conflict shall be solely the planning commission's.

(Ord. of 3-27-2003(5), § 3.403; Res. No. 06-47, 3-8-2006)

Secs. 82-125, 82-126. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted §§ 82-125, 82-126 which pertained to streets and lots, respectively, and derived from Ord. of Mar. 27, 2003(5), §§ 3.404, 3.305.

Sec. 82-127. City limits and lot lines.

Lots shall not be divided by corporate boundary lines.

(Ord. of 3-27-2003(5), § 3.406; Res. No. 06-47, 3-8-2006)

Secs. 82-128—82-132. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted §§ 82-128—82-132, which pertained to lot lines; corner lots; double frontage; building lines; lot width, respectively, and derived from Ord. of Mar. 27, 2003(5), §§ 3.407—3.411.

Sec. 82-133. Panhandle or flag lots.

Panhandle or flag lots, of required width and area, will be allowed. Where such lots are created, the street frontage of each panhandle access shall not be less than 40 feet wide and the panhandle access shall be not more than 500 feet long. Not more than two such panhandle access points shall abut each other. The area within the panhandle shall not be counted toward the minimum lot size, unless the lot is three acres in size or larger.

(Ord. of 3-27-2003(5), § 3.412; Res. No. 06-47, 3-8-2006)

Sec. 82-134. Greenspace developments.

Greenspace developments: The minimum lot sizes and widths within greenspace developments shall be established by the Gilmer County Health Department if served by individual septic systems. Any subdivision plan of a greenspace development shall state the total gross area of the project and the number of proposed lots. The minimum amount of land to be dedicated as greenspace in order to qualify as a greenspace development is eight percent of the total gross project area. Said eight percent shall not include any road rights-of-way.

- a. Minimum lot sizes in greenspace developments shall be determined by environmental health office if served by septic systems. If served by sewer minimum lot size are 0.25 acres and 60 feet wide at the front building line.
- b. Greenspace developments are allowed in the A-1 district at the density of one unit per 3.25 acres, roads serving these developments shall be at a minimum of class D construction.
- c. For all greenspace developments, a current and accurate master plan of the entire developed tract shall be kept on file with the Gilmer County Department of Planning and Zoning. Such master plan shall show all proposed roads, lots, amenities, and greenspace within the entire development. For future development areas, master planned lay-outs may be tentative. Any changes in the master plan that are reflected on submitted preliminary or final plats require the submittal of a revised master plan reflecting any such change. All master plans shall include a chart or table which clearly states the total gross area of the project, the required minimum greenspace for the entire project, the maximum permitted number of units, and a running total by phase of platted acres, platted units, and greenspace provided. The minimum eight percent greenspace applies to the total project as a whole and not to individual phases.
- d. Residential mixed use development.
 - i. Multi-family housing is allowed only in the R-1 (residential low density district) and R-2 (residential high density district) only if the development is planned as a private gated community within the greenspace development ordinance. This development is developed by a single owner or company or under a common master plan with recorded restrictive covenants providing for a property owners association. The community shall include all improvements, common areas and amenities and shall be regulated by the covenants and restrictions of the property owners association.
 - ii. There shall be a 500-foot setback between multi-family construction and the exterior boundary of all residential mixed use developments. Said 500-foot buffer shall not include any residences.
 - iii. The density shall be figured depending on the current zoning for the property but multi-family units shall not make up more than 50 percent of the allowable units. In no case shall the total number of units in a development exceed the maximum number allowed per the density specified within the zoning district.

- iv. The land use shall be primarily residential, with community-supported uses such as a small-scale cultural, recreational and civic uses. The common property of the development such as open space, recreational areas, roads and infrastructure and buildings shall be maintained by the property owners association, by the developer, or by a legally created land trust.

(Res. No. 10-006, 1-28-2010)

Editor's note—Formerly, Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-134, which pertained to lot area and derived from Ord. of Mar. 27, 2003(5), § 3.413.

Sec. 82-135. Street access.

Every lot shall have direct access to a road or street meeting the requirements of this chapter.

(Ord. of 3-27-2003(5), § 3.414; Ord. of 5-13-2004(4), § 3.414; Res. No. 06-47, 3-8-2006)

Sec. 82-136. Easements.

Easements may be required in subdivisions for the following purposes:

- (1) *Utility easements.* When it is found to be necessary and desirable to locate public utility lines in other than the street rights-of-way, easements shall be shown on the plat for such purposes.
- (2) *Drainage easements.* Where a proposed subdivision is traversed by a watercourse, drainage way, or stream, appropriate provisions shall be made to accommodate stormwater and drainage through and from the proposed subdivision. Such easement shall conform substantially with the lines of such watercourse and be of sufficient width or construction, or both, as to be adequate for the purpose.
- (3) *Access easements.* Where necessary to provide ingress and egress to a subdivision, right-of-way shall be of a width not less than that required within the subdivision. However, easements that were granted or platted prior to January 1, 2006 shall be allowed if of a lesser width. Road surfaces across such easements between a county or

state road and any development must meet the requirements of a class D road, except that class E requirements may be used if the subdivision is to use only class E roads. (Ord. of 3-27-2003(5), § 3.415; Res. No. 06-47, 3-8-2006)

Sec. 82-137. Monuments and lot pins.

All lot corners shall be set and shall be iron pins of a minimum diameter of one-half inch. Witness monuments may be set in lieu of monumenting actual corners where the actual corner falls in a road, road slope, utility fixture, or water course. In such instances, the distance of the witness pins shall be stated.

(Ord. of 3-27-2003(5), § 3.416; Res. No. 06-47, 3-8-2006)

Secs. 82-138—82-170. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-138, which pertained to watercourse relocation and base flood elevation and derived from Ord. of Mar. 27, 2003(5), § 3.417.

ARTICLE VI. STREETS

Sec. 82-171. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-171, which pertained to purpose of article and derived from Ord. of Mar. 27, 2003(5), ch. III, art. V.

Sec. 82-172. Continuation of existing street pattern.

Wherever topography will permit, the arrangement of streets in a subdivision shall provide for the alignment and continuation or projection of existing streets in adjoining areas.

(Ord. of 3-27-2003(5), § 3.500; Res. No. 06-47, 3-8-2006)

Sec. 82-173. Culs-de-sac and turnarounds.

Streets that terminate within a phase or subdivision shall terminate in a turnaround having a minimum right-of-way of at least 100 feet in diameter and a minimum outside diameter surface width of 80 feet. For streets less than 800 feet long or serving five or less lots, a "T" or "Y" type turnaround with a radius return of not less than 50 feet and an surface width of not less than 80 feet may be used, with necessary right-of-way at least 12 feet from any road surface, 40 feet minimum.

(Ord. of 3-27-2003(5), § 3.501; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § i, 11-9-2006)

Sec. 82-174. Access to arterials and collectors.

The number of residential or local streets entering on arterial or collector routes shall be kept to a minimum.

(Ord. of 3-27-2003(5), § 3.502; Res. No. 06-47, 3-8-2006)

Sec. 82-175. Arrangement of continuing and dead-end streets.

Where a subdivision will contain temporary or permanent dead-end streets they shall be designed as follows:

- (1) *Arrangement of continuing streets.* The arrangement of streets shall provide for the continuation of major streets between adjacent properties when such continuation is necessary for convenient movements of traffic, effective fire protection, efficient provisions of utilities, and when such continuation is in accordance with the major street or road plan. If the adjacent property is undeveloped and the street must be a dead-end street temporarily, the right-of-way shall be extended to the property line.
- (2) *Temporary turnarounds:* Where a street which will continue into a future phase extends farther than the lot lines of a corner lot, a temporary gravel turn-around, circular and 60 foot (minimum) in diameter shall be provided. Temporary turnarounds shall not be located on any lot in the current phase but must be located completely within the future phase
- (3) *Dead-end streets.* Where a street does not extend beyond the boundary of the subdivision and its continuation is not required by the planning commission for access to adjoining property, its terminus shall normally not be nearer to such boundary than 50 feet. However, the planning commission may require the reservation of an appropriate easement to accommodate drainage facilities, pedestrian traffic, or utilities. The physical end of the road shall conform to cul-de-sac and turnaround requirements.

(Ord. of 3-27-2003(5), § 3.503; Res. No. 06-47, 3-8-2006)

Sec. 82-176. Intersections.

Intersections of new streets in a subdivision shall comply with the following standards:

- (1) Streets shall be laid out so as to intersect as nearly as possible at right angles. An oblique street should be curved approaching an intersection and should be approximately at right angles.
- (2) Proposed new intersections along one side of an existing street shall coincide, wherever practicable, with any existing intersections on the opposite side of such street. Jogs within streets having centerline offsets of less than 75 feet will not be permitted.
- (3) Minimum surface edge radius at the intersection of two streets shall be 30 feet.
- (4) Where a street intersection will involve earth banks or existing vegetation inside any lot corner that would create a traffic hazard by limiting visibility, the subdivider shall cut such ground or vegetation (including trees) in connection with the grading of the street right-of-way to the extent necessary to provide adequate sight distance.
- (5) Intersections shall be designed with a maximum six percent grade on the intersecting street.

(Ord. of 3-27-2003(5), § 3.504; Res. No. 06-47, 3-8-2006)

Sec. 82-177. Cut and fill slopes.

Fill slopes should not exceed a slope of 1.5 horizontal to 1.0 vertical. Road fills shall be made on earth that has all topsoil or overburden removed. Fills shall be made in six-inch lifts starting on a level bench cut into original ground and compacted to a compaction rate of 95 percent standard proctor. Cut slopes should not exceed a slope of one horizontal to one vertical. Cut slopes should be made to afford driveway construction wherever applicable. These slopes are recommended maximums and may be waived if topographic restraints are present, and if it is demonstrated that a steeper cut slope can be effectively stabilized. For class C, D, or E roads, retaining walls or other slope stabilization measures may be used to accommodate the heights of cut or fill slopes provided that such measures be included in the approved construction plans or preliminary plat. Further, such measures shall be outside of any required shoulders adjacent to the road way, shall not obstruct sight distances, shall not impede drainage, and that guard railing shall be required adjacent to walls in fill slopes. (Ord. of 3-27-2003(5), § 3.505; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § j, 11-9-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-178. Additional width on existing streets.

In subdivisions that adjoin existing streets, the subdivider shall dedicate to the county, if accepted by the county, or provide to the property owner's association additional right-of-way to meet the minimum street width requirements as follows:

- (1) The entire right-of-way shall be provided where any part of the subdivision is on both sides of the street.
- (2) When a subdivision is located on one side of an existing county road with right-of-way width of less than 60 feet, 30 feet from the centerline shall be dedicated to Gilmer County.

(Ord. of 3-27-2003(5), § 3.506; Res. No. 06-47, 3-8-2006)

Sec. 82-179. Street names.

Streets or roads that are extensions of, or obviously in alignment with, existing named streets, shall bear that name. The names of new streets and roads shall be subject to the approval of the county E911 director or representative and shall not duplicate existing names. (Ord. of 3-27-2003(5), § 3.507; Res. No. 06-47, 3-8-2006)

Sec. 82-180. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-180, which pertained to railroads and limited access highways and derived from Ord. of Mar. 27, 2003(5), § 3.508.

Sec. 82-181. Bridges.

Bridge construction shall conform to the state department of transportation specifications construction of roads and bridges, latest edition or such structure shall be designed by and stamped with the seal of a registered professional engineer qualified to design such structures

and who is licensed in the State of Georgia. The engineering design of all bridges shall be submitted to the Gilmer County Public Works Director for review and approval prior to construction. The bottom or lowest point of the bridge deck structure shall be built at a minimum of two feet above the base flood elevation. Gilmer County may consult with a registered engineer, other consultants, or state agencies on the design of proposed bridges. The developer should allow additional time for approval where bridges are proposed in the development. All plans for bridge construction shall contain a detailed maintenance plan. Bridges shall be designed to accommodate vehicle weight of 86,000 pounds. Bridges may be constructed to timber and related materials when placed in class C, D, or E roads. If any bridge is to be enclosed (as a "covered bridge"), the minimum interior dimensions shall be 14 feet wide and 14 feet and six inches high.

(Ord. of 3-27-2003(5), § 3.509; Res. No. 06-47, 3-8-2006; Res. No. 06-190, § k, 11-9-2006; Res. No. 07-74, § b, 5-10-2007)

Sec. 82-182. Half streets.

(a) Half streets are prohibited. Whenever a street is planned adjacent to the proposed subdivision tract boundary, the entire street right-of-way shall be platted within the proposed subdivision, unless the adjacent owner agrees to the right-of-way projecting into the adjacent owner's property.

(b) The subdivision road shall be improved and brought up to minimum standards within the subdivision while maintaining the adjoining property owners use of the road. In which case, the adjacent owner shall indicate such acceptance as evidenced by a recorded document. (Ord. of 3-27-2003(5), § 3.510; Res. No. 06-47, 3-8-2006)

Sec. 82-183. Split level streets.

Streets which are constructed so as to have two traffic ways, each at different levels within the same right-of-way shall provide a minimum right-of-way of 12 feet from the surface edge and such additional right-of-way as necessary to meet the requirements of section 82-177 and a surface width of ten feet.

(Ord. of 3-27-2003(5), § 3.511; Res. No. 06-47, 3-8-2006)

Sec. 82-184. Security gates.

The installation of security gates across a road shall be approved by the fire chief. Where the security gates are installed, they shall have an approved means of emergency operation. The security gates and the emergency operation shall be maintained operational at all times, and are only permissible on class C, D, and E roads.

(Res. No. 06-190, § l, 11-9-2006)

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-184, which pertained to alleys and derived from Ord. of Mar. 27, 2003(5), § 3.512.

Sec. 82-185. Geometric design standards for streets and entrances to county or public roads including deceleration lane.

(a) *Entrance to county or public roads.*

- (1) The sight distance in each direction shall be certified by a land surveyor. The sight distance shall be based on the posted speed limit of the serving road or highway as follows:

<i>Posted Speed Limit</i>	<i>Sight Distance Required (In Feet)</i>
25 or less	150
25 — 35	225
36 — 45	325
46 — 55	450

Height of eye: 3.5 feet

Height of object: 2 feet

Horizontal clearance must accommodate sight distance.

- (2) Surface types and widths of all roads.
- (3) Scale not less than one inch equals 20 feet.
- (4) All proposed storm drainage structures, water lines, and signage.
- (5) Radius joining road surfaces (Minimum = 50 feet or 30 feet if a deceleration lane is installed).
- (Ord. of 3-27-2003(5), § 3.513; Ord. of 5-13-2004(4), § 3.513; Res. No. 06-47, 3-8-2006)

Sec. 82-186. Ownership of road right-of-way.

The ownership of road rights-of-way of new streets may be any one of the following three modes:

- (1) *Fee simple and dedicated to Gilmer County:* In order for a road to be dedicated to Gilmer County, the following items are required.
- (a) Satisfactory inspections per subsection 82-202(a).
- (b) The preliminary plat must have declared that the roads were intended to be dedicated to Gilmer County.
- (c) Executed right-of-way deed from the developer, along with an attorney's certificate of title.
- (d) Acceptable maintenance security for a period of two years.
- (e) Completed construction of the road and all utilities installation, or acceptable performance security.
- (f) Majority vote of acceptance by the Gilmer County Board of Commissioners.
- (g) Executed certificate of road dedication on the final plat.

(2) *Fee simple and owned by a property owners association:* In order for a final plat to be approved having ownership of road rights-of-way to be held in fee simple, the following items are required:

- a. Satisfactory inspections per subsection 82-202(b).
- b. Covenants and restrictions or other documentation must provide for road maintenance terms through the property owners' association.
- c. Private road maintenance review executed on the final plat.
- d. Property owners association certificate executed on the final plat.
- e. Private road maintenance acknowledgement executed on the final plat.
- f. If the new lots will be served by roads governed by an existing property owners association, documentation shall be provided that the property owners association accepts the new lots and or streets.
- g. Private road construction certificate.

(3) *Easement-hold interest by the adjacent lot owners:* Under this provision, ownership of the adjacent lots may extend to the center line of new roads. In order for a final plat to be approved having ownership of the road right-of-way held by the adjacent lot owners, the following items are required:

- a. All minimum lot sizes shall be met exclusive of any road right-of-way.
- b. An area table shall be placed on the final plat that states for each lot the area within road right-of-way, the area outside of road right-of-way, and the total area.
- c. Private road maintenance review executed on the final plat.
- d. Private road maintenance acknowledgement executed on the final plat.
- e. Acceptable private road maintenance agreement, either previously recorded or to be recorded with final plat.
- f. Satisfactory inspections per subsection 82-202(b) by the Gilmer County Road Department.
- g. Private road construction certificate.

(Ord. of 3-27-2003(5), § 3.514; Res. No. 06-47, 3-8-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-187. Drainage.

(a) All drainage pipe and drainage structures shall be designed utilizing sound hydrology standards and requirements set forth in chapter 70, article II, by a registered professional qualified to design such systems and who is licensed in the state. Water shall be diverted under roadways by the use of pipe with a minimum diameter of 15 inches. Minimum material type is 14 gauge corrugated metal pipe. Reinforced concrete pipe is acceptable. High Density Polyethylene (HDPE) and Polyvinyl Chloride (PVC) culverts are acceptable so long as the selected product and installation thereof follow the Georgia Department of Transportation Standard No. 1030P, and QPL-51. It shall be the responsibility of the developer and/or

contractor to coordinate the installation and inspection of any HDPE or PVC pipes to the satisfaction of the Gilmer County Department of Public Works prior to covering said pipes. Any other types of plastic culverts are not acceptable. Any culvert in a road that is to be dedicated to Gilmer County which will have more than eight feet of cover must be reinforced concrete

(b) The top of the pipe shall be placed with sufficient cover to assure structural integrity of the pipe for anticipated design loads as recommended by the pipe manufacturer. Plastic pipe is not acceptable. The backfill material shall be clean and solidly tamped about the pipe. The discharge end of the crossdrain shall be stabilized using riprap rock for a distance of eight times the diameter of the pipe. Minimal width drainage easements shall be provided in compliance with OSHA safety standards and requirements of chapter 70, article II. Such drainage easements shall be shown on both the preliminary plat and final plat.

(Ord. of 3-27-2003(5), § 3.515; Res. No. 06-47, 3-8-2006; Res. No. 06-124, 6-27-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-188. Stabilizing the right-of-way.

The right-of-way shall be stabilized as specified in the soil erosion and sedimentation control plan before final plat approval will be granted.

(Ord. of 3-27-2003(5), § 3.516; Res. No. 06-47, 3-8-2006)

Sec. 82-189. Signs.

The developer shall install street name signs, traffic control signs and any other signs that may be required on the preliminary plat. The sign design, material and method of installation shall be in accordance with the Manual of Uniform Traffic Control Devices. All signage must be installed prior to final plat approval.

(Ord. of 3-27-2003(5), § 3.517; Res. No. 06-47, 3-8-2006)

Cross reference—Signs, § 6-31 et seq.

Sec. 82-190. Street classification.

Road Class Chart

<i>Class</i>	<i>R / W Width</i>	<i>Surf Width</i>	<i>Shoul-der Width</i>	<i>Base Depth</i>	<i>Paving Thick-ness</i>	<i>Min C / L Radius</i>	<i>Max Grade</i>	<i>Sight Dis-tance</i>	<i>CO / PRIV</i>	<i>Owner-ship</i>
A	60'	24'	6'	8"	2" + 1 1/2	400'	12 %	500'	CO	Fee
B	60'	20'	4'	6"	2"	100'	16 %	200'	CO	Fee
C	50'	20'	3'	5"	2"	50'	18 %	200'	PRIV	Fee or Ease-ment
D	40'	18'	2'	4"	0	40'	18 %	150'	PRIV	Fee or Ease-ment

<i>Class</i>	<i>R/W Width</i>	<i>Surf Width</i>	<i>Shoul-der Width</i>	<i>Base Depth</i>	<i>Paving Thick-ness</i>	<i>Min C/L Radius</i>	<i>Max Grade</i>	<i>Sight Dis-tance</i>	<i>CO/ PRIV</i>	<i>Owner-ship</i>
E	30'	14'	2'	4"	0	40'	18 %	150'	PRIV	Fee or Ease-ment

(a) Suitable for high traffic volumes and is to be used for arterial and collector or type general roads, and for all new commercial or industrial developments. Paving specifications are eight inches graded aggregate base ("Base") with two inches of binder, topped with one and one-half inch asphalt. Class A roads are eligible for dedication to the county.

(b) New county dedicated roads within residential subdivisions. Paving specifications are six inch base topped with two inch asphalt. Class B roads are eligible for dedication to the county.

(c) New residential subdivision roads that are to be privately maintained where the minimum lot size is less than 3.0 acres (not including road r/w). Paving specifications are five inch base topped with two inch asphalt. Class C roads must be privately maintained. Maximum road slope may exceed 18 percent to a maximum of 20 percent for no further than 400 feet per quarter mile.

(d) New residential subdivision roads that are to be privately maintained where the minimum lot size is 3.0 acres (not including road r/w) or within agricultural zoned greenspace developments. Maximum road slope may exceed 18.0 percent to a maximum of 20 percent for no further than 400 feet per quarter mile. For all areas greater than 18.0 percent, paving shall be required to extend from 400 feet before the grade reaches 18.0 percent and extend through the area that is greater than 18.0 percent to a point that is 400 feet beyond the extent of the road that is greater than 18.0 percent.

(e) New residential subdivision roads that are to be privately maintained where the minimum lot size is 5.0 acres (not including road r/w), and that serve no more than ten lots. Maximum road slope may exceed 18.0 percent to a maximum of 20 percent for no further than 400 feet per quarter mile. For all areas greater than 18.0 percent, paving shall be required to extend from 400 feet before the grade reaches 18.0 percent and extend through the area that is greater than 18.0 percent to a point that is 400 feet beyond the extent of the road that is greater than 18.0 percent.

(Ord. of 3-27-2003(5), § 3.518; Ord. of 5-13-2004(4), § 3.518; Res. No. 06-47, 3-8-2006; Res. No. 06-190, §§ m, n, 11-9-2006; Res. No. 10-006, 1-28-2010)

Sec. 82-191. Permit for roadwork.

No person shall do any paving work, or any other related or similar road work, on, or adjacent to, a county street or road without a permit issued by the land development office. A fee in an amount set by resolution of the board of commissioners shall be paid for such permit. (Ord. of 3-27-2003(5), § 3.519; Res. No. 06-47, 3-8-2006)

Secs. 82-192, 82-193. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted §§ 82-192, 82-193, which pertained to street work on or adjacent to county or state roads to comply with county and state specifications; recordation of disclosure of private street not meeting public street requirements, respectively, and derived from Ord. of Mar. 27, 2003(5), §§ 3.520, 3.521.

Sec. 82-194. Language required in private road maintenance agreements.

All deeds of conveyance for individual lots within a development that must comply with section 82-193 and of this chapter shall also insert the following language on all deeds of conveyances for individual lots in prominent bold capital letters:

"THE GRANTEE HEREIN ACKNOWLEDGES THAT ANY AND ALL MEANS OF INGRESS AND EGRESS TO THE PROPERTY CONVEYED HEREIN ALONG THE STREETS OF THE SUBDIVISION, AS OUTLINED ON THE PLAT OF SAID SUBDIVISION, ARE PRIVATE STREETS AND ARE NEITHER MAINTAINED BY GILMER COUNTY NOR CONSIDERED PART OF THE ROAD SYSTEM OF GILMER COUNTY. THE RESPONSIBILITY FOR THE UPKEEP AND MAINTENANCE OF THE STREETS SHOWN THEREON LIES WITH THE PROPERTY OWNERS AS FURTHER SPECIFIED IN THE PRIVATE ROAD MAINTENANCE AGREEMENT, AND NOT GILMER COUNTY."

(Ord. of 3-27-2003(5), § 3.522; Res. No. 06-47, 3-8-2006)

Sec. 82-195. Language required on plats of developments/subdivisions served by private roads.

"THE STREETS IN THIS SUBDIVISION ARE PRIVATE STREETS AND ARE NEITHER MAINTAINED BY GILMER COUNTY NOR CONSIDERED PART OF THE ROAD SYSTEM OF GILMER COUNTY. THE RESPONSIBILITY FOR THE UPKEEP AND MAINTENANCE OF THE STREETS SHOWN HEREON LIES WITH THE PROPERTY OWNERS AS FURTHER SPECIFIED IN THE PRIVATE ROAD MAINTENANCE AGREEMENT, AND NOT GILMER COUNTY."

"IN NO CASE SHALL GILMER COUNTY BE RESPONSIBLE FOR FAILING TO PROVIDE ANY EMERGENCY OR REGULAR FIRE, POLICE OR OTHER PUBLIC SERVICE TO THE PROPERTY AND/OR OCCUPANTS WHEN THE FAILURE IS DUE TO INADEQUATE DESIGN OR CONSTRUCTION, BLOCKING OF ACCESS ROUTES, OR ANY OTHER FACTORS OUTSIDE THE CONTROL OF THE COUNTY. IN NO CASE SHALL THE COUNTY MAINTAIN ANY PRIVATE STREET."

(Ord. of 3-27-2003(5), § 3.523; Ord. of 5-13-2004(4), § 3.523; Res. No. 06-47, 3-8-2006)

Secs. 82-196—82-199. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted §§ 82-196—82-199, which pertained to signage at entrance of development served by private roads; creation and types of roadways and streets; requirements of roadways and streets; special stipulations for certain classes of streets, respectively, and derived from Ord. of Mar. 27, 2003(5), §§ 3.524—3.527.

Sec. 82-200. Liability for damages and additional penalties.

(a) Any party shall be liable to the county for damage to county roads or county maintained roads and rights-of-way caused by the party in an amount necessary to return such roads to their normal and usual condition, together with all court costs in the event such issue is litigated in any manner.

(b) In the event the land development officer or other authorized county official issues a stop order to any person damaging county roads or county-maintained roads and rights-of-way, such person, in addition to the liability provided in subsection (a) above and section 62-5 shall be penalized \$500.00 for each day in violation of such stop order.

(Ord. of 3-27-2003(5), § 3.528; Ord. of 5-23-2004(4), § 3.528; Res. No. 06-47, 3-8-2006)

Sec. 82-201. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted § 82-201, which pertained to charts and derived from Ord. of Mar. 27, 2003(5), § 3.529.

Sec. 82-202. Inspections.

(a) Prior to beginning construction on a road or street that is proposed to be dedicated to Gilmer County upon completion, the board of commissioners shall designate a procedure for construction inspections of the road. The procedure may include the engagement of a geotechnical engineering firm, the fees for which would be paid for by the developer, the assignment of qualified county personnel and an estimated cost for such personnel which would be paid for by the developer, or a combination of both. The board of commissioners shall also designate a contact person on behalf of the county to coordinate all inspections and correspondence.

(b) The following standards of inspection shall be applicable to roads or streets that are to be privately maintained. Satisfactory review of photographs of each section of the road as it was constructed, especially topsoil removal, culvert placement, and building of fill slopes, along with detailed weekly construction reports (may use the same as required of the primary or secondary permittee under NPDES requirements) and site visits during construction.

(Ord. of 3-27-2003(5), § 3.530; Ord. of 5-13-2004(4), § 3.530; Res. No. 06-47, 3-8-2006; Res. No. 10-006, 1-28-2010)

Secs. 82-203—82-230. Reserved.**ARTICLE VII. RESERVED*****Secs. 82-231—82-260. Reserved.**

***Editor's note**—Res. No. 06-47, adopted Mar. 8, 2006, deleted Art. VIII, §§ 82-231—234, which pertained to utilities and derived from Ord. of Mar. 27, 2003(5), §§ 3.600—3.603; Ord. of May 13, 2004, §§ 3.601, 3.602.

ARTICLE VIII. MAINTENANCE SECURITY***Sec. 82-261. Security required.**

(a) All public improvements which are to be dedicated to and accepted at the county's sole election shall be maintained by the developer for the period of two years after the vote of the board of commissioners. For streets being accepted by the board of commissioners as county streets, the developer shall post a surety bond or letter of credit with the board of commissioners in an amount to be determined by Gilmer County. If, upon proper notification of failure of the dedicated improvements, the developer does not correct the deficiency or commence remedial work within ten days of notice, it shall be deemed to be a failure on the security, and the board of commissioners shall have the right to make the necessary repairs, either by public work or by private contract, and the surety shall be liable for the full amount of the cost of such repairs.

(b) If after the period of two years the board of commissioners finds that the dedicated improvements are holding up with only normal wear and tear, the maintenance security will be released.

(Ord. of 3-27-2003(5), § 3.700; Res. No. 06-47, 3-8-2006)

Secs. 82-262—82-290. Reserved.**ARTICLE IX. PERFORMANCE SECURITY†****Sec. 82-291. Purpose.**

In lieu of the completion of required road paving necessary for final plat approval, the board of commissioners may accept a bond or letter of credit in a form and amount satisfactory to providing for and securing to the county the actual construction and installation of such improvements within a specified period of time, not to exceed one year. In order to qualify for performance security, the road and all storm drainage must be constructed and the surface graveled. The purpose of this performance security is to provide for a delay in paving streets as may be necessary due to weather or utility installation.

(Ord. of 3-27-2003(5), § 3.800; Res. No. 06-47, 3-8-2006)

Sec. 82-292. Letter of credit requirements.

The developer shall provide to the county from a bank or other reputable institution, subject to the approval of the board of commissioners, a letter of credit using the forms which follow. This letter shall be deposited with the county clerk and shall certify the following:

- (1) That the creditor does guarantee funds in an amount equal to the cost, as estimated by the developer and approved by the county, of completing all required improvements.

*Cross reference—Finance, § 2-151 et seq.

†Cross reference—Finance, § 2-151 et seq.

- (2) That, in the case of failure on the part of the developer to complete the specified improvements within the required time period, the creditor shall pay to the county immediately, and without further action, such funds as are necessary to finance the completion of those improvements up to the limit of credit stated in the letter.
- (3) That the letter of credit may not be withdrawn, or reduced in amount, until released by the county.

(Ord. of 3-27-2003(5), § 3.801; Res. No. 06-47, 3-8-2006)

Sec. 82-293. Time limits.

Prior to the granting of final plat approval, the developer and the county shall agree upon a deadline for the completion of all required improvements, such deadline not to exceed one year from the date of final plat approval.

(Ord. of 3-27-2003(5), § 3.802; Res. No. 06-47, 3-8-2006)

Sec. 82-294. Release of guarantee.

Upon acceptance by the board of commissioners of the dedication of the final portion of improvements, the county will authorize the release of the letter of credit.

GILMER COUNTY, GEORGIA
LETTER OF CREDIT - DEVELOPER'S FORM

WHEREAS _____, Principal herein, is the owner and developer _____ of the Subdivision, Unit _____, located in Gilmer County, Georgia; and

WHEREAS the Preliminary Plat plans and specifications of said Subdivision showing the location, construction, and installation of improvements therein have been filed with and approved by the Planning Commission, and which are hereby referred to and made part of this instrument, as if fully copied and set forth herein; and,

WHEREAS the Principal herein does hereby obligate itself and does agree to complete the construction and installation of said improvements in the said Subdivision in accordance with the said Preliminary Plat plans and specifications now on file, and as bounded and modified by the final plat of _____ Subdivision, Unit _____, approved by the Planning Commission.

NOW THEREFORE, _____, as Principal, does hereby firmly bind itself, its heirs, executors, administrators, and successors and assigns unto the County in the sum of \$ _____, conditioned upon _____ Subdivision, Unit _____, in the construction and installation of all improvements herein called for, the same improvements to be completed on or before the _____ day of _____, 20 _____ and upon the completion thereof this obligation to be null and void, otherwise to remain in full force and effect.

If the Principal fails to complete the construction and installation of all the improvements of said Subdivision as shown and provided for by said plans and specifications herein referred

to or has not obtained an extension of the above completion date prior to the completion date herein above specified, then the County shall be entitled to perform the construction and installation of the improvements herein above referred to and the Principal shall pay or cause to be paid to the County such sums as may be necessary to complete said improvements, as secured by an irrevocable Letter of Credit, terminating no sooner than _____ weeks after the completion date for said improvements above mentioned, executed with this instrument, but not to exceed the amount referred to herein.

WITNESS OUR HANDS this the _____ day of _____ 20_____.

Signature _____

Address _____

Sworn to and subscribed before the undersigned notary this _____ day of _____ 20_____

Seal

Printed Name _____

My Commission Expires _____

GILMER COUNTY, GEORGIA
LETTER OF CREDIT - CREDITOR'S FORM

20_____,

Gilmer County Board of Commissioners

#1 Westside Square

Ellijay, GA 0540

We hereby establish an irrevocable and unconditioned Letter of Credit in your favor for the account of _____ for a sum or sums not exceeding _____ available by your draft or drafts on us at sight.

Drafts drawn pursuant to this Letter of Credit or guaranty must be accompanied by a statement signed by your authorized agent stating that the amount of the draft is due for the construction and installation of the improvements in _____, Gilmer County, Georgia, under the terms of the Performance Bond executed by _____ to you on the _____ day of 20_____.

Partial drawings are permitted, but the combined draws by you cannot exceed the amount of this Letter of Credit. This Letter of Credit shall terminate upon the _____ day of 20_____.

All drafts drawn hereunder must be marked "Drawn under _____, of _____ Letter of Credit dated _____ 20_____."

We hereby agree with the drawers, endorsers, and bona fide holders of drafts drawn under and in compliance with the terms of the Letter of Credit that the same shall be duly honored if presented to us before the termination hereof as above provided.

The amount of each such draw shall be inscribed on the back hereof, and this Letter of Credit must itself be attached to any draft which exhausts the full amount of the credit set forth in the first paragraph above.

This Letter of Credit shall not be assignable without written permission of the County.

Very truly yours,

(Title)

Name of Bank: _____

Sworn to and subscribed before the undersigned notary this _____ day of _____ 20_____

Seal

Printed Name _____

My Commission Expires _____

(Ord. of 3-27-2003(5), § 3.803; Ord. of 5-13-2004(4), § 3.803; Res. No. 06-47, 3-8-2006)

Secs. 82-295—82-320. Reserved.

ARTICLE X. VARIANCES

Sec. 82-321. Authorized.

Where there is a written request to the planning commission not less than 30 days prior to submission of the preliminary plat or if the variance was unforeseeable at the preliminary plat approval time, such variance(s) shall be requested as soon as such variance requirement(s) is discovered or should have been discovered, but not less than 30 days prior to submission of the final plat, from the developer outlining the particulars on how the strict compliance of these regulations would cause him/her extraordinary or unnecessary hardships, the planning commission may, after notice and public hearing, vary certain parts of the regulations of this chapter, provided that such variations will not have the effect of nullifying the intent and purpose of the regulations, and provided the public interest, health, safety and general welfare is protected. (For variances after final plat approval see Division 13 of the Gilmer County Land Use Ordinance.)

(Ord. of 3-27-2003(5), § 3.900; Ord. of 5-13-2004(4), § 3.900; Res. No. 06-47, 3-8-2006)

Secs. 82-322—82-350. Reserved.

§ 82-351

GILMER COUNTY CODE

ARTICLE XI. RESERVED

Sec. 82-351. Reserved.

Editor's note—Res. No. 06-47, adopted Mar. 8, 2006, deleted Art. XI, § 82-351, which pertained to property owners' association and derived from Ord. of Mar. 27, 2003(5), ch. III, art. X.

Chapters 83—85

RESERVED

Chapter 86

WATERWAYS*

Article I. In General

Secs. 86-1—86-30. Reserved.

Article II. Coosawattee River Corridor Protection

- Sec. 86-31. General provisions.
- Sec. 86-32. Definitions.
- Sec. 86-33. Establishment of the Coosawattee River Corridor Protection District.
- Sec. 86-34. Protection criteria.
- Sec. 86-35. Exemptions.
- Sec. 86-36. Administration and enforcement procedures.
- Secs. 86-37—86-60. Reserved.

Article III. Wetlands Protection

Division 1. Generally

- Sec. 86-61. General provisions.
- Sec. 86-62. Definitions.
- Sec. 86-63. Establishment of the wetlands protection district.
- Sec. 86-64. Protection criteria requirement for local permit or permission.
- Sec. 86-65. Permitted uses.
- Sec. 86-66. Prohibited uses.
- Secs. 86-67—86-90. Reserved.

Division 2. Administration and Enforcement Procedures

- Sec. 86-91. Site plans.
- Sec. 86-92. Activities to comply with site plan.
- Sec. 86-93. Exemptions to site plan requirements.
- Sec. 86-94. Powers of the land development officer.
- Sec. 86-95. Review procedures.
- Sec. 86-96. Duration of permit validity.
- Sec. 86-97. Penalties and fines for noncompliance.
- Sec. 86-98. Suspension and revocation of permit.
- Sec. 86-99. Administrative appeals.
- Sec. 86-100. Judicial review.
- Sec. 86-101. Amendments.
- Sec. 86-102. Relief assessment.

***Cross references**—Community development, ch. 26; parks and recreation, ch. 38; planning, ch. 42; land development ordinance general provisions, ch. 58; buildings and building regulations, ch. 66; environment, ch. 70; floods, ch. 74; manufactured homes and trailers, ch. 78; subdivisions, ch. 82.

State law reference—Protection of natural resources, environment, O.C.G.A. § 12-2-8.

GILMER COUNTY CODE

Secs. 86-103—86-130. Reserved.

Article IV. Water Supply Watershed Protection

Division 1. Generally

- Sec. 86-131. General provisions.
- Sec. 86-132. Definitions.
- Sec. 86-133. Establishment of a water supply watershed district.
- Sec. 86-134. Protection criteria.
- Sec. 86-135. Exemptions.
- Secs. 86-136—86-150. Reserved.

Division 2. Administration and Enforcement Procedures

- Sec. 86-151. Site plans.
- Sec. 86-152. Activities to comply with site plan.
- Sec. 86-153. Exemptions to site plan requirements.
- Sec. 86-154. Powers of the land development officer.
- Sec. 86-155. Review procedures.
- Sec. 86-156. Duration of permit.
- Sec. 86-157. Penalties and fines for noncompliance.
- Sec. 86-158. Suspension; revocation.
- Sec. 86-159. Administrative appeals.
- Sec. 86-160. Judicial review.
- Sec. 86-161. Amendments.
- Sec. 86-162. Relief assessment.
- Sec. 86-163. Variances.

ARTICLE I. IN GENERAL

Secs. 86-1—86-30. Reserved.

ARTICLE II. COOSAWATTEE RIVER CORRIDOR PROTECTION**Sec. 86-31. General provisions.**

(a) *Finding of fact.* River corridors are the strips of land that flank major rivers in the state. These corridors are of vital importance to the state in that they help preserve those qualities that make a river suitable as a habitat for wildlife, a site for recreation, and a source for clean drinking water. River corridors also allow the free movement of wildlife from area to area within the state, help control erosion and river sedimentation, and help absorb floodwaters.

(b) *Purpose.* The Coosawattee River has been designated as a protected river by the state. The purpose of this article is to establish measures to guide future growth and development in the areas adjacent to the Coosawattee River as defined in this article.

(c) *Authority.* This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I, and art. IX, § II, ¶ III, and O.C.G.A. §§ 12-2-8(b), 50-8-2(a)(18)(B) and 50-8-7.1(b).

(d) *Jurisdiction.* This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(e) *Interpretation.* This article shall be interpreted in conjunction with federal, and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

(Ord. of 9-23-1999, § I)

Sec. 86-32. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Designated hazardous waste means any solid waste identified as such in regulations promulgated by the state board of natural resources. The state board of natural resources may identify as "designated hazardous waste" any solid waste which the board concludes is capable of posing a substantial present or potential hazard to human health or the environment when improperly treated, stored, transported, or disposed of or otherwise managed, based on the factors set forth in regulations promulgated by the administrator of the United States Environmental Protection Agency pursuant to the federal act which are codified as 40 CFR 261.11(a)(3), in force and effect on February 1, 1996, if such solid waste contains any substance which is listed on any one or more of the following lists:

- (1) List of Hazardous Constituents, codified as 40 CFR 261, Appendix VIII, in force and effect on February 1, 1996;

- (2) Groundwater Monitoring List, codified as 40 CFR 264, Appendix IX, in force and effect on February 1, 1996;
- (3) List of Hazardous Substances and Reportable Quantities, codified as 40 CFR Table 302.4, and all appendices thereto, in force and effect on February 1, 1996;
- (4) List of Regulated Pesticides, codified as 40 CFR 180, in force and effect on February 1, 1996;
- (5) List of Extremely Hazardous Substances and Their Threshold Planning Quantities, codified as 40 CFR 355, Appendix A, in force and effect on February 1, 1996; or
- (6) List of Chemicals and Chemical Categories, codified as 40 CFR 372.65 in force and effect on February 1, 1996.

Federal act means the federal Solid Waste Disposal Act, as amended, particularly by the Resource Conservation and Recovery Act of 1976 (Public Law 94-580, 42 USC 6901 et seq.), as amended, particularly by but not limited to the Used Oil Recycling Act of 1980 (Public Law 96-463), the Solid Waste Disposal Act Amendments of 1980 (Public Law 96-482), the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Public Law 96-510), the Hazardous and Solid Waste Amendments of 1984 (Public Law 98-616), and the Superfund Amendments and Reauthorization Act of 1986 (Public Law 99-499), as amended.

Hazardous waste means any solid waste which has been defined as hazardous waste in regulations promulgated by the administrator of the United States Environmental Agency pursuant to the federal act which are in force and effect on February 1, 1996, codified as 40 CFR 261.3 and any designated hazardous waste. (Note: This is same definition as used in the Georgia Hazardous Waste Management Acts, O.C.G.A. § 12-8-60 et seq.)

Land disturbing activity means any grading, scraping, excavating, or filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. The term "land disturbing activity" shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.

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

Perennial river means a river or section of a river that flows continuously throughout the year.

Protected river means any perennial stream or watercourse with an average annual flow of at least 400 cubic feet per second as determined by appropriate U.S. Geological Survey documents. However, those segments of river covered by the Metropolitan River Protection Act (O.C.G.A. § 12-5-440 et seq.) or the Coastal Marshlands Protection Act are specifically

excluded from the definition of a protected river. In coastal areas, the seaward limit of any protected river shall be the inland limits of the jurisdiction of the Coastal Marshlands Protection Act of 1970 (O.C.G.A. § 12-5-280 et seq.).

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

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

River corridor means all land not regulated under O.C.G.A. §§ 12-5-440—12-5-457, and the Coastal Marshlands Protection Act of 1970 (O.C.G.A. § 12-5-280 et seq.) in the areas of a perennial stream or watercourse with an average annual flow of at least 400 cubic feet per second as defined by the United States Geologic Survey and being within 100 feet on both sides of the river as measured from the river banks at mean high water. The 100-foot buffer shall be measured horizontally from the uppermost part of the river banks, usually marked by a break in slope. Although not within the measured 100-foot wide buffer, the area between the top of the bank and the edge of the river shall be treated by the local governments in the same manner as the river corridor and shall be included within the river corridor protection district. Because stream channels move due to natural processes such as meandering, river bank erosion, and jumping of channels, the river corridor may shift with time. For the purposes of these standards, the river corridor shall be considered to be fixed at its position at the beginning of each review period for the county joint comprehensive plan. Any shift in the location of the protected river after the review period will be shown by revision of the boundaries of the river corridor at the time of the next comprehensive plan review by the state department of community affairs.

Sensitive natural area means any area, as identified now or hereafter by the state department of natural resources, which contains one or more of the following:

- (1) Habitat, including nesting sites, occupied by rare or endangered species;
- (2) Rare or exemplary natural communities;
- (3) Significant landforms, hydroforms, or geological features; or
- (4) Other areas so designated by the state department of natural resources; and which are sensitive or vulnerable to physical or biological alteration.

Single-family dwelling means a dwelling structure that is designed for the use of one family.

Written notification means a notice to applicant given in writing and mailed by certified mail, return receipt requested, to the last known mailing address submitted by applicant to the land development officer. Notice as to the land development officer shall be given in writing and mailed by certified mail, return receipt requested, or delivered personally to and a receipt obtained from the land development officer.

(Ord. of 9-23-1999, § II)

Cross reference—Definitions generally, § 1-3.

State law reference—Similar provisions, O.C.G.A. §§ 12-2-8, 12-8-62.

Sec. 86-33. Establishment of the Coosawattee River Corridor Protection District.

The Coosawattee River Corridor Protection District is hereby designated and shall comprise all land, inclusive of islands, in areas of the Coosawattee River within the county and being within 100 feet horizontally on both sides of the river as measured from the river banks. Also included is the area between the top of the bank and the edge of the river although this strip of land is not included as part of the 100-foot buffer requirement contained in the minimum standards. The Coosawattee River Corridor Protection District shall be further defined and delineated on the Coosawattee River Corridor Protection District Map. The Coosawattee River Corridor Protection District Map is hereby incorporated into and made a part of this article by reference.

(Ord. of 9-23-1999, § III)

Sec. 86-34. Protection criteria.

- (a) Construction within the buffer area is prohibited except as provided in this article.
- (b) A natural vegetative buffer shall be maintained at all times in the river corridor, except as otherwise provided in this article.
- (c) The natural vegetative buffer shall be restored as quickly as possible following any land disturbing activity.
- (d) Septic tank and septic tank drainfields are prohibited in the river corridor, except as expressly provided in subsection (e) of this section.
- (e) Single-family dwellings including the usual appurtenances are permitted in the buffer area subject to the following conditions:
 - (1) The dwelling shall be in compliance with all local zoning regulations.
 - (2) The dwelling shall be located on a tract of land containing at least two acres. For the purposes of these standards, the size of the tract of the land shall not include any area that lies within the protected river, (that is, for tracts of land that include portions of a protected river, the area between the river banks cannot be counted towards the two-acre minimum size).
 - (3) There shall be only one such dwelling on each two acre or larger tract of land.
 - (4) A septic tank or tanks serving such a dwelling may be located within the buffer area.
 - (5) Septic tank drainfields shall not be located within the buffer area.
- (f) Industrial and commercial land uses existing in the river corridor prior to effective date of the ordinance from which this article is derived are exempt from the criteria contained in this article, provided that:
 - (1) These uses do not impair the drinking quality of the river water.

- (2) These uses meet all state and federal environmental rules and regulations.
 - (g) The construction of road crossings and utility crossings is permitted in the river corridor, provided such construction meets all requirements of the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.), and all applicable local ordinances on soil erosion and sedimentation control.
 - (h) The following uses are permitted in the river corridor, provided that such uses do not impair the long-term functions of the protected river or the river corridor:
 - (1) Timber production and harvesting, subject to the following conditions:
 - a. Forestry activity shall be consistent with best management practices established by the state forestry commission; and
 - b. Forestry activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
 - (2) Wildlife and fisheries management activities consistent with the purposes of O.C.G.A. § 12-2-8.
 - (3) Wastewater treatment.
 - (4) Recreational usage consistent either with the maintenance of a natural vegetative buffer or with river dependent recreation. For example, a boat ramp would be consistent with this criterion but a hard surface tennis court would not. Parking lots are not consistent with this criterion. Paths and walkways within the river corridor are consistent with this criterion.
 - (5) Natural water quality treatment or purification.
 - (6) Agricultural production and management, subject to the following conditions:
 - a. Agricultural activity shall be consistent with best management practices established by the state soil and water conservation commission;
 - b. Agricultural activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended; and
 - c. Agricultural activity shall be consistent with all state and federal laws, and all regulations promulgated by the state department of agriculture.
 - (7) Other uses permitted by the state department of natural resources or under Section 404 of the Clean Water Act.
 - (i) Handling areas for the receiving and storage of hazardous waste are prohibited within the river corridor.
 - (j) Hazardous waste or solid waste landfills are prohibited within the river corridor.

(k) The standards and requirements in this article do not supersede those contained in the Metropolitan River Protection Act (O.C.G.A. § 12-5-440 et seq.), the Coastal Marshlands Protection Act (O.C.G.A. § 12-5-280 et seq.) and the Erosion and Sedimentation Act of 1975 (O.C.G.A. § 12-7-1 et seq.).
(Ord. of 9-23-1999, § IV)

Sec. 86-35. Exemptions.

The following uses are exempt from the river corridor protection plan.

- (1) Land uses existing prior to the promulgation of the county river corridor protection district. For the purposes of this article a pre-existing use is defined as any land use or land disturbing activity, including all human endeavors directly associated with such use or activity, which, prior to the promulgation of this article falls within one of the following categories. (See section 86-34(f) for additional regulations governing pre-existing industrial and commercial uses.)
 - a. Is completed;
 - b. Is under construction;
 - c. Is fully approved by the governing authority;
 - d. All materials have been submitted for approval by the governing authority; or
 - e. Is zoned for such use and expenditures in excess of \$2,500.00 have been made in preparation for construction in accordance with such zoning.
- (2) Mining activities, if permitted by the state department of natural resources pursuant to the Georgia Surface Mining Act of 1968 (O.C.G.A. § 12-4-70 et seq.).
- (3) Utilities, except as discussed in section 86-34(g), if such utilities cannot feasibly be located outside the buffer area (feasibility shall be decided conservatively by the local government), provided that:
 - a. The utilities shall be located as far from the river bank as reasonably possible;
 - b. Installation and maintenance of the utilities shall be such as to protect the integrity of the buffer area as well as is reasonably possible; and
 - c. Utilities shall not impair the drinking quality of the river water.
- (4) Specific forestry and agricultural activities except as discussed in sections 86-34(h)(1) and 86-34(h)(6).

(Ord. of 9-23-1999, § V)

Sec. 86-36. Administration and enforcement procedures.

(a) *Site plans.* Application for a local development permit within the Coosawattee River Protection District shall include a site plan, drawn at a scale of one inch equals 50 feet by a registered land surveyor or professional engineer licensed by the state, with the following information:

- (1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross sectional drawings.

- (2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (3) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
- (4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- (5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
- (6) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- (7) All proposed temporary disruptions or diversions of local hydrology.
- (8) The site plan shall contain a surveyor's or engineer's certification that the project site is or is not located within a water supply watershed district, a wetlands protection district, the Coosawattee River Corridor Protection District or the mountain protection district, as applicable.

(b) *Activities to comply with site plan.* All development activities or site work conducted after approval of the site plan shall conform with the specifications of such site plan. Significant changes to the site plan that would, alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill, or removal of the overall appearance of the development as proposed, can be, amended only with the approval of the land development officer or designated appointee. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

(c) *Exemptions to site plan requirements.* The following activities and developments are exempt from the requirement for detailed site plans. Repairs to a facility that are part of a previously approved and permitted development.

(d) *Powers of the land development officer.* The land development officer shall have the power to enforce the provisions of this article. The land development officer shall have the authority to issue stop work orders and cite violators of this article to court. The land development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his duties of enforcing this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.

(e) *Review procedures.* The application shall be made to the land development officer or designated appointee and will be reviewed within 30 days. At the time of the application, the applicant shall pay a filing fee as specified by the board of commissioners. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval)

by the land development officer or designated appointee. The applicant will receive written notification of the findings of the land development officer or designated appointee. Decisions of the land development officer or designated appointee may be appealed to the board of commissioners.

(f) *Duration of permit validity.* The development permit approval shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the development permit approval shall be null and void.

(g) *Penalties and fines for noncompliance.*

- (1) When a building or other structure has been constructed in violation of this section, the violator shall be required to remove the structure at the direction of the director of license and permits and/or the land development officer.
- (2) When removal of vegetative cover, excavation, or fill has taken place in violation of this section, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the direction of the land development officer.
- (3) If the land development officer discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the land development officer shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.
- (4) Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-9. Other ordinances incorporated in this article may specify other penalties which shall govern over this section.

(h) *Suspension, revocation.* The land development officer or designated appointee shall suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The land development officer or designated appointee shall issue written notification of denial, issuance, conditional issuance, revocation or suspension to the applicant.

(i) *Administrative appeals.* Any party aggrieved by any decision of the land development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the land development officer a written notice of appeal specifying the judgement of decision from which appeal is taken. A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the land development officer.

(j) *Judicial review.* All final decisions of the board of commissioners concerning denial, approval, or conditional approval of a permit shall be reviewable in the superior court of the county.

(k) *Amendments.* This article and the Coosawattee River Corridor Protection map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.

(l) *Relief assessment.* Assessors and boards of assessors shall consider requirements of these regulations in determining the fair market value of land.

(m) *Separability and abrogation.* All sections and subsections of this article are considered separate and distinct. Should any section, subsection, paragraph or part of this article be declared by a court of competent jurisdiction to be invalid for any reason, it shall not invalidate any other section, subsection, paragraph, or part of this article.

(Ord. of 9-23-1999, § VI)

Cross reference—Administration, ch. 2.

Secs. 86-37—86-60. Reserved.

ARTICLE III. WETLANDS PROTECTION

DIVISION 1. GENERALLY

Sec. 86-61. General provisions.

(a) *Findings of fact.* The wetlands in the county are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. The wetlands in the county provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic well being of many communities within the state. Nationally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piecemeal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.

(b) *Purpose.* The purpose of this article is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through a permitting process.

(c) *Authority.* This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I, and art. IX, § II, ¶ III, and O.C.G.A. §§ 12-2-8(b), 50-8-2(a)(18)(B) and 50-8-7.1(b).

(d) *Jurisdiction.* This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(e) *Interpretation.* This article shall be interpreted in conjunction with federal, and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

(Ord. of 2-8-2001(2), § I)

Sec. 86-62. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Generalized wetlands map means the current U.S. Fish and Wildlife Service National Wetlands Inventory maps for the county.

Jurisdictional wetland means an area that meets the definitional requirements for wetlands as determined by the U.S. Army Corps of Engineers.

Jurisdictional wetland determination means a delineation of jurisdictional wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 USC 1344, as amended.

Regulated activity means any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the United States excepting those activities exempted in Section 404 of the Federal Clean Water Act.

Wetlands means those areas that are inundated or saturated by surface water or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The ecological parameters designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

Written notification. means the notice as to applicant shall be given in writing and mailed by certified mail, return receipt requested, to the last known mailing address submitted by applicant to the land development officer. Notice as to the land development officer shall be given in writing and mailed by certified mail, return receipt requested, or delivered personally to and a receipt obtained from the land development officer.

(Ord. of 2-8-2001(2), § II)

Cross reference—Definitions generally, § 1-3.

Sec. 86-63. Establishment of the wetlands protection district.

(a) The wetlands protection district is hereby established which shall correspond to all lands within the jurisdiction of the county that are mapped as wetland areas by the U.S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the generalized wetlands map and is hereby adopted by reference and declared to be a part of this article, together with all explanatory matter thereon and attached thereto.

(b) The generalized wetlands map does not represent the boundaries of jurisdictional wetlands within the county and cannot serve as a substitute for a delineation of wetland boundaries by the U.S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this article does not relieve the landowner from federal or state permitting requirements.

(Ord. of 2-8-2001(2), § III)

Sec. 86-64. Protection criteria requirement for local permit or permission.

No regulated activity will be permitted within the wetlands protection district without written permission or a permit from the land development office. If the area proposed for development is located within 50 feet of a wetlands protection district boundary, as determined by the land development officer using the generalized wetlands map, a U.S. Army Corps of Engineers determination shall be required. If the U.S. Army Corps of Engineers determines that wetlands are present on the proposed development site, the local permit or permission will not be granted until a Section 404 Permit or letter of permission is issued.

(Ord. of 2-8-2001(2), § IV)

Sec. 86-65. Permitted uses.

The following uses shall be allowed as of right within the wetlands protection district to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided in this article. (The activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual Section 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.)

- (1) Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of the state or of the United States in such a way that would require an individual Section 404 permit.
- (2) Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- (3) Forestry practices applied in accordance with best management practices approved by the state forestry commission and as specified in Section 404 of the Clean Water Act.
- (4) The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the state department of agriculture.

(5) The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural best management practices are followed.

(6) Education, scientific research, and nature trails.

(Ord. of 2-8-2001(2), § V)

Sec. 86-66. Prohibited uses.

The following uses are not permitted within the wetlands protection district:

(1) Receiving areas for toxic or hazardous waste or other contaminants;

(2) Hazardous or sanitary waste landfills.

(Ord. of 2-8-2001(2), § VI)

Secs. 86-67—86-90. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT PROCEDURES*

Sec. 86-91. Site plans.

Application for a local development permit within the wetlands protection district shall include a site plan, drawn at a scale of one inch equals 50 feet by a registered land surveyor or professional engineer licensed by the state, with the following information:

(1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross sectional drawings.

(2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.

(3) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.

(4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.

(5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.

(6) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.

(7) All proposed temporary disruptions or diversions of local hydrology.

***Cross reference**—Administration, ch. 2.

- (8) The site plan shall contain a surveyor's or engineer's certification that the project site is or is not located within a water supply watershed district, a wetlands protection district, the Coosawattee River Corridor Protection District or the mountain protection district, as applicable.

(Ord. of 2-8-2001(2), § VII(A))

Sec. 86-92. Activities to comply with site plan.

All development activities or site work conducted after approval of the site plan shall conform with the specifications of such site plan. Significant changes to the site plan that would, alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill, or removal of the overall appearance of the development as proposed, can be amended only with the approval of the land development officer or designated appointee. Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

(Ord. of 2-8-2001(2), § VII(B))

Sec. 86-93. Exemptions to site plan requirements.

The following activities and developments are exempt from the requirement for detailed site plans: Repairs to a facility that are part of a previously approved and permitted development.

(Ord. of 2-8-2001(2), § VII(C))

Sec. 86-94. Powers of the land development officer.

(a) The land development officer shall have the power to enforce the provisions of this article. The land development officer shall have the authority to issue stop work orders and cite violators of this article to court.

(b) The land development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his duties of enforcing this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.

(Ord. of 2-8-2001(2), § VII(D))

Cross reference—Officers and employees, § 2-91 et seq.

Sec. 86-95. Review procedures.

The application shall be made to the land development officer or designated appointee and will be reviewed within 30 days. At the time of the application, the applicant shall pay a filing fee as specified by the board of commissioners. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the land development officer

or designated appointee. The applicant will receive written notification of the findings of the land development officer or designated appointee. Decisions of the land development officer or designated appointee may be appealed to the board of commissioners.

(Ord. of 2-8-2001(2), § VII(E))

Sec. 86-96. Duration of permit validity.

The development permit approval shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the development permit approval shall be null and void.

(Ord. of 2-8-2001(2), § VII(F))

Sec. 86-97. Penalties and fines for noncompliance.

(a) When a building or other structure has been constructed in violation of this article, the violator shall be required to remove the structure at the direction of the director of license and permits and/or the land development officer.

(b) When removal of vegetative cover, excavation, or fill has taken place in violation of this article, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the direction of the land development officer.

(c) If the land development officer discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the land development officer shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

(d) Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-9. Other ordinances incorporated in this article may specify other penalties which shall govern over this section.

(Ord. of 2-8-2001(2), § VII(G))

Sec. 86-98. Suspension and revocation of permit.

The land development officer or designated appointee may suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The land development officer or designated appointee shall issue written notification of denial, issuance, conditional issuance, revocation or suspension to the applicant.

(Ord. of 2-8-2001(2), § VII(H))

Sec. 86-99. Administrative appeals.

(a) Any party aggrieved by any decision of the land development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the land development officer a written notice of appeal specifying the judgement of decision from which appeal is taken.

(b) A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the land development officer.
(Ord. of 2-8-2001(2), § VII(I))

Sec. 86-100. Judicial review.

All final decisions of the board of commissioners concerning denial, approval, or conditional approval of a permit shall be reviewable in the superior court of the county.
(Ord. of 2-8-2001(2), § VII(J))

Sec. 86-101. Amendments.

This article and the wetlands protection district map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.
(Ord. of 2-8-2001(2), § VII(K))

Sec. 86-102. Relief assessment.

Assessors and boards of assessors shall consider requirements of this article in determining the fair market value of land.
(Ord. of 2-8-2001(2), § VII(L))

Secs. 86-103—86-130. Reserved.

ARTICLE IV. WATER SUPPLY WATERSHED PROTECTION

DIVISION 1. GENERALLY

Sec. 86-131. General provisions.

(a) *Findings of fact.* In order to provide for the health, safety, and welfare of the public and a healthy economic climate within the county and surrounding communities, it is essential that the quality of public drinking water be assured. The ability of natural systems to filter stormwater runoff can be threatened by unrestricted development. Land disturbing activities associated with development can increase erosion and sedimentation that threatens the storage capacity of reservoirs. In addition, stormwater runoff, particularly from impervious surface can introduce toxins, nutrients and sediment into drinking water supplies, making water treatment more complicated and expensive and rendering water resources unusable for recreation. Industrial land uses that involve the manufacture, use, transport, and storage of hazardous or toxic waste materials result in the potential risk of contamination of nearby public drinking water supplies.

(b) *Purpose.* The purpose of this article is to establish measures to protect the quality and quantity of the present and future water supply of the county; to minimize the transport of pollutants and sediment to the water supply; and to maintain the yield of the water supply watershed. This article shall apply to all existing and proposed water supply watersheds within the county.

(c) *Authority.* This article is enacted pursuant to the authority contained in Ga. Const. art. IX, § II, ¶ I, and art. IX, § II, ¶ III, and O.C.G.A. §§ 12-2-8(b), 50-8-2(a)(18)(B) and 50-8-7.1(b).

(d) *Jurisdiction.* This article shall apply to the unincorporated areas of the county and to any incorporated area electing to adopt this article.

(e) *Interpretation.* This article shall be interpreted in conjunction with federal and state rules, regulations and laws, and other county ordinances contained or referenced in this article.

(Ord. of 9-23-1999(10), § I)

Sec. 86-132. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Buffer means a natural or enhanced vegetated area with no or limited minor land disturbances, such as trails and picnic areas, located adjacent to reservoirs or perennial streams within a water supply watershed.

Corridor means all land within the buffer areas established adjacent to reservoirs or perennial streams within a water supply watershed and within other setback areas specified in section 86-133.

Impervious surface means a manmade structure or surface that prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

Large water supply watershed means a watershed containing 100 square miles or more of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

Perennial stream means a stream that flows throughout the whole year as indicated on a USGS Quadrangle map.

Reservoir boundary means the edge of a water supply reservoir defined by its normal pool level.

Small water supply watershed means a watershed that contains less than 100 square miles of land within the drainage basin upstream of a governmentally owned public drinking water supply intake.

Utility means public or private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, stormwater systems and railroads or other utilities identified by a local government.

Water supply reservoir means a governmentally owned impoundment of water for the primary purpose of providing water to one or more governmentally owned public drinking water systems. This excludes the multipurpose reservoirs owned by the U.S. Army Corp of Engineers or the Tennessee Valley Authority.

Water supply watershed means the area of land upstream of a governmentally owned public drinking water intake.

Written notification means the notice to the applicant which shall be given in writing and mailed by certified mail, return receipt requested, to the last known mailing address submitted by applicant to the land development officer. Notice as to the land development officer shall be given in writing and mailed by certified mail, return receipt requested, or delivered personally to and a receipt obtained from the land development officer.
(Ord. of 9-23-1999(10), § II)

Cross reference—Definitions generally, § 1-3.

Sec. 86-133. Establishment of a water supply watershed district.

(a) The Ellijay River, the Coosawattee River, and the Cartecay River water supply watershed districts are hereby designated and shall comprise the land that drains to the City of Ellijay public water supply intakes and the City of Chatsworth (Murray County, Georgia) public water supply intake.

(b) The boundaries of these water supply watershed districts are defined by the ridgelines of the respective watersheds and the boundary of a radius of seven miles upstream of the respective public water supply intakes or reservoirs. These districts shall be further delineated and defined on the water supply watershed protection district map of the county. The water supply watershed protection district map is hereby incorporated into and made a part of this article by reference.

(c) The following water supply watershed districts and reservoirs are hereby defined and the boundaries shall be identified on the water supply watershed protection district map.

- (1) The Coosawattee River is a large water supply watershed. An intake for the City of Chatsworth is located on Carters Lake which is fed by the Coosawattee River. This water supply watershed does not contain a reservoir as defined by this article.
- (2) The Cartecay River is a large water supply watershed. An intake for the City of Ellijay is located on this river. This water supply watershed does not contain a reservoir as defined by this article.

- (3) The Ellijay River is a small water supply watershed. An intake for the City of Ellijay is located on this river. This water supply watershed does not contain a reservoir as defined by this article.

(Ord. of 9-23-1999(10), § III)

Sec. 86-134. Protection criteria.

(a) The following regulations shall apply to the Coosawattee River and Cartecay River water supply watersheds identified on the adopted map as a large water supply watersheds without a reservoir: New facilities, located within seven miles of a water supply intake or water supply reservoir, which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements or the requirements of the Standard Fire Prevention Code.

(b) The following regulations shall apply to the Ellijay River water supply watershed identified on the adopted map as a small water supply watershed without a reservoir.

- (1) The corridors of all perennial streams within a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir must be protected by the following criteria:
 - a. A buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
 - b. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream bank.
 - c. Septic tanks and septic tank drainfields are prohibited in the 150-foot setback area as described in subsection (b)(1)b of this section.
- (2) The corridors of all perennial streams outside a seven-mile radius upstream of a governmentally owned public drinking water supply intake or water supply reservoir must be protected by the following criteria.
 - a. A buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.
 - b. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream bank.
 - c. Septic tanks and septic tank drainfields are prohibited in the 75-foot setback area as described in subsection (b)(2)b of this section.
- (3) No more than 25 percent of the land within the water supply watershed protection district may be covered by impervious surfaces.
- (4) New facilities which handle hazardous materials of the types listed in Section 312 of the Resource Conservation and Recovery Act of 1976 (excluding underground storage tanks) and amounts of 10,000 pounds or more on any one day, shall perform their

operations on impervious surfaces in conformance with any applicable federal spill prevention requirements, or the requirements of the Standard Fire Prevention Code. (Ord. of 9-23-1999(10), § IV; Res. No. 06-145, 8-10-2006)

Sec. 86-135. Exemptions.

(a) Land uses existing prior to the promulgation of the water supply watershed protection district. For the purposes of this article a pre-existing use is defined as any land use or land disturbing activity, including all human endeavors directly associated with such use or activity, which, prior to the promulgation of this article falls within one of the following categories.

- (1) Is completed;
- (2) Is under construction;
- (3) Is fully approved by the governing authority;
- (4) All materials have been submitted for approval by the governing authority; or
- (5) Is zoned for such use and expenditures in excess of \$2,500.00 have been made in preparation for construction in accordance with such zoning.

(b) Mining activities permitted by the state department of natural resources under the Georgia Surface Mining Act of 1968 (O.C.G.A. § 12-4-70 et seq.).

(c) Utilities from the stream corridor buffer and setback area provisions in accordance with the following conditions if the utilities to be located in the buffer or setback areas cannot feasibly be located outside these areas:

- (1) The utilities shall be located as far from the stream bank as reasonably possible.
- (2) The installation and maintenance of the utilities shall be such to protect the integrity of the buffer and setback areas as best as reasonably possible.
- (3) The utilities shall not impair the quality of the drinking water stream.

(d) Specific forestry and agricultural activities in the stream corridor buffer and setback areas in accordance with the following conditions.

- (1) The activity shall be consistent with the best management practices established by the state forestry commission or the state department of agriculture.
- (2) The activity shall not impair the quality of the drinking water stream.

(Ord. of 9-23-1999(10), § V)

Secs. 86-136—86-150. Reserved.

DIVISION 2. ADMINISTRATION AND ENFORCEMENT PROCEDURES*

Sec. 86-151. Site plans.

Application for a local development permit within the Coosawattee River, Cartecay River, and Ellijay River water supply watershed districts shall include a site plan, drawn at a scale of one inch equals 50 feet by a registered land surveyor or professional engineer licensed by the state, with the following information:

- (1) A map of all planned excavation and fill, including calculations of the volume of cut and fill involved, cross sectional drawings showing existing and proposed grades. Elevations, horizontal scale, and vertical scale must be shown on the cross sectional drawings.
- (2) A map of any wetland boundaries occurring within the site must be provided. This boundary may be included on other maps provided by the applicant.
- (3) Location, dimensions and area of all impervious surfaces, both existing and proposed, on the site and adjacent to the site for a distance of 200 feet.
- (4) The orientation and distance from the boundaries of the proposed site to the nearest bank of an affected perennial stream or water body.
- (5) Elevations of the site and adjacent lands within 200 feet of the site at contour intervals of no greater than two feet; and no greater than one foot for slopes less than or equal to two percent.
- (6) Location and detailed design of any spill and leak collection systems designed for the purpose of containing accidentally released hazardous or toxic materials.
- (7) All proposed temporary disruptions or diversions of local hydrology.
- (8) The site plan shall contain a surveyor's or engineer's certification that the project site is or is not located within a water supply watershed district, a wetlands protection district, the Coosawattee River Corridor Protection District or the mountain protection district, as applicable.

(Ord. of 9-23-1999(10), § VI(A))

Sec. 86-152. Activities to comply with site plan.

(a) All development activities or site work conducted after approval of the site plan shall conform with the specifications of such site plan. Significant changes to the site plan that would, alter the amount and velocity of stormwater runoff from the site, increase the amount of impervious surface within the development, alter the overall density of development, result in a considerable increase in the amount of excavation, fill, or removal of the overall appearance of the development as proposed, can be amended only with the approval of the land development officer or designated appointee.

***Cross reference**—Administration, ch. 2.

(b) Minor changes, such as the realignment of streets or minor alterations to drainage structures and other infrastructure to meet unexpected conditions are exempted from this requirement.

(Ord. of 9-23-1999(10), § VI(B))

Sec. 86-153. Exemptions to site plan requirements.

The following activities and developments are exempt from the requirement for detailed site plans: Repairs to a facility that are part of a previously approved and permitted development.

(Ord. of 9-23-1999(10), § VI(C))

Sec. 86-154. Powers of the land development officer.

(a) The land development officer shall have the power to enforce the provisions of this article. The land development officer shall have the authority to issue stop work orders and cite violators of the this article to court.

(b) The land development officer shall have the power to conduct investigations as reasonably deemed necessary to carry out his duties of enforcing this article, and for this purpose to enter at reasonable times upon any property, public or private, for the purpose of investigating and inspecting the site.

(Ord. of 9-23-1999(10), § VI(D))

Cross reference—Officers and employees, § 2-91 et seq.

Sec. 86-155. Review procedures.

The application shall be made to the land development officer or designated appointee and will be reviewed within 30 days. At the time of the application, the applicant shall pay a filing fee as specified by the board of commissioners. The review period shall include the preparation of findings (approval, approval with conditions, or disapproval) by the land development officer or designated appointee. The applicant will receive written notification of the findings of the land development officer or designated appointee. Decisions of the land development officer or designated appointee may be appealed to the board of commissioners.

(Ord. of 9-23-1999(10), § VI(E))

Sec. 86-156. Duration of permit.

The development permit approval under this article shall be valid for one year from the date of approval. If substantial work has not been done on the development within this time period, the development permit approval shall be null and void.

(Ord. of 9-23-1999(10), § VI(F))

Sec. 86-157. Penalties and fines for noncompliance.

(a) When a building or other structure has been constructed in violation of this article, the violator shall be required to remove the structure at the direction of the land development officer.

(b) When removal of vegetative cover, excavation or fill has taken place in violation of this article, the violator shall be required to restore the affected land to its original contours and to restore vegetation, as far as practicable, at the direction of the land development officer.

(c) If the land development officer discovers a violation of this article that also constitutes a violation of any provision of the Clean Water Act as amended, the land development officer shall issue written notification of the violation to the U.S. Environmental Protection Agency, the U.S. Army Corps of Engineers, and the landowner.

(d) Any person who violates any provision of this article, or any permit condition or limitation established pursuant to this article shall be guilty of a misdemeanor, and upon conviction shall be punished as provided in section 1-9. Other ordinances incorporated in this article may specify other penalties which shall govern over this section.
(Ord. of 9-23-1999(10), § VI(G))

Sec. 86-158. Suspension; revocation.

The land development officer or designated appointee shall suspend or revoke a permit if he finds that the applicant has not complied with the conditions or limitations set forth in the permit or has exceeded the scope of the work set forth in the permit. The land development officer or designated appointee shall issue written notification of denial, issuance, conditional issuance, revocation or suspension to the applicant.
(Ord. of 9-23-1999(10), § VI(H))

Sec. 86-159. Administrative appeals.

(a) Any party aggrieved by any decision of the land development officer may within 30 days thereafter appeal therefrom to the board of commissioners. The appellant shall furnish the land development officer a written notice of appeal specifying the judgement of decision from which appeal is taken.

(b) A decision by the board of commissioners shall be the final administrative appeal and their decision shall be carried out by the land development officer.
(Ord. of 9-23-1999(10), § VI(I))

Sec. 86-160. Judicial review.

All final decisions of the board of commissioners concerning denial, approval, or conditional approval of a permit shall be reviewable in the superior court of the county.
(Ord. of 9-23-1999(10), § VI(J))

Sec. 86-161. Amendments.

This article and the Coosawattee River, Cartecay River, and the Ellijay River water supply watershed districts map may from time to time be amended in accordance with procedures and requirements in the general statutes and as new information becomes available.
(Ord. of 9-23-1999(10), § VI(K))

Sec. 86-162. Relief assessment.

Assessors and boards of assessors shall consider the requirements of this article in determining the fair market value of land.

(Ord. of 9-23-1999(10), § VI(L))

Sec. 86-163. Variances.

(a) *When issued.* The board of commissioners may authorized, upon appeal in individual cases, variances from the terms of this article as will not be contrary to the public interest. Variances will only be issued in cases where, owing to special conditions, a literal enforcement of the provisions of this article will result in unnecessary hardship. Such variance may be granted in individual cases of practical difficulty or unnecessary hardship only upon a finding by the board of commissioners that all of the following conditions exist:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography;
- (2) The application of this article to the particular piece of property would create an unnecessary hardship;
- (3) Relief if granted, would not cause substantial detriment to the wetlands of the county or impair the purposes and intent of this article;
- (4) The special circumstances surrounding the request for a variance are not the result of acts by the applicant;
- (5) The variance is not a request to permit a use of land, buildings or structures that is not permissible in the district involved; and
- (6) The variance will not result in an increase of the impervious surface development beyond the prescribed 25 percent requirement established in section 86-134(b)(3).

(b) *Conditions.* The board of commissioners may, as a condition of the variance to certain provisions of this article, require that alternative measures be taken by the applicant such that the purposes of this article may be achieved through alternative means.

(Ord. of 9-23-1999(10), § VI(N); Ord. of 4-26-2001)