

## **Chapter 16 – LAND DEVELOPMENT CODE**

### **Article I. – AUTHORITY, TITLE, PURPOSE AND INTENT**

#### **Sec. 16-11. – Authority.**

These ordinances, rules and regulations are adopted pursuant to the authority conferred by article 9, section 2, paragraph IV, 1983 Constitution of the State of Georgia and laws enacted pursuant thereto.

#### **Sec. 16-12. – Title.**

These regulations shall be known as "The Land Use Codes of Baldwin County, Georgia," and may be referred to generally as "The Land Use Code," or, as used herein, "these regulations," or "The Subdivision Regulations."

#### **Sec 16-13. – Purpose.**

These regulations are intended to serve the following purposes:

- (1) To protect and promote the public health, safety, and general welfare.
- (2) To provide a system for the subdividing of lands and the accurate recording of land titles.
- (3) To foster development in which lots shown on recorded subdivision plats are useable by the purchasers for their normal and permitted functions.
- (4) To encourage economically sound and orderly land development in accordance with the policies and objectives of the Comprehensive Plan of Baldwin County, Georgia.
- (5) To assure the provision of required streets, utilities, and other facilities and services to new land developments in conformance with public improvement policies of the county.
- (6) To assure adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in new land developments.
- (7) To assure the provision of needed open spaces and public facility sites in new land developments through the dedication or reservation for purchase of land for public purposes.
- (8) To assure equitable review and approval of all subdivision and site plans by providing uniform procedures and standards for the developer.

#### **Sec. 16-14. - Intent.**

It is the intent of these regulations that they apply to and provide guidance for the development of any lands within the unincorporated areas of Baldwin County, Georgia, whether the development involves the subdivision of land for sale to individual users or pertains only to the construction of buildings, streets, or other improvements on a single parcel.

#### **Sec. 16-15. - [Included codes.]**

These codes include the following:

- (1) Subdivision Regulations.

- (2) Manufactured Home Park Regulations.
- (3) Flood Ordinances.
- (4) Soil, Erosion and Sedimentation Control Ordinance.
- (5) Special Use Restrictions.
- (6) Building Codes.
- (7) Occupation Tax Ordinance.

(Amd. of 7-1-1991)

**Secs. 16-16—16-20. - Reserved.**

## **ARTICLE II. – DEFINITIONS**

### **Sec. 16-21. - Use of words.**

For the purpose of these regulations, the following shall apply to the use of all words:

- (1) When appropriate to the context, words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense, and vice versa.
- (2) Words in the masculine gender shall include the feminine.
- (3) The word "shall" is mandatory and not discretionary.
- (4) The word "may" is permissive.
- (5) Use of the word "and" is inclusive and requires that all of the component phrases so connected must be present or fulfilled for sufficiency. The word "or" may allow more than one component phrase to be present or fulfilled, as is implied by the common term "and/or".

### **Sec. 16.22. - Interpretation of words and phrases.**

The following shall control the interpretation of words and phrases as used in these regulations:

- (1) Words and phrases defined in this article shall be interpreted as defined herein without regard to other meanings in common or ordinary use, unless the context of the word indicates otherwise.
- (2) Words or phrases not defined herein shall be interpreted as defined in the separate codes that are a part hereof, as applicable to the use of the word within the context of these regulations.
- (3) Words not defined herein or in the separate codes or any other applicable code, regulation, or ordinance of Baldwin County shall be construed to have the meaning given by common and ordinary use, and shall be interpreted within the context of the sentence, section, and article in which they occur.

### **Sec. 16.23. - Definitions of words and phrases.**

Certain words or phrases in these regulations are defined for their use herein as follows:

*Access drive:* A private drive or way giving access from a public road to land abutting the

right-of-way thereof; a vehicular entrance to or exit from such abutting property to a public road.

*Administrator:* The individual designated by the board of commissioners charged with the administration of these regulations; currently, the code enforcement administrator.

*Advertising device:* A sign erected on a lot which directs attention to a business, a commodity, a person, a service or an organization offered elsewhere than on the lot on which erected.

*Agricultural industry:* The use of land and structures for the processing of agricultural and forest products, and related operations, including dairy and milk products and by-products production; chick hatchery; sawmill or planing mill for lumber and forest products and by-products processing and production; primary point for livestock, field and forest product collection, sales, and shipping; trade in odor-producing goods of rural origin such as hides, skins, raw furs, livestock, poultry, fish, and other animals and animal products.

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

*Alley or service drive:* A minor, permanent, public service-way which is used primarily for vehicular service access to the back or the side for properties otherwise abutting on a street.

*Applicant:* A person, either the owner or the bona fide representative of the owner of land or structures governed by these regulations, who seeks authority to use, develop, construct upon or otherwise enjoy the use of property through any of the procedures established under these regulations.

*Arterial street:* A street which is used primarily for fast and heavy traffic flow, is of considerable continuity, and is used as a traffic artery for inter-connection among large areas. These streets are designated to have a right-of-way width of 100 feet and are designated on the comprehensive plan.

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

*Base flood:* The flood which has a one (1%) percent probability of occurring in any calendar year (i.e., the 100-year frequency flood).

*Base flood elevation:* The highest water surface elevation anticipated at any given point during the base flood.

*Block:* A piece or parcel of land entirely surrounded by public streets, other than alleys.

*Board of commissioners:* The Board of Commissioners of Baldwin County, Georgia.

*Buildable lot of record:* A lot or parcel of land which existed as a single parcel of ownership, recorded as such in its entirety and with present boundaries with the clerk of superior court prior to the adoption and effective date of these regulations.

*Building setback line:* A line across a lot parallel to a street right-of-way or other property line establishing the minimum open space to be provided between any principal building and the street or other property line. All building setback lines shall be at least as restrictive as the corresponding minimum yard setbacks required in Special Use Restrictions. On corner

lots, the minimum required front yard setback shall be provided all along all abutting public streets.

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

*Certificate of occupancy:* Authorization issued by the county for a building, land-disturbing activity, or use to be occupied or operated. The certificate is issued provided a building, or use is in compliance with these regulations or other regulations or ordinances.

*Clearing:* The removal of trees or other vegetation, but not including grubbing activities.

*Clearing & grubbing permit:* Authorization issued by the county to commence clearing of trees and vegetation, as well as the removal of stumps, on a site.

*Clearing permit:* Authorization issued by the county to commence the clearing of trees and vegetation on a site.

*Clerk of Superior Court:* The Clerk of Superior Court of Baldwin County, Georgia.

*Collector street:* A street which carries traffic from activity centers on local streets to arterial streets. The streets are designated to have a right-of-way width of 80 feet and are designated on the comprehensive plan.

*Commercial:* Any use involving in whole or in part the storage and/or display of merchandise or materials for the purpose of wholesale or retail sale; any use involving the rendering of a personal service.

*Comprehensive plan:* A plan summarizing and illustrating the adopted goals and objectives of the board of commissioners regarding the future location and character of anticipated land uses, transportation, and other public facilities in Baldwin County. The term "comprehensive plan" includes component or functional plans for the county, including but not limited to a plan for land use (i.e., land use plan) or a plan for transportation facilities, and includes the classification of streets and thoroughfares. Until such a plan has been officially adopted by Baldwin County, the current policies of Baldwin County and uses in effect shall provide the plan elements required for compliance herein.

*Condominium* - A form of property ownership in which the buildings or portions of the buildings, whether residential or nonresidential in use are owned by individuals separate from the lands which surround the buildings, said lands being held in common ownership by the owners of the several buildings.

*County:* Baldwin County, Georgia.

*County:* The unincorporated area of Baldwin County, Georgia.

*County board of health:* The Board of Health of Baldwin County, Georgia.

*County building official:* The person appointed, employed, or otherwise designated by the Baldwin County Board of Commissioners as the county building official, now the code enforcement administrator.

*County commission:* The Baldwin County Board of Commissioners.

*County health officer:* The person appointed, employed or otherwise designated as the County Sanitarian by the Baldwin County Board of Health.

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

*County public works superintendent:* The person appointed, employed or otherwise designated by the Baldwin County Board of Commissioners as the county public works superintendent.

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

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

*Cul-de-sac:* A street having one end open to traffic and being permanently terminated within the development by a vehicular turnaround. For the purpose of designation, a cul-de-sac street shall be interpreted to begin at the intersection of two (2) or more streets nearest to the vehicular turnaround.

*Developer:* Any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit who directs the undertaking or proposes to undertake development activities as herein defined, whether the development involves the subdivision of the land for sale to individual users, the construction of buildings or other improvements on land under single ownership, or both.

*Development:*

- (1) *(verb)* The performance of all activities associated with the conversion of land or the expansion or replacement of an existing use to any new use intended for human operation, occupancy or habitation, other than for agricultural purposes devoted strictly to the cultivation of land, dairying or animal husbandry. Such activities include land-disturbance (clearing and grubbing land of vegetation and stumps, and grading) and construction of improvements such as, but not limited to, streets, driveways or parking areas, water or sewer mains, stormwater drainage facilities, sidewalks or other structures permanently placed on or in the property.
- (2) *(noun)* Where appropriate to the context, the term "development" also may be used to denote a specific subdivision or project which is a single entity or intended to be constructed as an interrelated whole, whether simultaneously or in phases.

*Development permit:* Authorization issued by the county permitting clearing, grubbing, grading, or construction of storm drainage facilities, access drives, streets, parking or other improvements exclusive of buildings.

*Development plans:* Those detailed plans showing the layout and design, site work and construction activities proposed for a project (other than architectural building plans) and including the preliminary plat or site plan (as applicable), grading plan, erosion and sediment

control plan, buffer and landscape plan, and construction drawings for streets, stormwater drainage facilities, sanitary sewers, water supply facilities and other site improvements. These plans must be prepared by professionals as required by the administrator.

*Director:* See "Development Administrator."

*Drainage improvements:* Those facilities and structures intended to control and direct the stormwaters and other surface water across a property, including, but not limited to, swales and ditches, cross drains and other piping systems, catchbasins, detention ponds, and velocity dissipation devices.

*Driveway* - A vehicular access way in private ownership, other than a private street, which provides access primarily to only one property, or to no more than two (2) single-family residences from property abutting a public roadway to said roadway.

*Dwelling:* A building designed for dwelling purposes. The term "dwelling" or any combination thereof shall not be deemed to include hotel, rooming or boarding house, motel, clubhouse, hospital or other accommodations used for transient occupancy.

*Dwelling unit:* One or more rooms in a residential building or in a mixed-use building, which are arranged, designed, used or intended for use by one or more persons living together and maintaining a common household and which include lawful cooking space and lawful sanitary facilities reserved for the occupants thereof.

*Easement:* Recorded authorization for a specified purpose by a property owner for the use of any designated part of the real property by another entity. (i.e., slope, utility, access)

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

- a. Wholesale trade and warehousing of goods sold at retail (but excluding hides, skins, raw furs, livestock, living poultry, or other odor-producing animal products); sales and storage of lumber, metal and wood fencing, ornamental grill work, and building, electrical heating, plumbing, welding, and similar contractors and industrial supplies (including sale of sand and gravel but excluding sales of asphalt and concrete from batch plant or transit-mix plant); sales and tank storage of bulk fuel or motor oil, gasoline, heating, and illuminating gas, and the like (but not the refining or processing thereof), and sales and storage of coal; cold storage services; sale and service of barber/beauty and restaurant/hotel food service supplies and equipment; sale and services of medical supplies and equipment; catering services, amusement and vending machines sales and service; uniform supply service; laundry plant (without individual patron service desk); manufacture, sale, and service of electric and neon signs and advertising structures; and monument sales (but not manufacture).
- b. New and used motor vehicle (of  $\frac{3}{4}$  ton or less rated capacity) and small nonvehicular engines and equipment sales, rental, and such services as repair, reconditioning, painting, body and fender work, upholstering and seat covering, and tire retreading and recapping; motor vehicle (of whatever size), mobile home, travel or other trailer, marine craft, and small aircraft, and small aircraft sales and rental (but not servicing as above)

and exterminating, fumigating, septic tank pumping, furnace cleaning, well drilling and like services.

- c. Sales and rental maintenance (not involving heavy metal working) for motor vehicles of greater than  $\frac{3}{4}$  ton rated capacity and for large transportation, communications, utilities, industrial, commercial, agricultural, or contractors equipment.
- d. Sale, storage and sorting (but not disassembly or processing) of junk, waste, discarded or salvaged equipment, machinery, vehicles, or other nonputrescible materials.

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

*Fee simple:* A form of property ownership in which the buildings and surrounding lands are owned by the same person.

*Federal Emergency Management Agency (FEMA):* The federal agency which administers the National Flood Insurance Program. This agency prepares, revises and distributes the maps and studies referenced in these regulations.

*Filling station:* The use of land and structure for services which primarily involve the retail sale of gasoline and related vehicular fuel and additives, oil and related lubricants and additives and minor accessories, batteries, packaged supplies, tires, tubes and the like and minor services such as lubrication, engine adjustments, minor parts adjustments, repair, replacement, polishing, tire and tube balancing, repair, and replacement, washing, waxing, and the like for individual passenger vehicles and other vehicles of  $\frac{3}{4}$  ton or less rated capacity, but excluding steam cleaning, spray painting, engine overhaul, overnight vehicular storage, commercial parking, wrecker operation, and vehicular repairs where such repair includes metal bumping, grinding, or hammering or other noisy operations, or removing the head of engines.

*Final plat:* A finished drawing of a subdivision showing completely and accurately all legal and boundary information and certifications necessary for recording which complies with these regulations.

*Flood or flooding:* A general and temporary condition of partial or complete inundation of normally dry land areas.

*Flood boundary and floodway map:* The official map, issued by the Federal Emergency Management Agency, where the boundaries of the floodways are shown and the areas of special flood hazard have been defined.

*Flood hazard area:* See "Floodplain."

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

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

*Floodplain:* Those lands subject to flooding, which have at least a one (1%) percent probability of flooding occurrence in any calendar year (i.e., the 100-year frequency or base flood).

*Floodway:* The channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1') foot.

*Freeboard:* The distance between the base flood elevation and the top of a stormwater detention structure.

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

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

*General business:* The use of land or structures for sales and services which deal in goods transportable by land or passenger automobile, cater to a local resident clientele and involve:

- a. Sales and services not involving vehicular drive-in, and frequent and regular use to local residents;
- b. Offices of medical services not involving resident human or animal patients;
- c. Offices of business services, but excluding on-site stock storage, sales, or rental of retail goods, and the warehousing, maintenance, rental, sales, and storage of vehicles and equipment.

*General industry:* The use of land and structures for manufacturing involving indoor and outdoor industrial operations which are characterized by some emissions, but are not inherently offensive, dangerous, or hazardous to abutting property or operations or to the general public— including brick, tile, or terra cotta manufacture; furniture, feed, flour, or other mill; manufacturing, compounding, processing, packaging or treatment of bakery goods, beverages, candy, dairy products, feed, flour and food products; laundry plant (steam or wet wash); draying, barging, freight, or trucking yard or terminal; manufacture of nongaseous or nontoxic or nonnoxious chemicals; manufacture of concrete products (but not manufacture of cement); fabrication plant, foundry, machine shop, or metal working plant for light nonferrous metals (not involving the use of machines for stamping, pressing, or punching weighing in excess of five (5) tons; blacksmith shop; educational or trade schools in which the above activities are taught or performed.

*Georgia DOT:* The department of transportation of the State of Georgia.

*Grading:* The movement, removal or addition of earth on a site by the use of mechanical equipment.

*Grading permit:* Authorization issued by the county to commence grading on a site, and may include installation of attendant stormwater drainage facilities.

*Group quarters:* The use of land and structures for human occupancy involving group

occupancy predominantly by unrelated individuals in rooming and boardinghouses, membership and religious group lodgings, residence halls, or dormitories; residential hotels, motels, and tourist courts; or retirement, rest, or nursing home, orphanage, or nursery or day care center.

*Grubbing:* The removal of stumps or roots from a property.

*Health department:* The Environmental Health Services Division of the Georgia Department of Human Resources for Baldwin County.

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

*Indoor activity use:* The use of land and structures for generally quiet, predominantly indoor activities to include:

- a. Activities of a public service, religious, cultural, or educational nature including auditoriums, exhibit halls, gymnasias, theatres (except drive-in outdoor types), libraries, art galleries, spas, health clubs, museums, skating rinks, or other recreation centers; hospitals for in-patient treatment and schools of general or special education.
- b. Small offices to provide professional and like services. This shall not include any retail sales or display of merchandise for sale and includes only small office sites that include less than 5,000 square feet of floor space specifically designed for office purposes.

*Industrial use:* Any use of land or structures involving the manufacturing and/or processing of any material.

*Jog, road:* The physical condition created when the center-line of a road, or two roads having approximately the same horizontal alignment, intersects the centerline of another road at more than one location.

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

*Land-disturbance permit:* Any permit, other than a building permit, issued by the county that authorizes clearing, grubbing, or grading activities on a site or portion of a site. Said permit may be a clearing, clearing and grubbing, grading, or a development permit as defined and authorized herein.

*Letter of credit:* is defined as an engagement by a bank made at the request of a customer that the issuing bank will honor drafts or other demands for payment made by Baldwin County, Georgia, or its assigns, upon compliance with the conditions specified in the credit.

A letter of credit may, in the discretion of the administrator, be used in lieu of a surety bond wherever such a bond is required by this code and the amount of the required bond is less than \$100,000, provided that:

- a. The letter is clear irrevocable, and unconditional;
- b. Is issued by a bank, which must be domiciled in this state and either be a bank chartered by the State of Georgia or a national bank which is a member of the Federal Reserve System;

- c. Said bank must be acceptable to the administrator;
- d. Must provide that it is presentable and payable within the State of Georgia;
- e. Must provide that jurisdiction and venue of disputes concerning the letter of credit be vested in the Superior Court of Baldwin County, Georgia.
- f. Must be made on conditions which insure compliance with the land use code of Baldwin County;
- g. Must be provided in conformity with any other requirements established by the administrator.

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

*Local street:* A street used primarily for access to abutting properties or developments, serving to carry traffic to collector streets or arterial streets. Local streets comprise all streets not classified and designated as an arterial or collector street on the comprehensive plan.

*Lot:* A portion of a subdivision, or any other parcel of land, intended as a unit for transfer of ownership or for development or both. In determining the area and dimensions of a lot, no part of the right-of-way of a public street may be included.

*Lot, corner:* a lot abutting upon two (2) or more public streets at their intersection.

*Lot, double frontage -* A lot, other than a corner lot, abutting upon two (2) or more public streets.

*Lot, interior:* A lot other than a corner lot.

*Lot of record:* A lot whose legal boundaries are shown on an instrument or plat that has been recorded by the Clerk of Superior Court of Baldwin County.

*Major thoroughfare:* Any public street, existing or proposed, which is an arterial or collector street.

*Mean sea level:* The average height of the sea for all stages of the tide. It is used as a reference for establishing various elevations within the floodplain. For purposes of these regulations, the term is synonymous with national geodetic vertical datum (NGVD).

*Mining:* The use of land and structures for the excavation of minerals, rock, dimension stone, sand, gravel, top soil or fill dirt for purposes of removal from the site on which extracted; (not including the preparation of a site for nonextractive use).

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

*Outdoor activity use:* The use of land and structures for passive or active outdoor activities characterized by neither inherently hazardous types nor significantly high levels of emissions, including:

- a. Kennels, pet-boarding, schooling, or hospitalization, horseback riding stables;
- b. Cemeteries, mausoleums, memorial gardens;
- c. Golf and country clubs, golf courses, golf driving ranges;
- d. Playgrounds, playfields, swimming pools, tennis courts, archery courses, miniature golf courses, trampolines or other novelty areas;
- e. Arboretum, botanical gardens, ornamental parks, historical areas, monuments or sculptures.

*Outdoor amusement use:* The use of land and structures for outdoor activities characterized by significant levels of traffic, hazards, or emissions, including amusement parks, amphitheatres, ballparks, carnivals, stadiums, fairgrounds, drive-in theatres; auto, go-cart, or similar racetracks or drags; dog or similar competitive courses; rifle or other gun firing ranges.

*Owner:* A person having the sole, or not less than a majority, fee simple interest in real property, or a majority interest through any other form of ownership.

*Pedestrian way:* An easement within a block dedicated to public use, intended primarily for pedestrians and from which motor-propelled vehicles are excluded.

*Person:* An individual, firm, partnership, corporation, joint venture, association, social club, fraternal organization, estate, trust, business trust, receiver, syndicate, or other group or combination acting singly or collectively for a common purpose, and the duly authorized agents thereof.

*Planning commission:* The Baldwin County Planning Commission.

*Plat:* A finished drawing of a tract or land prepared from an actual survey in accordance with Georgia Law.

*Preliminary plat:* A drawing which shows the perimeter boundary, topography, lotting arrangements, street layout, and other features of a proposed subdivision, as specified in these regulations.

*Project:* A principal building or structure, or group of buildings or structures, planned and designed as an interdependent unit together with all accessory uses or structures, utilities, drainage, access, and circulation facilities, whether built in whole or in phases. Examples include: a principal building on a lot; a residential subdivision; a multifamily development; a shopping center or an office park.

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

of the community.

*Public road:* A road or road right-of-way which is owned or maintained by a unit of government or an authorized agency thereof. As to county, public roadways are only those which have been so designated on the official county road map.

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

*Qualified surveyor:* A person licensed by the State of Georgia to perform the duties of a land surveyor.

*Record drawing:* A plat or other drawing based on a field survey which shows existing features or components and horizontal or vertical information (grades or location of improvements).

*Registered engineer:* A person licensed by the State of Georgia to perform the duties of an engineer.

*Residential:* A building or portion thereof containing or designed to contain space for human dwelling.

*Responsible party:* In the context of enforcement procedures, a person (as defined above) who is alleged to have committed, caused, continued or created a violation of the terms, requirements, regulations, or provisions of these regulations whether as a direct act, through lack of action or responsible party may be the owner of a premises where violation has occurred; an occupant whether through ownership, lease or other tenancy; a contractor, builder or developer; an agent of or person otherwise acting on behalf of the aforementioned parties; or other person acting in violation of these regulations.

*Restaurant:* The use of land and structures for on-premises sale and consumption of food and beverages.

*Right-of-way:* A strip of land over which the county has a right, by ownership, useage, or easement, to construct a public street, sidewalk or to use for public utilities.

*Road:* See "Street, public."

*Roadway:* The paved portion of a street from back of curb to back of curb (or edge to edge of pavement for streets not having curbs) but excluding driveway aprons, bridges, and large single and multi-cell culverts which in an hydrologic sense can be considered to function as a bridge.

*Sheet flow:* Diffused water running overland to a defined watercourse.

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

*Site development plans:* See "Development plans."

*Site work:* Development activity to prepare a property for construction of buildings or finished structures, including clearing, grubbing, grading, and installation of soil sedimentation and erosion control facilities.

*Sketch plat:* A drawing which shows the overall concept of a proposed development, including lots and streets in a subdivision or the general location of buildings and improvements for a multifamily or nonresidential project, and which may be drawn to approximate dimensions in a freehand style.

*Special industry:* The use of land and structures for manufacturing activity involving industrial operations which customarily produce significant levels of emissions or are offensive, hazardous, or dangerous by nature - including treatment of trash, garbage, offal, dead animals, and sewage, including incinerating, dumping, composting, digestion, filtration, flocculation, sedimentation, chemical precipitation, oxidation, and reduction; operation of a landfill; cooking, distillation, incineration, and chemical precipitation, oxidation and reduction; cooking, distillation, incineration, and chemical processing of plastics and animal and vegetable products, including but not limited to brewery, distillery, flavor or syrup extract, glue, paper, pulp, paint, plastic, shellac, turpentine, or varnish manufacture; leather, tanning, wool scouring and cleaning, cotton textile sizing, or corrosive or noxious chemicals, including, but not limited to acids, acetylene, ammonia, chlorine, and bleaching compounds; production or processing of coal, coal tar petroleum, or asphalt products, including but not limited to coke, illuminating gas, petroleum, asphalt, linoleum, oilcloth, or roofing materials manufacture; power, light, or steam generation, using coal as fuel; smelting, reduction, refining and alloying of metallic ores, including, but not limited to, blast, open hearth, or electrical furnaces, or explosive products, including, but not limited to, dynamite and commercial explosive, TNT, and military explosives and fireworks; production of materials by nuclear fission, nuclear plant for production of electric power, light, or steam or for particulate bombardment of materials; machining, working, stamping, punching, processing or pressing of metal requiring hammer mills, rolling mills, drop forges, metal grinding machines, automatic screw processing of junk, waste, discarded or salvaged materials, machinery, or equipment, including automobile or other wrecking or dismantling; trade or vocational schools in which the above activities are taught or performed.

*Stabilize:* To establish an enduring soil cover of vegetation and/or mulch or other acceptable ground cover for the purpose of reducing to a minimum the transport of sediment by wind, water, ice, or gravity.

*Street, half:* A street having one-half ( $\frac{1}{2}$ ) of the minimum required right-of-way or pavement width.

*Street, private:* A vehicular access way similar to and having the same function as a public street, providing access to more than one property, but held in private ownership (as distinct from a "driveway").

*Street, public:* Right-of-way dedicated to and accepted by the county for vehicular traffic or over which the county may hold a prescriptive easement for public access, and including designated, numbered US and state highways. For purposes of most of these regulations, the term "public street" shall be limited to those which afford or could afford a direct means of vehicular access to abutting property, and exclude limited access roadways which abut a property but from which direct access may not be allowed under any circumstances.

*Structure:* Anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on or in the ground,

and having a height in excess of twelve (12) inches. Anything constructed or erected on the ground or attached to something on the ground.

*Subdivide:* (verb) The division or redivision of a lot, tract or parcel, regardless of its existing or future use, into two or more lots, tracts or parcels. The term "subdivision" shall mean the act or process of dividing property.

*Subdivider:* A person who subdivides or causes land to be subdivided. Any person, individual, firm, partnership, association, corporation, estate, trust, or any other group or combination acting as a unit dividing or proposing to divide land so as to constitute a subdivision as herein defined, including an agent of the subdivider.

*Subdivision:* (noun) Where appropriate to the context, the term "subdivision" may refer to the aggregate of all lots held in common ownership at the time of division.

*Subdivision, major:* Any division or redivision of a lot, tract or parcel, regardless of its existing or future use, into more than five (5) lots abutting upon an existing public street, or any division of a lot, tract or parcel involving the dedication of a new public street pursuant to these regulations.

*Subdivision, minor:* Any division or redivision of a lot, tract, or parcel, regardless of its existing future use, into five (5) or fewer lots abutting upon an existing public street and meeting the standards set forth in article 5 of these regulations.

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

*Tie point:* The point of reference of a boundary survey. Said point of reference shall be an established, monumented position which can be identified or relocated from maps, plats, or other documents on public record.

*Tourist services:* The use of land and structures for services and trade which cater to a specialized clientele, deal in specialized services, and are of otherwise independent or unique characteristics, including tourist information centers, souvenir/curio/gift shops, hunting/fishing/boating/camping supply shops, ambulance or other emergency services, establishments for rental or en-route servicing, (but not sales), of passenger motor vehicles, other vehicles of  $\frac{3}{4}$  ton or less rated capacity, self-haul equipment, travel trailers, pick-up campers, pleasure boats, and similar and related travel or recreational equipment, and the like.

*Truck stop:* The use of land and structures for the rental and servicing of and en-route sales of fuel, lubricants, minor accessories, and the like, primarily to vehicles of greater than  $\frac{3}{4}$  ton capacity but no sales of such vehicles.

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

*Utility tower:* A structure typically higher than its surroundings that may stand alone or be attached to another structure, and used generally for broadcast, communications, or observation.

*Water supply central:* A water supply system, including pumps and distribution lines and

other facilities appurtenant thereto, serving or designed to serve more than two (2) buildings or structures used or designed to be used for human occupancy.

*Watercourse:* A channel with a defined bed and banks, including lakes, ponds and marshes.

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

*Wheeled houses:* Recreational Vehicle, Park Model (trailer type RV designed to provide temporary accommodations for recreation, camping or seasonal use) brought to a home site on wheels.

*Zoning ordinance:* The adopted zoning ordinance of the City of Milledgeville, as amended from time to time.

*Zoological park:* The use of land and structures for the keeping for purposes of exhibition of any native or exotic animal species.

(Amd. of 7-1-1991; Amd. of 6-7-1994; Amd. of 11-18-1997; Amd. of 8-2-2005; Amd. of 7-20-2010)

**Secs. 16-24—16-30. - Reserved.**

### **ARTICLE III. – APPLICATION OF THE REGULATIONS.**

#### **Sec. 16-31. – Application.**

Any land-disturbance activity, subdivision or development activity must comply with these regulations.

#### **Sec. 16-32. – Dedication of public lands and facilities.**

No land dedicated as a public street or other public purpose shall be opened or accepted as a public street or for any other public purpose, and no subdivision of land shall be made, nor subdivision plat, nor part thereof shall be recorded before obtaining final approval as required herein. Said approval shall be entered in writing on the final plat by the chairman of the board of commissioners, or his designated representative. Said chairman is hereby authorized to accept such dedications of lands and public facilities on behalf of Baldwin County and to cause such dedications to be recorded by the clerk of superior court of Baldwin County when in compliance with these regulations.

#### **Sec. 16-33. - Transfer of land ownership.**

- (a) The following transfers of land ownership may be accomplished without complying with platting or approval requirements herein:
  - (1) Said land existed as a separate, distinct, single parcel prior to the adoption of these regulations. A building permit may be issued as to such existing tract only if said lot complies with the minimum health department sanitation requirements for the use intended and the minimum setback requirements of these regulations. A conveyance

- otherwise authorized shall not be refused transfer or building permit solely because of a utility or road right-of-way conveyance;
- (2) A conveyance based upon a division of an existing tract such that the resulting tracts are all larger than 10 acres, and all tracts have not less than 160 feet of public road frontage and there is no violation of minimum setback requirements;
  - (3) Any conveyance to a public body for public purposes;
  - (4) Said land is, or becomes a part of, a composite tract formed by a combination of properties that comply with one or more of the exceptions stated herein.
- (b) The following transfers of land ownership require compliance with the platting requirements of these regulations but do not require approval by county officials:
- (1) Said land is shown as a separate, distinct, single parcel on a plat being recorded in said clerk's office, having as a part thereof the surveyor's certificate required in O.C.G.A. § 15-6-67(d) together with the surveyor's certification that said parcel abuts upon a public roadway for not less than 80 feet, complies with applicable size and setback requirements; and does not result in a division such that any remainder tracts do not meet the public road access, minimum size and setback requirements herein.
  - (2) Said land is shown as a separate, distinct, single parcel on a plat prepared to depict said property as it existed on or before July 1, 1991, having as a part thereof a surveyor's certification that said plat is a true and correct representation of said parcel as it existed on or before July 1, 1991.
- (c) The following transfers of land ownership require compliance with the platting requirements of these regulations and require approval by the administrator, but are not subject to the "procedures" and "required public improvements" portions of these regulations, except as noted. These transfers would include the subdivision of property as defined in these regulations. Each such subdivision shall be shown on a plat in accordance with plat standards required by the administrator pursuant to the requirements of these regulations and shall be submitted in five (5) copies together with any fees established by the county to the administrator for review and approval. Upon approval, the administrator shall authorize the recording of the plat or final plat with the clerk of superior court of Baldwin County and grant the issuance of building permits pursuant to the codes and ordinances of the county. The administrator shall prepare a certification which shall be impressed upon plats that are recordable under this division and said plats shall be recordable if said certification is executed by the administrator. Plats submitted to the administrator for review which fulfill all of the conditions set forth under section 16-33. (b) except the surveyor's certification shall be designated as recordable under that section.
- (1) Recombinations - The combination or re-combination of two (2) or more buildable lots of record, where the total number of lots is not increased and the resultant lots or parcels are in compliance with this ordinance shall be considered exempt. The owner and/or surveyor shall provide to the administrator such information as is required for a determination of compliance as to the composite tract(s) formed and as to the remainder tracts.

- (2) Minor subdivisions - The division of a single tract into five (5) or fewer lots with lots smaller than five acres, provided:
- a. Each proposed lot complies with all requirements of this ordinance, including minimum lot size, required setback lines, and public road access.
  - b. Each proposed lot abuts upon an existing paved public street for not less than the minimum distance required in these regulations, with not less than the lot width as required in section 16.72. (a).
  - c. All slope and utility easements, as well as required street rights-of-way, as determined by the administrator based on the comprehensive plan, are provided at no cost to the county.
  - d. Each lot, thus created, may not be resubdivided as a minor subdivision under these regulations. Such resubdivisions shall be accomplished only through the procedures pertaining to major subdivisions contained in these regulations.
  - e. Each proposed lot shall comply with the requirements of the health department whose certification of approval shall be required prior to approval of the final plat by the administrator.

- (3) Other subdivisions - lots five (5) acres, or greater - The division of land for single- family residential use into nine lots or less with said lots having a minimum lot area of at least five (5) acres, provided:
- a. Each proposed lot shall provide at least 100 feet of frontage upon an existing paved public street, and shall provide not less than 200 feet of lot width at the building line and for an area which include any proposed structure and the septic system or not less than that width as required in section 16.72. (a), whichever is greater.
  - b. All slope and utility easements as well as required street right-of-way, as determined by the administrator based on the comprehensive plan, are provided at no cost to the county.
  - c. Each lot, thus created, may not be resubdivided to less than five (5) acres as a minor subdivision under these regulations. Such resubdivisions shall be accomplished only through the procedures pertaining to major subdivisions contained in these regulations.
  - d. Each proposed lot shall comply with the requirements of the health department whose certification of approval shall be required prior to approval of the final plat by the administrator.
  - e. If more than five (5) lots are included, the owner shall provide minimum restrictive covenants as required for major subdivisions.
- (4) Phased development - In the event an owner or developer desires to develop only a portion of an entire tract and desires to convey only one or more lots in phases, he may do so through a phased development that will not require compliance with the major subdivision requirements for each lot or phase by complying with the following regulations:
- a. Prior to approval of the first lot or phase under these regulations the owner shall submit to the administrator, a plat or copy of the current tax map showing the entire tract to be approved for phased development and shall supply all information required under preliminary plat specifications required by the administrator;
  - b. The development shall be assigned a name and minimum lot sizes determined, together with minimum setback lines and a determination of a lot numbering system so that there shall be no duplication of lot numbers within the development;
  - c. The developer shall submit a copy of one or more proposed restrictive covenants with clear designation on the plat or map of the areas to be subject to each restriction;
  - d. The proposal shall be reviewed by the administrator and the county public works superintendent with regard to the public street system access and availability of utilities as required for major subdivisions;
  - e. The administrator shall approve the phased development subject to such terms and conditions and the provision of such services as he shall deem appropriate consistent with the requirements of major subdivisions;

- f. After such approval, as each lot or phase is presented for approval, the developer shall provide evidence to the administrator of compliance with the overall development plan as approved and shall provide a certificate of the county health officer that each such lot is to be serviced by public water/sewer or is suitable to accommodate an individual septic system and that permits may be issued for each such lot under current regulations.
- (5) Involuntary transfers on death resulting in a division of property into five or fewer tracts from a bequest in the will of a person, or a court ordered award of a year's support or a court ordered partition of property into five or fewer tracts passing by the laws of intestacy through a decedent's estate shall be exempt from the requirements of this code provided that:
- a. The resulting lots shall be one acre in size or more;
  - b. The resulting lots shall in all other respects comply with the requirements of this code, including minimum widths at building lines, setback lines, health department, requirements, and other code requirements;
  - c. Each tract shall be afforded not less than the minimum public road access as required in section 16.51. (e). If that is not physically possible, the public road access shall be equally divided between the resulting lots;
  - d. If the road frontage available is less than 20 feet per lot, then reciprocal easements for access shall be provided to all lots over the entire access area.
  - e. The resulting lots shall not be subdivided without complying with all requirements of the Baldwin County Land Use Code.
  - f. Sales by or through a decedent's estate are subject to all requirements of the Baldwin County Land Use Code and shall not be considered exempt by virtue of involving an estate.
- (d) Agricultural exemption. Clearly agricultural uses, limited to the cultivation of the land, dairying or animal husbandry, are not intended to be governed by these regulations.
- (e) All other subdivisions of property as defined in these regulations shall be subject to the platting and approval requirements as more fully set out beginning with Sec. 16-45.

(Amd. of 11-6-1991; Amd. of 6-7-1994; Amd. of 11-20-2001)

**Secs. 16-34—16-40. - Reserved.**

**ARTICLE IV. – SUBDIVISION REGULATIONS.**

**Sec. 16-41. - Short title, purpose and intent.**

- (a) Short title. This ordinance shall be known and may be cited as the Land Subdivision Regulations of Baldwin County.
- (b) Purpose and intent. This resolution is enacted pursuant to the authority contained in article 9, section 2, paragraph 4 of the 1983 Constitution of the State of Georgia for the following purposes:
  - (1) To encourage economically sound and stable land development;
  - (2) To assure the provision of required street, utilities, and other facilities and services to land developments;
  - (3) To assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian, in land development; and
  - (4) To assure the provision of needed public open spaces and building sites in land developments through the dedication or reservation of land for recreational, educational and other public purposes.

(Amd. of 7-1-1991)

**Sec. 16.42. - Platting jurisdiction, enforcement.**

- (a) Platting authority. From and after the passage of this ordinance, the administrator shall be the official platting authority, and no plat of a subdivision shall be entitled to be recorded in the office of the clerk of the superior court of Baldwin County unless it shall have the approval of the administrator inscribed thereon or such approval is not required as is more fully set forth in article 3. The filing or recording of a plat of a subdivision without the approval of the administrator as required by this resolution is declared to be a misdemeanor.
- (b) Use of plat. Unless specific exemption is provided for herein, the transfer or sale, by reference to or exhibition of, or other use of a plat of a subdivision that has not been given final approval by the administrator and recorded in the office of the clerk of the superior court of Baldwin County as required by these regulations, is prohibited, and the description by metes and bounds in the instrument of transfer or other document shall not exempt the transaction from such penalties.
- (c) Erection of buildings. No building permit shall be issued and no building shall be erected on any lot in the county unless the street giving access thereto has been accepted as a public street in accordance with this ordinance; or unless the street giving access thereto is a proposed public street included on a subdivision plat approved and recorded in accordance with the within regulations, including the provision of construction bonds and maintenance bonds as required herein; or unless such a street has attained the status of a public street prior to the effective date of this ordinance; and no building permit shall be issued and no building shall be erected on any lot in the

county which lot is subject to the provisions of the land subdivision regulation and the terms of this regulation have not been complied with as to said lot.

- (d) Penalty clause. Any person, firm or corporation violating any provisions of this resolution shall be tried in superior court, or state court or magistrate court as applicable of Baldwin County, and upon conviction shall be punished by a fine not exceeding \$500.00 and costs, imprisonment in the county jail not to exceed thirty days. Each day's violation of any provision of this resolution shall be a separate and distinct offense and may be punished accordingly.

(Amd. of 11-6-1991)

**Sec. 16-43. - Reserved.**

**Sec. 16-44. - Preapplication procedure and fees.**

- (a) Preapplication procedure. Whenever a subdivision of a tract of land within Baldwin County is proposed, the subdivider is urged to consult early and informally with the administrator. The subdivider may submit sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision. No fee shall be charged for the preapplication review and no formal application shall be required.
- (b) Fees. As to any subdivision or other development or street access that requires administrator review for approval, the applicant shall include with the applicant's request for review the following fees as listed in the Code Enforcement Fee Schedule as adopted by the Board of Commissioners:
  - (1) As to subdivision or re-combinations of land requiring a new plat, a fee of per lot shall be paid for GIS mapping updates.
  - (2) As to subdivisions and other developments that do not include sewer installations or major drainage improvements a fee shall be paid; and
  - (3) As to access requests for a single residence that does not require extensive on-site and/or engineering review – a fee shall be paid. In the event on-site and/or engineering review is required, then a fee per hour or part thereof for engineering services will apply, not to exceed two hours of such services; and
  - (4) As to access requests for commercial or institutional developments that require review regarding location, traffic flow and safety, but do not require on-site and/or engineering services a fee shall be paid;
  - (5) As to access requests, subdivisions, and other developments that include sewer installations or county water or major drainage improvements or connection to existing public roadways that require on-site and/or engineering review, then a fee minimum fee shall be paid, then an hourly fee or part thereof for on-site and/or engineering services will apply, not to exceed two hours for such services.
  - (6) Any approved plat that is not recorded in the Baldwin County Clerk's office within ninety days from the approval by the administrator, must be resubmitted for

consideration by the administrator along with appropriate review and processing fees before construction can begin.

(Amd. of 8-21-2007)

**Sec. 16-45. - Procedures for tentative approval of preliminary plats.**

- (a) Application for preliminary plat approval. Following the preapplication review of a proposed subdivision, the subdivider shall submit to the administrator, the following:
  - (1) A letter requesting review and approval of a preliminary plat and giving the name and address of a person to whom the notice of the hearing by the administrator on the preliminary plat shall be sent.
  - (2) Four copies of the preliminary plat.
- (b) Review of preliminary plat. The administrator shall check the plat for conformance to the rules and regulations of this ordinance. In the event the administrator shall determine that the plat does not comply in one or more regards and the developer disagrees with that determination, then the administrator shall afford a hearing on the preliminary plat, notice of the time and place of which shall be sent by registered or certified mail to the person designated in the letter requesting preliminary plat review and approval, not less than five days prior to the date of the hearing.

Thereafter, the administrator shall give tentative approval or disapproval to the preliminary plat. A notation of the action shall be made on two copies of the preliminary plat, including a statement of the reasons for disapproval if the preliminary plat is disapproved. One copy shall be returned to the subdivider or his agent and one copy added to the records of the administrator.

Tentative approval of a preliminary plat does not constitute approval of a final plat. It indicates only approval of the layout as a guide to the preparation of the final plat.

Tentative approval shall expire and be null and void after a period of one (1) year unless an extension of time is approved by the administrator.

If action on a preliminary plat is not taken by the administrator within forty-five (45) days of the date of submittal, the preliminary plat shall be considered approved and certificate of approval shall be issued on demand. However, the applicant for approval may waive this requirement and consent to an extension of time.

**Sec. 16-46. - Preliminary plat specifications.**

Preliminary plats for subdivisions shall be prepared as follows:

- (a) Scale. The preliminary plat shall be clearly and legibly drawn at a scale not smaller than 100 feet to one inch.
- (b) Sheet size. Sheet size shall be 20 × 20 inches or the sheet shall be the size required by the clerk of the superior court for recording purpose. If the complete plat cannot be shown on one sheet of this size, it may be shown on more than one sheet with an index map on a separate sheet of the same size.
- (c) Ground elevations. The preliminary plat shall show ground elevations, based on the datum plane of the U.S. Coast and Geodetic Survey or a datum plane approved by the county engineer.  
All land shall be topographically mapped using a five-foot or less contour interval, and a tie to one or more bench marks shall be shown.
- (d) Information to be provided on preliminary plat. The preliminary plat shall contain the following information:
  - (1) Name and address of owner of record and of subdivider.
  - (2) Proposed name of subdivision and its acreage.
  - (3) North arrow, graphic scale and date.
  - (4) Vicinity map showing location and acreage of the subdivision.
  - (5) Exact boundary lines of the tract by bearings and distance.
  - (6) Names of owners of record of adjoining land and current use of adjacent property.
  - (7) Proposed layout including streets and alleys, easements, land to bed [be] reserved or dedicated for public uses.
  - (8) Proposed street names, lot lines with approximate dimensions, and any land to be used for purposes other than single-family dwellings.
  - (9) Block numbers and lot numbers.
  - (10) Provisions for water supply, sewerage and drainage. Certificate shall also state that the size of the water mains within the subdivision conform to county standards and specifications. Distance to, and location of, existing public water/sewer service.
  - (11) Minimum building front yard setback lines, as prescribed.
  - (12) Where individual septic tanks are to be used, the plat must show where the individual sewerage system is to be located on all lots in question.
- (e) Contiguous areas. In the event that the applicant desires to develop only a portion of the land owned by him, such applicant is encouraged to include as a part of the preliminary plat any future plans for the development of the contiguous area. In such event, only the requirements of subsections (1) through (12) of section 16-46 (d) will be required for tentative approval of that portion of the plat depicting such contiguous area.
- (f) Certificate of tentative approval. A certificate of tentative approval of the preliminary plat by the administrator shall be inscribed on the plat as follows:

Pursuant to the Land Subdivision Regulations of Baldwin County, all the requirements for tentative approval having been fulfilled, this preliminary plat was given tentative approval by the administrator on \_\_\_\_\_.

**Sec. 16-47. - Final plat procedure.**

- (a) Application for final plat approval. After the preliminary plat of a proposed land subdivision has been given tentative approval by the administrator, the subdivider may, within (1) year from approval, submit to the administrator:
  - (1) A letter requesting review and approval of a final plat and giving name and address of the person to whom the notice of the hearing by the administrator on the final plat shall be sent.
  - (2) Five copies of the final plat including the original which shall be drawn in permanent ink on tracing linen or its equivalent.
- (b) Review of final plat. The administrator shall check the final plat for conformance with the tentatively approved preliminary plat, and with the rules and regulations of this ordinance. In the event the administrator shall determine that the plat does not comply in one or more regards and the developer disagrees with that determination, then the administrator shall afford a hearing on the final plat, notice of the time and place of which shall be sent by the secretary of the administrator by registered or certified mail to the person designated in the letter requesting final plat review and approval, not less than five days prior to the date of the hearing.

Thereafter, the administrator shall approve or disapprove the final plat. A notation of the action shall be made on the original tracing and two prints on the final plat, including a statement of the reasons therefor if the final plat is disapproved. If action on a final plat is not taken by the administrator within thirty (30) days of the date of the submittal, the final plat shall be considered approved and a certificate of approval shall be issued on demand. However, the applicant for approval may waive this requirement and consent to an extension of time. In the event that the preliminary plat depicts an increment development of the entire plot of land owned by the applicant, final plat requirement shall apply only to that portion of the plot that is to be immediately developed.

- (c) Recording of final plat. Upon approval of the final plat, the administrator shall have the plat recorded in the Office of the Clerk of the Superior Court of Baldwin County. The subdivider shall be responsible for the payment of the recording fee.

Subsequent to the recording of the final plat two copies with all certificates endorsed thereon shall be made for the records of the administrator and the planning commission. The plat book volume and page numbers where the plat is recorded shall be indicated. The final plat shall then be returned to the subdivider.

**Sec. 16-48. - Final plat specification.**

- (a) The final plat specifications. The final plat shall conform to and meet the specifications of the preliminary plat, with the following additions:
- (1) The final plat shall be clearly and legibly drawn in permanent ink on tracing linen or its equivalent. Sheet sizes shall be 20 × 20 inches or the sheet size shall be that required by the clerk of the superior court. Where more than one sheet is required an index map shall be required on the same size sheet.
  - (2) Bearing and distance to the nearest existing street lines or bench marks or other permanent monuments (not less than three) shall be accurately described on the plat. In addition not less than three (3) permanent type monuments shall be set within or adjacent to each block and accurately located and described.
  - (3) Municipal, county and land-lot lines where applicable, marked or having recorded description such that they may be readily located, accurately tied to the lines of the subdivision by distance and angles or otherwise indicated in approximate location. When such lines traverse or are reasonably close to the subdivision the tie lines shall be clearly noted whether accurate or approximate.
  - (4) Exact boundary lines of the tract, determined by a field survey, giving distance to the nearest one-tenth foot and angles to the nearest minute, which shall be balanced and closed with accuracy in excess of one in five thousand.
  - (5) Name of subdivision, exact locations, widths, and names of all streets and alleys within and immediately adjoining the plat.
  - (6) Street centerlines showing angles of deflection, angles of intersection, radii, and lengths of tangents.
  - (7) Lot lines with dimensions to the nearest one-tenth foot and bearings to the nearest minute.
  - (8) Lots numbered in numerical order with no duplication of numbers.
  - (9) Location, dimensions and purposes of any easements and any areas to be reserved or dedicated for public use.
  - (10) Accurate location, material and description of monuments and markers.
  - (11) Clear designation of any areas which lie within any Flood Hazard Zone.
  - (12) Said plats shall comply with all requirements provided in O.C.G.A. § 15-6-67, as hereafter amended.
  - (13) The subdivider shall submit a copy of proposed restrictive covenants to be applied to said development which shall at a minimum include:
    - a. A clear and comprehensive covenant regarding use; i.e. "all lots shall be used for single family residential use only";
    - b. Minimum size of improvements;
    - c. Nature of improvements allowed; i.e. whether or not manufactured homes would be allowed; and
    - d. Duration of covenants.

- e. Upon final approval of the plat and these covenants, said covenants shall be properly executed by the owner and filed for record in the Office of the Clerk of Superior Court of Baldwin County, Georgia. Upon such filing, said restrictive covenants shall constitute restrictions regarding the use of said property in the same manner and to the same extent as the use restrictions set out in article VI herein and shall constitute cumulative restrictions as to the use of said property and shall remain in full force and effect, subject to enforcement by Baldwin County, Georgia in the same manner as other restrictions set out in this code, until terminated as provided in said restrictive covenants or until twenty (20) years after the recording thereof, whichever shall first occur.
- (b) Required certificates. The following certificates shall accompany the final plat and become part of the permanent record of the Commission:
  - (1) A surveyor's certification. The certificate shall accompany the final plat as follows:

"It is hereby certified that this plat is true and correct and was prepared from an actual survey of the property by me or under my supervision; that all monuments shown thereon actually exist and their location, size, type and material are correctly shown; and that all surveying and platting requirements of the Land Subdivision Regulations of Baldwin County, Georgia have been fully complied with.

\_\_\_\_\_  
Registered Georgia Land Surveyor

No. \_\_\_\_\_ "

The surveyor's seal and signature shall be placed directly on the final plat.

- (2) An owner's certification. This certificate shall accompany the final plat as follows:

"Owner's Certificate  
State of Georgia, County of Baldwin

The owner of the land shown on this plat and whose name is subscribed hereto, in person or through duly authorized agent, certifies that this plat was made from actual survey, that all state and county taxes or other assessments now due on this land have been paid, and that all requirements of the Baldwin County Land Subdivision Regulations have been complied with.

\_\_\_\_\_  
Owner/Agent

Date \_\_\_\_\_ "

- (3) Certification of the county engineer or county attorney. The county engineer or other responsible official, shall certify that the proposed streets, drainage, and other improvements indicated on the plat comply with proper specifications and design standards, as follows:

"COUNTY ENGINEER'S CERTIFICATE

State of Georgia, County of Baldwin

The undersigned certifies that the proposed streets, drainage, and other improvements indicated on the plat comply with proper specifications and design standards, as set forth in the Baldwin County Land Subdivision Regulations.

\_\_\_\_\_  
County Engineer/County Attorney

Date \_\_\_\_\_ "

- (4) Certification of county health office. Where septic tanks are to be used in lieu of public sewerage, the county health officer or local health authority shall certify that adequate septic tanks have been installed to specification or that each lot area shown on the plat is suitable to accommodate an individual septic tank system, and that permits may be issued for each such lot under current regulations. Special requirements as to any lot for approval shall be noted on the plat.

"COUNTY HEALTH OFFICER'S CERTIFICATE

State of Georgia, County of Baldwin

The undersigned certifies that the proposed subdivision indicated on the plat complies with the Baldwin County Land Subdivision Regulations relating to health regulations and that each lot area shown on said plat is eligible for the issuance of an individual septic tank system permit or is served by public sewerage. I have noted special requirements as to any lot.

\_\_\_\_\_  
County Health Officer

Date \_\_\_\_\_ "

- (5) Water and sewer certificate. A certificate by the county superintendent of the water department stating the availability of water mains and giving the specific location of

such mains. Such certificates shall describe the particular area to be served by lot number and block letter. Such certificate also shall state the same with regard to sanitary sewer expansions. This certificate shall accompany the final plat before recording. Certificate shall also state that the size of the water mains and sewerage mains within the subdivision conform to county standards and specifications.

- (6) Certificate of dedication. A certificate by the owner setting forth the description of the areas and improvements he dedicates to the public and the extent of the title which he is dedicating shall accompany the final plat.
- (7) Copy of official action of governing body. A copy of the resolution adopted by the governing body agreeing to accept the streets, improvements, easements and any other property dedicated by the owner for public use, as indicated on the final plat, shall accompany the final plat before recording.
- (8) A certificate of approval of the final plat and all required certificates by the administrator.

THIS CERTIFICATE SHALL BE PLACED DIRECTLY ON THE PLAT, AS FOLLOWS:

Pursuant to the Land Subdivision Regulations of Baldwin County, Georgia, all the requirements for approval having been fulfilled, this final plat was given approval by the Baldwin County Code Enforcement Administrator on \_\_\_/\_\_\_/20\_\_\_. This approval is contingent upon and subject to fulfillment of the requirements of the Code, specifically including the completion of all improvements such as roadways, drainage improvements, and utility systems in accordance with the plans and specifications approved, provision and maintenance of construction, performance, and maintenance guarantee bonds; and the dedications of said roadways and other easements and properties as required, along with the completion of the provisions for water supply, sewerage and drainage improvements as shown on the preliminary plat and on this plat.

**Sec. 16-49. - General design requirements.**

- (a) Suitability of land. Land subject to flooding, improper drainage, or erosion, or that is for topographical or other reasons unsuitable for residential use shall not be platted for residential use nor for any other use that will continue or increase the danger to health, safety, or result in property destruction, unless the hazards can be and are corrected.
- (b) Building square footage. Building's square footage must be at least 75% of the square footage of the homes, on average, surrounding the proposed home site on the sides, front and rear of lot. Houses exceeding 150% of the average or 50% below the average shall be excluded from the calculation.
- (c) Placement of Manufactured Homes or Mobile Homes. Manufactured Homes or Mobile Homes may be placed outside of a mobile home park if the preponderance of homes, 51% or higher, are manufactured or mobile homes within ¼ mile of the proposed home

site structure. Furthermore, if the home site is within visible distance of a site built home then the home site must be site built as well regardless of how many mobile homes are within ¼ mile radius.

- (d) Wheeled houses. Wheeled houses are permitted outside of mobile home parks only if the lot size is a minimum of one acre, the lot is at least 1,000 feet from the nearest residential structure and shall have a setback of at least 250' from the road. Wheeled houses that meet these requirements may be placed adjacent to an existing home owned by the property owner on the lot. These wheeled houses adjacent to homes owned by the property owner may not be rented.
- (e) Name of subdivision. The name of the subdivision must have the approval of the administrator. The name shall not duplicate nor closely approximate the name of an existing subdivision, unless it is a direct extension thereof.
- (f) Access. Access to every subdivision shall be provided over a public street.

In addition to the provisions of section 16.74.(a) (7) regarding access to public roadways, the following provisions regarding access to the individual lots in a subdivision or other development and connection of subdivision or development roadways with existing public roadways shall apply. In the event of any conflict between said provisions, then the provision most beneficial to county and providing county with the greater ability to ensure safety and efficiency shall apply.

When any proposed development does not abut an existing paved County or State Roadway, then the subdivider shall submit a proposal for the pavement of such connecting unpaved roadways. Approval of any proposed development may be denied, if the county determines that such proposals are inadequate to provide reasonable access to paved County Roadways or would necessitate excessive expenditures of public funds for the provision or maintenance of such roadways.

- (g) Policy regarding access.
  - (1) Division resulting in five (5) lots or less: Owner shall provide to county a deeded right-of-way of up to fifty (50) feet from the center line of the existing public county roadway along all lands abutting said roadway or a total of eighty (80) feet of right-of-way when property lies along both sides of the roadway.
  - (2) Division resulting in six (6) lots or more: Roadway on state approved priority list for paving within four (4) years.  
Owner shall provide to county a deeded right-of-way of up to fifty (50) feet from the center line of the existing public county roadway along all lands abutting said roadway or a total of eighty (80) feet of right-of-way when property lies along both sides of the roadway.
  - (3) Division resulting in six (6) lots or more: Roadway not on state approved priority list for paving within four (4) years.

- a. Owner shall provide to county a deeded right-of-way of up to fifty (50) feet from the center line of the existing public county roadway along all lands abutting said roadway or a total of eighty (80) feet of right-of-way when property lies along both sides of the roadway; and
- b. Owner may pave to county specifications that portion of his property serviced by said roadway and extending from said property to an existing county paved roadway; or as an alternate to said paving may pay to county a fee as listed in the Code Enforcement Fee Schedule as adopted by the Board of Commissioners the following:
  - 1. A fee per running foot for property abutting said roadway, but not less than the fee I per lot for each lot in the subdivision; and
  - 2. A fee per running foot extending from said subdivision to an existing paved county roadway, not to exceed 50% of the amount determined at (1) above.

(Amd. of 8-21-2007)

- (h) Conformance to adopted major thoroughfare and other plans. All streets and other features of the major thoroughfare plan of the Milledgeville Urban Area shall be platted by the subdivider in the location and to the dimension indicated on the major street plan adopted by the city, county or planning commission.

When features of other plans adopted by the city, county or planning commission (such as schools or other public building sites, parks or other land for public uses) are located in whole or part in a land subdivision, such features shall be either dedicated or reserved by the subdivider for acquisition within a reasonable time by the appropriate agency.

Whenever a plat proposes the dedication of land to public use that the administrator finds not required or suitable for such public use, the administrator shall refuse to approve the plat, and shall notify the governing body of the reasons for such action.

- (i) Large scale and/or nonconventional developments. The requirements of this ordinance may be modified in the case of planned unit developments, condominiums, zero-lot line developments, and large-scale community or neighborhood units, such as apartment or housing projects or shopping centers which are not subdivided into customary lots, blocks, and streets, if the development is approved by the administrator and if it is in conformity with the purpose and intent of this ordinance. Such developments must, at a minimum, comply with the following requirements:
  - (1) Developments shall not be less than five (5) acres in size, unless they are an extension of an existing development previously qualified under this provision.
  - (2) Maximum density of development shall be five (5) dwelling units per gross acre, subject to a maximum increase to not more than seven (7) dwelling units per gross

acre, if the development qualifies for up to two additional "bonus" dwelling units as provided in paragraph m. herein.

- (3) Developments with more than ten (10) units shall be connected to community/public water and sewer service and shall require the establishment of a property owners' association or condominium owners' association that will own and maintain all common areas, buffer areas, greenways and common amenities and shall provide for mandatory assessments sufficient for such purposes;
- (4) Not less than 50 percent of the area of the development shall be devoted to open space and not less than 30 percent of the development shall be devoted to green space. Open space is all area not covered by paving or improvements; provided however that recreational facilities such as tennis courts, swimming pools, pavilions, picnic areas and the like that are owned by the property owners' association and available for use by all residents, subject only to such reasonable rules and regulations promulgated by the association, may be included as part of the open space. The green space may be used for playing fields and walking trails available to all residents, and as part of the buffer spaces required herein. Properties that adjoin the open waters of Lake Sinclair may include a 50 foot wide strip along their straight line lake frontage as part of their open space requirement. Straight line lake frontage is defined as either the straight line chord distance of the lake frontage or by straight line perpendicular to the side property lines of the property, whichever is less. The meanderings of the 340 foot contour line will not be considered as the lake frontage distance for this purpose. Property is considered as adjoining the open waters of Lake Sinclair only if, and only to the extent, that no other land is located within 250 feet of line drawn perpendicular to the line used as the lake frontage width of the property.
- (5) Buildings shall not exceed three stories in height and shall not exceed two stories in height if within 75 feet of the property line of a single family conventional residence, with all buildings greater than two stories to have commercial elevators to service all units above the ground floor.
- (6) Buildings shall contain not more than six (6) dwelling units and may not be constructed within 20 feet of any other building. This provision may be modified for developments under single ownership, such as an apartment complex. A buffer strip at least 20 feet wide shall be located adjacent to each exterior property line of the development and shall not be included within any individual home lot unless restricted as a buffer strip as required herein. This buffer shall be increased to a width of fifty feet when located adjacent to single-family conventional residences. This strip shall be planted with evergreen trees and hedge-type shrubs designed to provide full noise and sight screening. For properties adjoining Lake Sinclair, no buffer shall be required along the lake and no buffer adjoining other non-roadway property shall exceed 42 inches in height within 100 feet of the waters of said Lake.

- (7) Lighting within the development shall be designed in such a way as to minimize glare or direct illumination as to adjoining properties;
- (8) The plat requirements of this ordinance shall be complied with;
- (9) The requirements for restrictive covenants or declarations shall be complied with and all requirements of the Georgia Condominium Act shall be complied with for those developments that include multistory units that will not qualify for zero lot line development.
- (10) Applicants shall submit a detailed site plan and landscape plan and detailed plans for all amenities proposed.
- (11) Road and streets within the development shall be owned and maintained by the association unless county provides advance approval for county acceptance and maintenance. Whether roadways are to be privately owned or county owned, they shall have curb and gutter, be constructed in accord with county regulations for comparable roadways, and shall include such drainage improvements as necessary.
- (12) Bonus units. Developments that qualify for 6 or more points under the following development criteria shall be entitled to one additional unit per gross acre for density purposes; and developments that qualify for 12 or more points under this system shall be entitled to two additional units per gross acre for density purposes. In no event shall more than two bonus units be awarded to any development and bonus units shall in no way reduce any other requirements of this section. For a development to "abut" it must have not less than 20% of the boundary of the primary tract that adjoins the criterion item.

Criterion	Points Available
Development abuts existing similar development	3
Development abuts State or Federal Highway	3
Development abuts the open waters of Lake Sinclair and the development provides owners access to said lake	5
The development includes a swimming pool of not less than 20 feet by 40 feet, a clubhouse of not less than 1000 square feet, fully equipped children's playground, or a standard size tennis court to be owned by the association for residents use 5 points for each amenity not to exceed 12 points	5-12

(Amd. of 8-2-2005)

(j) Gated subdivisions.

- (1) Gated subdivisions B public streets. Subdivisions which include a gate or other devise or method of limiting access to the streets which lie wholly within the subdivision may, upon application, be permitted within subdivisions, subject to the

requirements of this section. Applications for approval of a "gated/limited access community/subdivision" shall first be submitted to the administrator. If the administrator denies the request, the developer may appeal that decision in the same manner as other appeals. No final plat involving limitations on access to public streets shall be approved unless said final plat conforms to the requirements of this section.

- a. Eligibility. To be eligible for consideration for limiting access to public roadways within a subdivision, the development and its streets or roadways must meet the following minimum criteria:
  1. All roadways subject to limitation on access must be newly constructed in accordance with county regulations by the developer for the purpose of providing access to the lots within that subdivision and the full costs of said roadways must have been paid for by developer. Roadways previously within the county road system or roadways designed to provide a connection between other county roadways or provide access to properties not included within the proposed subdivision or future phases thereof can not be restricted or subjected to any limitation on access. Subdivisions which have entrances onto more than one existing county roadway will not be ineligible solely for that reason.
  2. The declaration of covenants for the subdivision which are required to be submitted for all subdivisions must provide for a homeowners' or property owners' association that shall be responsible for the ownership, maintenance, repair, upkeep and proper operation of any gate or other device or method used to limit access over said streets, all subject to the conditions set out herein. Said declaration shall provide for assessments and the collection thereof that are deemed reasonable by the administrator for such purposes.
- b. Extent of limitations on access. A subdivision eligible, and approved as provided herein, as a gated or limited access subdivision may make use of a gate or gates or other means to limit access over the public streets or roadways located wholly within said subdivision subject to the following conditions:
  1. Access must be provided over said streets at all times to all public safety vehicles including police, fire and ambulances, for the provision of public safety services; and
  2. Access must be provided over said streets during all normal working hours and during such additional times as required to provide the appropriate service for all other governmental and public service personnel such as building inspectors, utility service personnel, law enforcement and court personnel, and social service personnel for the provision of their normal services to the residents of said subdivision and/or facilities located within said subdivision or accessed by said subdivision streets; and

3. Access must be provided over said streets during those periods from 8:00 a.m. local time to 5:00 p.m. local time Monday through Friday, not to include national holidays, for access by the general public for any and all legitimate purposes that the general public may make use of said roadway(s), subject to the additional restrictions herein. The subdivision, through its restrictive covenants, and with proper signage may further limit or deny access to any member of the general public, who is not an invitee of an owner of property within the subdivision, by:
  - a. Denial of access onto any common area of the subdivision and/or any private property within the subdivision; and
  - b. Denial of access over said street(s) if said access is for the purpose of soliciting, advertising, campaigning or any other like purpose; and
  - c. Denial of access by pedestrian or other means other than by motor vehicles which are approved for transport on public roadways; and
  - d. Restricting the noise level from any vehicle upon its streets so long as those restrictions apply to all vehicles; and
  - e. Deny any parking, stopping, or standing upon said roadways.
- c. Methods of limitations on access. Limitations on access must be provided by at least one of the following methods or a combination thereof, which must be approved by county prior to final approval of the subdivision plat and not less than 10 days prior to the activation of any limitation on access:
  1. A guard located at the entrance(s) that is available 24-hours per day;
  2. Providing an override code to the main gate for all emergency vehicles;
  3. Providing a system that allows access in response to a "yelp" signal from an emergency vehicle;
  4. Providing a system that allows access during normal workweek hours for non-emergency personnel; and/or
  5. Providing a system that allows access for the general public during the times set out above for such legitimate purposes, and subject to such additional limitations, as set out above.
  6. If a guardhouse, gate or other mechanical method is used to limit access, then said guardhouse, gate or other mechanical method shall be located not less than 60 feet from the edge of the pavement of the public roadway with which the subdivision entrance intersects, and not less than 50 feet from the right of way of said existing public roadway. Said entrance shall include a turn-around in the nature of a cul de sac that will allow traffic that is properly denied access, to be able to return to the existing public roadway without undue inconvenience and without undue disruption of traffic on the existing public roadway.
  7. If a gate or other mechanical method is used to limit access, then said system shall automatically open and remain open during any time in which there is an interruption of power to, or other malfunction of, the device.

8. If alterations are made to the gate or other method of limiting access without proper and prior notification that hinder the access of public safety vehicles and obstruct the provision of public safety services, or hinder or obstruct the access by other authorized personnel, then said public safety personnel and/or other authorized personnel may use such reasonable means as available to them to gain access and the developer and/or homeowners' association shall be responsible for damages incurred because of such hindrance or obstruction and/or the removal thereof. In the event a member of the general public is denied access in violation of the provisions for general public access provided above, then county shall be authorized through its designee to use such reasonable means as available to them to gain access as provided herein for said members of the general public and the developer and/or homeowners' association shall be responsible for damages incurred because of such hindrance or obstruction and/or the removal thereof. In the event that such denials of access or obstructions to access are without reasonable cause or the reason therefor is not remedied on a timely basis, then the county may withdraw the right of limiting access and said roadways shall become accessible to all in the same manner and to the same extent as all other county roadways on which there are no limitations on access.
  - d. Conversion to a gated subdivision with private streets. In the event that a subdivision has been approved as a gated subdivision with limited access over its streets and desires to convert said subdivision to a gated subdivision with private streets, then the developer and/or homeowners'/property owners' association may apply for such approval and upon full compliance with all of the provisions provided in this code for such subdivisions, shall be granted that approval with county to deed to said homeowners' association any and all interest it has in said streets, subject to the retention by it of the access rights provided in this code and retention of such easements regarding utilities as provided in said code. The conveyance by a developer to county of roadways in a subdivision which has been approved for limited access shall be with the condition, whether specifically stated or not, that said streets are subject to being converted to private streets as provided herein. Such an application shall include an acknowledgement of responsibility in the same basic format as that provided for in the regulations regarding private streets designated therein as purchaser's acknowledgement of private responsibilities. This acknowledgement shall be signed by not less than 75% of the owners of property in the subdivision in addition to the property owned by the developer.
- (2) Gated subdivisions—private streets. Private streets may, upon application, be permitted by the board of commissioners within major subdivisions, subject to the requirements of this section. Applications for approval of private streets shall be considered by the board of commissioners at the time of preliminary plat approval or as a conversion from a gated

subdivision with limited access as provided herein. Application for private streets in a major subdivision shall first be submitted to the administrator. If the administrator denies the request, the developer may appeal that decision in the same manner as other appeals. In the event that the planning commission approves the request or in the event the administrator initially approves the request, then the administrator's or planning commission's recommendation to authorize private streets in a major subdivision, shall be submitted to the board of commissioners and the board shall consider the application and may impose conditions on the approval of private streets to ensure various public purposes and to mitigate potential problems with private streets. No final plat involving a private street shall be approved unless said final plat conforms to the requirements of this section.

- a. Engineering plans required. It shall be unlawful for any person, firm, or corporation to construct a new private street or alter an existing private street or to cause the same to be done without first obtaining approval of engineering and construction plans from the administrator, who shall consult with the county engineer and/or road superintendent in accordance with the requirements of this code.
- b. Standards. All private streets shall be constructed to all standards for public streets as required by article 5 of this code, and applicable construction specifications of the administrator.
- c. Street names and signs. Private streets shall be named, subject to the approval of the administrator. The developer of land involving a private street shall install street signs with content containing the street name and the designation "private," as approved by the administrator. The sign signifying the private street may be required by the administrator to be a different color than that of street signs provided for public streets, in order to distinguish maintenance responsibilities in the field.
- d. Easements. Easements for private streets shall be designated on final plats as general-purpose public access and utility easements, along with the name of said private streets. Said easements shall at a minimum be of the same width as that required for the right-of-way of a public street by the major thoroughfare plan for the type of public street (local, collector, etc.) most closely resembling the proposed private street. Easements for private streets shall not be included in any calculation of minimum lot size or density limitations established by local land use regulations. In the cases of private streets, the general-purpose public access and utility easement for the private street shall either:
  1. Be shown in a manner on the final plat such that each lot fronting the private street extends to the centerline of the private street. No lot shall be permitted to be divided by the general purpose public access and utility easement required and established for a private street; or
  2. Shall be drawn as its own discrete parcel to be dedicated to a private homeowners association (i.e., not shown to be a part of any lot).

- e. Maintenance. The county shall not maintain, repair, resurface, rebuild, or otherwise improve streets, signs, drainage improvements or any other appurtenances within general purpose public access and utility easements established for private streets.

A private maintenance covenant recorded with the county clerk of the superior court shall be required for any private street and other improvements within general-purpose public access and utility easements established for private streets. The covenant shall set out the distribution of expenses, remedies for non-compliance with the terms of the agreement, rights to the use of easements, and other pertinent considerations. The covenant shall specifically include the following terms.

1. The covenant shall establish minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners' or property owners' association in cases of a subdivision often or more lots fronting on a private street.
2. The covenant shall include a periodic maintenance schedule.
3. The covenant for maintenance shall be enforceable by any property owner served by the private street and shall also be enforceable by Baldwin County. Said covenant shall state that Baldwin County may enforce said covenant, but shall have no duty to do so and that primary enforcement shall be by the property owner(s).
4. The covenant shall establish a formula for assessing maintenance and repair costs equitably to property owners served by the private street.
5. The covenant shall run with the land.
6. The board of commissioners shall, at its discretion, as a condition of approving private streets, require a performance bond and/or maintenance bond be submitted by the developer and held by a homeowners' or property owners' association, with said board as additional beneficiary of said bond(s), or require that the developer and/or property owners pay an amount of money as determined by the administrator into an escrow account or other suitable account for the maintenance and repair of private streets and stormwater management improvements, to be drawn from by the homeowners' or property owners' association as maintenance and repair needs may arise. The formula for establishing the costs of the repair and replacement of the roadways shall be based upon county's costs for such repairs on its roadways over the preceding two years; and
7. The covenants may not provide for any payment directly or indirectly by said association to the developer for the costs of the initial construction of said roadways.

- f. Specifications for final plats involving private streets. The director shall not approve for recording any final plat involving a private street unless and until it shall contain the following on the face of the plat:
1. Deed book and page reference to the recorded covenant required by this section;
  2. "WARNING, Baldwin County has no responsibility to build, improve, maintain, or otherwise service the private streets, drainage improvements, and other appurtenances contained within the general public purpose access and utility easement or easements for private streets shown on this plat.";
  3. "Grant of Easement. The general purpose public access and utility easement(s) shown on this plat for private street(s) is hereby granted and said grant of rights shall be liberally construed to provide all necessary authority to the county and to public or private utility companies serving the subdivision, for the installation and maintenance of utilities, including, but not limited to, electric lines, gas lines, telephone lines, water lines, sewer lines, cable television lines, and fiber optic cables, together with the right to trim interfering trees and brush, together with a perpetual right of ingress and egress for installation, maintenance, and replacement of such lines.

\_\_\_\_\_  
Signature of Property Owner"; and

4. (The following certificate of dedication shall be required, unless the Board of Commissioners waives the dedication requirement.)  
"Certificate of Dedication. All water and sewer lines installed within the general purpose public access and utility easement(s) shown on this plat for private street(s) are hereby dedicated to Baldwin County.

\_\_\_\_\_  
Signature of Property Owner."

- g. Requirement for purchaser's acknowledgement of private responsibilities. Prior to the sale or as a condition of the closing of a real estate transaction involving any lot served by a private street in the county, the developer or seller of said lot shall require the execution of a notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities. The document is with the Code Enforcement Office. A copy of the purchaser's acknowledgement shall be retained by the purchaser and shall be required to be submitted as a condition of a building permit for a principal building on said lot.

- h. Extent of limitations on access to private streets. A subdivision served by private streets may make use of a gate or gates or other means to limit access over its private streets, subject to the following conditions:
  - 1. Access must be provided over said private streets at all times to all public safety vehicles including police, fire and ambulances, for the provision of public safety services; and
  - 2. Access must be provided over said private streets during all normal working hours and during such additional times as required to provide the appropriate service for all other governmental and public service personnel such as building inspectors, utility service personnel, law enforcement and court personnel, and social service personnel for the provision of their normal services to the residents of said subdivision and/or facilities located within said subdivision or accessed by said private streets.
- i. Methods of limiting access to private streets. Access must be provided by at least one of the following methods or combination of methods, which must be approved by county prior to final approval of the subdivision plat and not less than 10 days prior to the activation of any limitation on access:
  - 1. A guard located at the entrance(s) that is available 24-hours per day;
  - 2. Providing an override code to the main gate for all emergency vehicles;
  - 3. Providing a system that allows access in response to a "yelp" signal from an emergency vehicle; and/or
  - 4. Providing a system that allows access during normal workweek hours for non-emergency personnel.
  - 5. If a guardhouse, gate or other mechanical method is used to limit access, then said guardhouse, gate or other mechanical method shall be located not less than 60 feet from the edge of the pavement of the public roadway with which the subdivision entrance intersects, and not less than 50 feet from the right of way of said existing public roadway. Said entrance shall include a turn-around in the nature of a cul de sac that will allow traffic that is properly denied access, to be able to return to the existing public roadway without undue inconvenience and without undue disruption of traffic on the existing public roadway.
  - 6. If a gate or other mechanical method is used to limit access, then said system shall automatically open and remain open during any time in which there is an interruption of power to, or other malfunction of, the device.
  - 7. If alterations are made to the gate or other method of limiting access without proper and prior notification that hinder the access of public safety vehicles and obstruct the provision of public safety services, or hinder or obstruct the access by other authorized personnel, then said public safety personnel and/or other authorized personnel may use such reasonable means as available to them to gain access and the developer and/or homeowners' association shall be

responsible for damages incurred because of such hindrance or obstruction and/or the removal thereof.

- j. Water/sewer provision. When any proposed development is within 2,500 feet of existing public water and/or sewer service, the developer shall provide a proposal for the extension of said service to said development and the availability of same to each development unit. The development may be denied approval if the county determines that such development without such services would necessitate excessive expenditure of public funds for the provision and maintenance of such services.

(Amd. of 7-20-2004; Amd. of 7-1-1991; Amd. of 11-6-1991)

**Sec. 16-50. - General requirements for street and other rights of way.**

- (a) Paving, curbing and guttering requirements. It shall be the responsibility of the developer to provide for paving for all streets within the subdivision in compliance with this code, including articles 4 and 5. In addition the developer shall stripe said roadways in accordance with DOT requirements for secondary roads; and shall provide all normal traffic, safety for secondary roads; and shall provide all normal traffic, safety and street signs for the subdivision, each intersection thereof, and all intersections with existing public roadways.
- (b) Street names. Street names shall require the approval of the administrator. Streets that are obviously in alignment with streets already existing and named shall be given the name of the existing streets. Names of new streets shall not duplicate or closely approximate those of existing streets.
- (c) Street jogs. Street jogs with centerline offsets of less than 115 feet shall not be permitted.
- (d) Cul-de-sacs. Except where topographic or other conditions make a greater length impractical, cul-de-sacs, or deadend streets, shall not be greater in length than 800 feet. They shall be provided at the closed end with a turn-around having a property line radius of at least 50 feet with an outside pavement radius of at least 40 feet.
- (e) Development along existing roadways.
  - 1. Entry to subdivisions. There shall be not less than one entry into the subdivision for each 100 lots or parts thereof. There shall be a buffer strip beginning at the intersection of each subdivision street right-of-way line and each public road right-of-way line. These buffer strips shall run not less than 100 feet along the subdivision right-of-way line and not less than 50 feet deep. No improvements shall be placed upon these strips except an entry-way sign for the subdivision. In the event that an additional entry or entries for subdivisions over 100 lots would not be feasible due to the limited road access, sight lines, other safety factors, or size and/or shape of the development, then the administrator may require acceleration and deceleration

- lanes, turning lanes, and increased road right-of-way along the entire frontage of the property as an alternate; and
2. Development along existing major street, limited access highway, or railroad right-of-way.
    - a. Developments of more than 10 lots - Development shall be in accord with paragraph (d) below; and
    - b. Developments of 10 lots or less - Development shall be in accord with paragraph 3. below; and
  3. Development along existing county vehicular service roads. Where a subdivision abuts or contains an existing county vehicular service road, the administrator may require acceleration or deceleration lanes and/or a street approximately parallel to and on each side of such right-of-way either as a marginal access street or, at a distance suitable for an appropriate use to the intervening land, with a nonaccess reservation. In addition, the administrator shall require that no more than one access for every 300 feet shall be allowed onto existing county vehicular services roads, by requiring use of common access areas or use of said marginal access streets; and
  4. Developments of more than 20 lots. As to developments of more than 20 lots:
    - a. No lot shall front upon or have direct access onto an existing county, state or federal roadway; and
    - b. A buffer strip at least twenty feet wide shall be located adjacent to each exterior property line of the development including existing public roadways. This buffer may be included within any individual home lot if the lot size is increased by an additional 10 feet of depth and the entire 20 feet is restricted as a buffer strip as required herein. This strip shall be planted with evergreen trees and hedge-type shrubs designed to provide full noise and sight screening and shall have no improvements located thereon; and
    - c. In addition to the buffer required in paragraph ii.) there shall be set aside for the use and enjoyment of the owners of the subdivision a community park or parks, greenways, or recreational areas of the greater of two acres or one-tenth of an acre for the first 50 lots in the subdivision and one-twentieth of an acre per lot for all lots over 50 in the subdivision, with said area(s) accessible to all of the lots in the subdivision. This set-aside shall include not less than one composite area containing not less than 2 acres for each 50 lots in the subdivision. For example, a 100-lot subdivision would have one composite area of not less than four acres or two composite areas of not less than two acres each. The remaining greenway may be in the nature of buffer strips between adjacent lots and/or along the rear of the lots. Buffers, common areas, and greenways are intended to enhance the liveability of the subdivision and to benefit the owners thereof. The requirements cannot be met by the set-aside of irregular strips and gores or incidental open spaces which have no realistic use by the proposed residents on

a day-to-day basis. The developer must justify the set-asides as consistent with the intent and purpose of these provisions; and

- d. The administrator may waive or modify these requirements as to lots which front upon a nonconnecting county roadway (cul-de-sac or dead end) or which front upon a county roadway originally developed as part of an existing subdivision if the developer can provide evidence that such waiver or modification will not have an undue adverse impact upon the safety and/or aesthetic goals and purposes of this regulation.
- (f) Alleys. Alleys may be required at the rear of all lots used for multifamily, commercial, or industrial developments.
- (g) Reserve strips. Reserve strips controlling access to streets, alleys, and public grounds shall not be permitted unless their control is placed in the hands of Baldwin County, under conditions approved by the administrator.
- (h) Easements. Easements having a minimum width of ten (10) feet and located along the side or rear lot lines of a subdivision lot shall be provided as required for utility lines and underground mains and cables. These easements must be shown on the final plat. Where a subdivision is traversed by a watercourse, drainageway, channel or stream, there shall be provided a stormwater or drainage right-of-way of adequate width. Parallel streets may be required by the administrator in connection therewith.

(Amd. of 9-16-2003; Amd. of 11-4-2003)

**Sec. 16-51. - Design standards for blocks and lots.**

- (a) Block lengths and widths. Block lengths and widths shall be as follows:
  - (1) Blocks shall not be greater than 1,200 feet in length nor less than 400 feet in length, except where approved by the administrator.
  - (2) Block shall be wide enough to provide two tiers of lots of minimum depth, except where abutting upon major streets, limited-access highways, or railroads or where other situations make this requirement impracticable.
- (b) Lot sizes. Residential lots shall meet or exceed the lot width and the lot area requirements as prescribed herein, unless greater requirements are imposed by other code provisions:
  - (1) Residential lots shall have a depth of not less than 120 feet unless a home previously was built on the lot, or the lots adjacent to it were platted for less depth on or before July 1, 1991;
  - (2) Commercial and industrial lots shall be adequate to provide service areas and off-street parking suitable to use intended; and
  - (3) Residential corner lots shall have adequate width to meet building setback requirements from both abutting streets.
- (c) Lot lines. All lot lines shall be perpendicular or radial to street lines, unless not practicable because of topographic or other features.

(d) Building lines. Unless otherwise specifically provided herein, there is hereby established a building setback line of 35 feet for the front yard setback; and 15 feet for each side and rear line.

(e) Lots abutting public streets.

(1) Each lot shall abut upon a dedicated public street for not less than 100 feet except cul-de-sac lots which may have a minimum street frontage of not less than 50 feet, or unless a home previously was built on the lot, or the adjacent homes' lots were platted for less depth on or before July 1, 1991; and

(2) No lot shall be approved which constitutes a flag lot except:

a. With special approval from the planning commission due to extreme topographic circumstances. If such approval is granted, no more than 10% of the lots in the development may be flag lots and frontage may not be less than 50 feet for any lot; or

b. For tracts larger than 50 acres which have more than 80% of their land area more than 500 feet from the public roadway.

c. Flag lots are herein defined as a tract or lot of land of uneven dimensions in which the portion fronting on a street is less than the required minimum width required for construction of a building or structure on that lot.

(3) Restricted exemption for tracts with limited road frontage: The requirements set forth in paragraph (a) of this section are here modified so as to alleviate hardship as to tracts which had limited public road access on or before July 1, 1991, subject to compliance with all of the following conditions unless a home previously was built on the lot, or the adjacent homes' lots were platted for homes on or before July 1, 1991. Tracts may be divided pursuant to this section only once and the resulting tracts may not be divided without full compliance with all provisions of the Baldwin County Land Use Code. The phased development provisions of this code shall not apply to such subdivisions. In cases of such divisions, the developer shall be responsible for the maintenance of any easement, roadway or access to the lots which is over nonpublic roads.

This modification of the requirements of this section shall apply only to tracts which existed as separate tracts on July 1, 1991, and had public road access of less than 240 feet. As to such tracts, a division under this paragraph may be made if such division complies with all of the following requirements:

a. A qualifying tract may be divided into no more than three lots;

b. The resulting lots shall comply with all other regulations of the land use code, such as minimum widths at building line, setback lines, health department regulations, and other applicable regulations;

c. The resulting lots shall each be at least one acre or the minimum size provided in section 6.2.1, whichever is larger;

d. The public road access to the tract shall be equally divided between the resulting lots;

- e. If the lots front less than 20 each on public roads, then joint easements for access shall be provided to the owners of all lots over the entire access area; and
- f. The proposed division shall require the submission to the administrator of the proposed plat prepared in compliance with the requirements of this regulation and in addition to all other certifications, shall contain an affidavit of the owner that the tract to be subdivided:
  - 1. Was a separate and distinct tract on July 1, 1991, which had less than a total of 240 feet of public road frontage;
  - 2. That the proposed subdivision complies with all requirements of this section;
  - 3. That the access will be privately owned and maintained and shall not be eligible for acceptance as public roadways except upon compliance by the owners with county regulations regarding right-of-way widths, construction and paving;
  - 4. That the property may not be further divided without compliance with the minimum public road frontage requirements set forth in paragraph A hereof; and
  - 5. That certified copies of deeds or other documents establishing the status of the title on July 1, 1991, shall be supplied to the administrator.
- g. The final plat of the tract shall be recorded prior to the transfer of any property in the resulting subdivision and shall bear a conspicuous certificate of the administrator in substantially the following language:
 

"Notice:

  - 1. The Baldwin County Commission does not undertake to provide public road access to these lots nor is it obligated to pave or maintain roads providing access to these lots.
  - 2. It may not be possible to divide the lots shown on this plat. The lots may not be divided into smaller tracts without complying with all provisions of the Baldwin County Land Use Code, particularly those relating to public road access."

- (f) Double and reverse frontage lots. Double frontage, and reverse frontage lots, should be avoided except where essential to provide separation of residential development from traffic arteries or to overcome specific disadvantages of topography and orientation.

(Amd. of 7-1-1991; Amd. of 6-7-1994; Amd. of 11-20-2001; Amd. of 12-3-2002)

**Secs. 16-52—16-60. - Reserved.**

## **Article V – DEVELOPMENT AND ACCEPTANCE OF COUNTY ROADS**

### **Sec. 16-61. – Scope**

The provisions of this article shall apply to and be considered the minimum standards for the development of roads, road rights-of-way, and related drainage facilities within the county.

**Sec. 16-62. - Approval and acceptance of public roads.**

- (a) Authority. The county commission shall have the authority to review and approve or disapprove the location and character of all new roads, rights-of-way, and drainage facilities intended for public ownership and maintenance and to accept or reject such facilities, roads and rights-of-way for public ownership and maintenance.
- (b) Recording of deeds. No deed for land designated as or containing the right-of-way of any new or proposed public road or extension thereto shall be filed or recorded in the office of the clerk of superior court until it shall have been approved and accepted by the county commission.
- (c) Transfer of property. It is hereby declared to be a misdemeanor for the owner or the agent of the owner of any land abutting or served by a road or road right-of-way which shall have been designed or intended as a public road to represent, for the purpose of transferring by lease, sale, or bequest, or by agreement or negotiation for such transfer, such road or right-of-way as a public road or right-of-way until said road or right-of-way shall have been classified, approved, and accepted as a public road or right-of-way by the county commission by inclusion on the official county road map; or by approval of a final subdivision plat with said roadway being included thereon, with proper bonds having been posted assuring the proper construction and maintenance thereof in accordance with these regulations.

**Sec. 16.63. - General provisions.**

- (a) County road classifications. Roads within the county are hereby classified according to their inherent and relative function.
  - (1) Residential land service road - A public road or right-of-way therefor which is not under the jurisdictional control of the State of Georgia, nor intended for such control, and which is not considered to be significant to intra-county vehicular travel, and which provides or is intended to provide vehicular access to land in use or intended for use primarily for residential purposes.
  - (2) Nonresidential land service road - A public road or right-of-way therefor which is not under the jurisdictional control of the State of Georgia, nor intended for such control, and which is not considered to be significant to intra-county vehicular travel, and which provides or is intended to provide access to land in use or intended for use primarily for commercial and industrial purposes, or which accommodates or is intended to accommodate frequent vehicular traffic to land areas whose use or intended use is primarily for such purposes.
  - (3) County vehicular service road - A public road or right-of-way therefor which is not under the jurisdictional control of the State of Georgia and which is considered to be significant to intra-county vehicular travel.

- (4) State route - A public road or right-of-way therefor which is under the jurisdictional control of the State of Georgia, or is intended for such control and acceptable to the state for such control.
  - (5) Private driveway - Drive or any designated right-of-way or easement therefor, for vehicular access from public rights-of-way to private property, which are not under the jurisdictional control of the state nor intended or acceptable for such control, and which is not owned and maintained or intended to be owned and maintained by the county as a public road.
- (b) Classification authority. The county commission shall have the authority to classify all roads and road rights-of-way within the county that are owned by the county or which are subject to county maintenance by public use and designation. The classification of all such roads and road rights-of-way as shall have existed and been mapped upon the effective date of this code shall be as identified on the Road Classification Map of Baldwin County, Georgia as shall have been prepared and adopted by the county commission.

The county commission shall classify all new or proposed roads and road rights-of-way. Until such time as a new or proposed road or road right-of-way shall have been classified by the county commission, it shall be deemed a private drive and shall not be represented as anything but a private drive and therefore not subject to improvements and maintenance as a public road.

No new or proposed road or road right-of-way shall be accepted and approved as a public road until and after it shall have been classified by the county commission in a manner consistent with the provisions of this code.

**Sec. 16.64. - Standards for public road design.**

- (a) County road system. All new or extended roads shall be designed and constructed to complement the existing or planned system of county roads. To this end, the county commission shall have the authority to specify the location, width, and alignment of all new roads or rights-of-way therefor as may be proposed or offered for public ownership, development, and/or maintenance.

The county commission may also require the reservation or dedication of right-of-way within lands proposed for subdivision development, as provided for in this code and article 4, as the county commission deems necessary to extend, widen, or otherwise improve an existing public road or right-of-way therefor, or to provide for the future extension of a new public road to serve properties abutting or adjacent to the land to be subdivided.

- (b) Width of roads and rights-of way. The minimum width of new or extended public road right-of-way wearing surfaces, and shoulders shall be as follows.
- (1) Residential land service road - Minimum right-of-way width of (60) feet, wearing surface width of twenty-four (24) feet, and shoulder width minimum of five (5) feet.

- (2) Nonresidential land service road - Right-of-way width of eighty (80) feet, wearing surface width of twenty-four (24) feet, and shoulder width minimum of five (5) feet.
  - (3) County vehicular service road - Right-of-way width of (80) feet, wearing surface width of twenty-four (24) feet, and shoulder width minimum of five (5) feet.
  - (4) State route - As required by the Georgia Department of Transportation.
  - (5) Private drive - No prescribed minimums.
- (c) Vertical alignment of roads. In no case shall roadway grades exceed ten (10) percent nor be less than one-half ( $\frac{1}{2}$ ) of one (1) percent. The county commission may reduce the maximum gradient for nonresidential land service roads.
- (d) Horizontal alignment of roads. The radius of road curvature shall be not less than ninety (90) feet, except that the county commission may increase this minimum radius for nonresidential land service roads. Curve radii shall be measured from the road centerline.
- (e) Intersection. All roads shall intersect at right angles unless prevented by unusual site characteristics. In such cases, the county commission may approve a lesser intersecting angle or require the relocation of the intersection.
- Road jogs with centerline offsets of less than one hundred and fifty (150) feet shall not be permitted.

(Amd. of 7-1-1991; Amd. of 3-18-1997)

**Sec. 16-65. - Standards for public road improvement.**

The following improvements shall be made before the county commission may accept a residential or nonresidential land service road and right-of-way therefor for public ownership and maintenance. Wherever a specification of the Georgia Department of Transportation is referred to in this article said reference is made to the appropriate section of the Standard Specifications for Road and Bridge Construction, Department of Transportation, State of Georgia, current edition, as thereafter amended and supplemented.

- (a) Preparation of right-of-way. The full width of all rights-of-way shall be shaped to approximate required grades, alignment, and other specifications such that base and wearing surfaces can be constructed, which will not damage abutting property. Abutting property shall be suitably sloped to the right-of-way line. Due regard shall be shown for desirable trees and other vegetative matter not impairing visibility.
- Before grading is started, the entire area of the right-of-way shall be cleared of all exposed stumps, logs, grass, weeds, roots, rubbish, loose boulders, and other debris or otherwise objectionable material protruding through the ground surface.
- All tree stumps, boulders, and other obstructions shall be removed to a minimum depth of two (2) feet below the finished surface of all slopes and the area to which base material is to be applied. Rock whenever encountered shall be scarified or removed to a depth of twelve (12) inches below the subgrade.

All suitable material from roadway cuts may be used in the construction of fills, approaches, or at other places as needed. Excess materials, including organic materials, soft clays, etc., shall be removed from the development site. The fill shall be spread in layers not to exceed twelve (12) inches loose and compacted by a sheepsfoot roller. The filling of utility trenches and other places not accessible to a roller shall be mechanically tamped.

(b) Embankments and erosion control. Immediately after grading and filling and respreading of topsoil, all shoulders and slopes within the right-of-way shall be stabilized to retard erosion and drainage facilities open or temporary slope drains constructed to accommodate and direct acceptable surface water runoff, all to be in compliance with the Baldwin County Soil Erosion and Sedimentation Control Ordinance. At a minimum, developer shall provide permanent-type grassing.

(c) Ditches and drains. Each road and road right-of-way shall have a drainage system adequate to provide for the proper drainage of all surface water. Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit the full width of the required roadway, including shoulders and ditch slopes.

Size openings of all cross drains shall be as required by the county public works supervisor. Cross drains shall be built on straight line and grade, and shall be laid on a firm base, but not on rock. Pipes shall be laid with spigot ends pointing in the direction of the water flow. Ends shall be properly fitted and matched to provide tight joints and a smooth, uniform invert. Drains shall be placed at sufficient depth below the roadbed to avoid dangerous pressure of impact, and in no case shall the top of the drain pipe be less than one (1) foot below the roadway base.

Drainage ditches shall be constructed along both sides of the roadway. All ditches shall be two (2) feet deep and have an invert of two (2) feet. The front slope of the ditch shall have a horizontal-to-vertical slope ratio of not less than 3:1, and a back slope of not less than 2:1. All ditches shall be stabilized to retard erosion.

Concrete, corrugated metal or plastic (if approved) side drains with size openings of not less than fifteen (15) inches shall be installed to provide for surface water drainage under all driveways.

(d) Roadway base and shoulder. The base material shall extend not less than one foot beyond the paving edge. The minimum type of roadway base and shoulder material allowed shall be topsoil, sand-clay, crusher run stone, or chert which shall have physical properties equivalent to that required for Class B material gradation contained in Georgia D.O.T. Specifications.

For residential land service roads the roadway and shoulder base shall have a minimum compacted depth of six (6) inches and a 100% dry density compaction. For nonresidential land service roads the corresponding minimum compacted depth shall be a minimum of six (6) inches and a 100% dry density compaction.

- (e) Prime coat. All finished base surfaces shall have a bituminous prime coat applied before surface treatment material is spread. The minimum acceptable prime coat material shall be cutback asphalt of a grade as required by the county public works supervisor based on temperature and the texture of the base surface.

The prime coat shall be applied at the rate of twenty-five hundredths (0.25) of a gallon per square yard of base. Application of the prime coat shall be consistent with Georgia D.O.T. Specifications.

Surface Treatment: After prime coat has been properly cured, a permanent wearing surface shall be applied to the roadway base.

For residential land service roads, the minimum acceptable wearing surface shall consist of Type I bituminous treatment using stone, size 5, aggregate with a bituminous seal using stone, size 7 and 89, shall conform to the provisions of Georgia D.O.T. Specifications.

- (f) Concrete paving. Concrete paving may be used as an alternative subject to the following minimum county specifications:

- (1) Any subgrade on which concrete is placed directly shall meet soil requirements for a class I or class II soil. A III A soil would be acceptable provided it is stabilized with a minimum of 150 pounds per square yard of crusher run stone. (A minimum of 6 inches in depth is required of all base material.) 100% compaction using standard density is required.

- (2) A 5-inch concrete slab is required that uses a 5.75 bags/CYD mixture and provides 3,500 pounds per square inch minimum compression strength and approximately a minimum average strength of 4,300 pounds per square inch, to be compatible with a modulus of rupture 550 P.S.I. If concrete paving is placed without tied in concrete shoulders or curbs, at least ½ inches of slab thickness is required to insure compliance with minimum compression a minimum average strength requirements provided herein.

- (3) Transverse joints should not be spaced further apart than 15 feet.

- (4) All other road preparation and construction requirements not in conflict with these specific requirements shall be required for the use of concrete paving as an alternate.

- (5) Not less than a 10 day notice of use of this alternative shall be given to the county by written notice to the county clerk.

- (g) Control of work and inspections. The county public works supervisor shall have the authority to control the construction of all residential and nonresidential land service roads. In exercising such authority, the county public works supervisor shall decide all questions concerning the acceptability of materials and construction methods. The county public works supervisor shall have the authority to inspect all construction work done and materials used to determine compliance with the provisions of this article. Whenever the county public works supervisor finds that materials and/or work performed are not in compliance with this code, he may require the removal,

replacement, or otherwise require the correction of the nonconformity. The county public works supervisor, however may, not waive or reduce the requirements of any provisions of this code.

- (h) Guarantee in lieu of completed improvements. No new or extended residential or nonresidential land service road shall be approved and accepted by the county commission for public ownership and maintenance, and no subdivision plat containing such a road shall be given final approval until one of the following conditions shall have been met.
  - (1) All roads, right-of-way and drainage facilities are designed and constructed consistent with the provisions of this article and so approved by the county public works supervisor, or
  - (2) The county commission shall have accepted a surety bond in an amount equal to one and one-half times the estimated cost of all required road, right-of-way, and drainage facility improvements, so that if the builder defaults, required improvements may be made by the county commission without using public funds therefor. The county commission shall determine the estimated cost of required improvements.
- (i) Maintenance bond. Prior to acceptance of road and/or drainage improvements, the land owner shall provide a suitable maintenance bond approved by county to assure that said roadway and/or drainage improvements are still in full compliance with county requirements for two (2) years from the date of acceptance of the road and/or drainage improvements. The maintenance bond shall be in an amount equal to not less than \$50,000.00 per mile or portion thereof. For example, a road of .6 miles in length requires not less than a \$50,000.00 bond and a road of 1.4 miles in length requires not less than a \$100,000.00 bond. When, in the opinion of the code administrator and the county engineer or county road superintendent, the nature of the roadway and/or improvements are such as to require a bond of greater amount, the said administrator and engineer or superintendent shall establish such an amount and provide to the land owner written explanation for such a requirement.
- (j) Traffic control signs, street name signs, and striping. Prior to the transfer of any lots or the acceptance of any road and or drainage improvements, the land owner shall provide payment in full to Baldwin County for the cost of all traffic control signs and street (name) signs. Owner shall also provide the cost of center and edge line striping.

(Amd. of 7-1-1991; Amd. of 3-18-1997; Amd. Of 5-4-2004; Amd. of 8-21-2007)

**Secs. 16-65—16-70. - Reserved.**

## **Article VI – USE OF LAND AND PLACEMENT OF STRUCTURES**

**Sec. 16-71 - General provisions.**

- (a) Scope. Except as otherwise provided herein, no structure or land shall, after the effective date of the adoption of this code, be used and no structure or part thereof shall be erected, altered or moved unless such action is in conformity with the provisions of this code. In its interpretation and application, the provisions of this code shall be considered minimum requirements adopted for the promotion of the public health, safety, convenience, order, and general welfare.
- (b) Completion of existing buildings. Nothing contained herein shall require any change in the plans, construction, designated use, or occupancy of a building or structure for which:
- (1) There is physical evidence that construction had commenced under a valid building permit prior to the effective date of this code and where the entire building or structure shall be completed within one (1) year from the effective date of this code; or
  - (2) A building permit had been issued pursuant to the requirements of previous development regulations as may have been modified or repealed by this code and where the entire building or structure should be completed within six (6) months from the effective date of this code.
- (c) Violations and remedies. A violation of any provisions of this article or failure to comply with any of its requirements, including violations of performance standards or a grant of variance, or a violation of any lawful order of the code enforcement administrator is hereby declared to be a misdemeanor and, upon conviction thereof shall be punishable as provided by law. Each and every day such violation continues shall be considered a separate offense.
- The owner or tenant of any land, building, structure, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense.
- Nothing contained in this article shall prevent the county, or any property owner who would be specifically damaged by such violation, from taking such other lawful action, including civil action, as necessary to prevent or remedy any violation.
- (d) Enforcing officer. The provisions of this article shall be administered and enforced by the administrator. The administrator shall have the right to enter upon any property or into any building or structure for the purpose of making inspections as necessary to carry out his duties in the enforcement of this article.
- The administrator shall issue all building permits and make and maintain records of permits issued or denied, or inspections made, or any violations cited and remedies ordered, and of any appeal proceedings.
- (e) Required building permit. Except as otherwise provided in this article, it shall be unlawful to commence the construction, alteration, or moving of any building or structure or to change the use of a building or structure or of land, except changes in agricultural crops, until the administrator shall have issued an applicable permit

therefor. Application for an appropriate permit shall be made to the administrator on forms provided for that purpose.

The administrator shall have the authority to require that every application for a building permit contain or be accompanied by sufficient information regarding the lot, parcel, or building site, the use and placement of buildings and structures, thereon, and adjoining properties as may be necessary for the administrator to determine whether or not the proposed activity is in conformity with the provisions of this article.

- (f) Public health certification. The administrator shall not issue a building permit where the proposed building, structure, or use involves on-site means of sewage disposal until the application shall have first obtained the written certification of the county health officer that on-site disposal means can satisfactorily accommodate the expected sewage discharge from the proposed use, and that the site on which the proposed use is located or is to be located contains sufficient land area to accommodate the on-site disposal of the expected discharges without adversely affecting ground or surface water supplies.
- (g) Permit issuance and expiration. If the proposed activity, for which an application has been made for a building permit, has been determined by the administrator to be in conformity with the provisions of this article, the administrator shall issue a building permit authorizing the proposed activity.

The issuance of a building permit shall in no case be construed as waiving any provisions of this code. Building permits shall be void after six (6) months from the date of issuance unless, in the opinion of the administrator, satisfactory progress is made by that time.

- (h) Certificate of compliance. No land or structure for which a building permit has been issued shall be occupied or used until the county building officer shall have issued a certificate of code compliance thereof.

A certificate of compliance shall be issued only when the building, structure, and/or land is determined to be in conformity with the provisions of this code. No certificate of compliance shall be issued for any use of land or structure where on-site means of sewage disposal are employed until the county health officer shall have certified in writing his approval of the installation and operation of such on-site disposal means. If a certificate of compliance is not granted upon request the administrator shall state in writing the reasons for such action, and shall identify any corrections or modifications necessary for compliance certification.

- (i) Disapproval of permit application. Whenever an application for a building permit shall have been disapproved, the administrator shall state in writing on the application the cause for such disapproval and shall notify the applicant immediately of the reasons for disapproval.

Thereafter, the applicant may re-apply for a building permit provided he overcomes, to the satisfaction of the administrator, the causes for previous disapproval, or the applicant may institute appeal proceedings or legal action.

(Amd. of 7-1-1991)

**Sec. 16.72. - Intensity of use.**

- (a) Minimum lot size. No building or other structure designed or used for human occupancy, congregation, or employment, or otherwise requiring on-site means of sewage disposal, may be used or constructed on any lot, parcel, or tract of land which does not contain at least the following minimum size and lot width at the building line, and for an area which includes the structure and the septic system, unless a home previously was built on the lot, or the adjacent homes' lots were platted on or before July 1, 1991 when applicable:
- (1) As to one single family dwelling per lot:
    - a. As to lots which do not have either public/community water or public sewer service one and one-half acres with minimum width of 200 feet; and
    - b. As to lots which have either public/community water or public sewer service – one (1) acre with minimum width of 125 feet;
    - c. As to lots which have both public water and sewerage service - three-fourths ( $\frac{3}{4}$ ) of an acre with minimum width of 125 feet; and
    - d. As to lots which have both public water and sewerage service and are located in a subdivision which complies with all requirements of the current subdivision regulations and the following additional requirements, - one-half acre with a minimum width of 115 feet. Additional MINIMUM requirements to qualify for this exception:
      1. That the subdivision streets include curb and gutter and drainage water structures engineered to comply with applicable DOT regulations regarding stormwater runoff; and
      2. The subdivision is restricted so that only one single family residence may be constructed on each lot and said lots shall be restricted to single family residential use only; and
      3. No lot shall front upon or have direct access onto an existing county, state or federal roadway; and
      4. A buffer strip at least twenty feet wide shall be located adjacent to each exterior property line of the development including existing public roadways. This buffer may be included within any individual home lot if the lot size is increased by an additional 10 feet of depth and the entire 20 feet is restricted as a buffer strip as required herein. This strip shall be planted with evergreen trees and hedge-type shrubs designed to provide full noise and sight screening and shall have no improvements located thereon; and
      5. In addition to the buffer required in paragraph iv.) There shall be set aside for the use and enjoyment of the owners of the subdivision a community park or parks, greenways, or recreational areas of the greater of two acres or one-tenth of an acre for the first 50 lots in the subdivision

and one-twentieth of an acre per lot for all lots over 50 in the subdivision, with said area(s) accessible to all of the lots in the subdivision. This set-aside shall include not less than one composite area containing not less than 2 acres for each 50 lots in the subdivision. For example, a 100 lot subdivision would have one composite area of not less than four acres or two composite areas of not less than two acres each. The remaining greenway may be in the nature of buffer strips between adjacent lots and/or along the rear of the lots. Buffers, common areas, and greenways are intended to enhance the liveability of the subdivision and to benefit the owners thereof. The requirements cannot be met by the set-aside of irregular strips and gores or incidental open spaces which have no realistic use by the proposed residents on a day-to-day basis. To qualify for this exception, the developer must justify the set-asides as consistent with the intent and purpose of these provisions; and

6. There shall be not less than one entry into the subdivision for each 100 lots or parts thereof. There shall be a buffer strip beginning at the intersection of each subdivision street right-of-way line and each public road right-of-way line. These buffer strips shall run not less than 100 feet along the subdivision right-of-way line and not less than 30 feet deep. No improvements shall be placed upon these strips except an entry-way sign for the subdivision; and
7. Acceleration and deceleration lanes at the entry(s) shall be provided as required by the administrator for all subdivisions with more than 50 lots. For subdivisions with less than 50 lots, these lanes shall be required for entries onto all state highways and all major county roadways; and
8. Restrictive and protective covenants shall be submitted for approval. These covenants shall have provisions regarding the size and nature of improvements, setbacks, building materials, and use consistent with the greater density allowed by this exception. These covenants shall limit dwellings to two stories in height and shall require concrete driveways to service each home. In addition, these covenants shall make provision for the ownership, maintenance and control of the common, recreational, buffer and greenways provided for herein; and
9. This section provides an exception to the requirement that minimum lot sizes be not less than  $\frac{3}{4}$ th of an acre. To have the benefit of this exception, proposals are expected to exceed the provisions herein, which are MINIMUM requirements. It is the intention that no variances be granted in regard to the minimum requirements provided for herein.

(2) As to one duplex per lot:

- a. As to lots which do not have either public/community water or public sewer service two (2) acres with minimum width of 200 feet; and

- b. As to lots which have either public/community water or public sewer service - one and one-half (1.5) acre with minimum width of 150 feet;
  - c. As to lots which have both public water and sewerage service - one (1) acre with minimum width of 150 feet;
- (3) As to triplexes, quads and other multifamily:  
See code section 16-49 (i) or multiply the minimum land area provisions for one single family dwelling times the number of housing units to determine lot size and increase the minimum lot widths by 25 feet for each additional housing unit above one.
- (4) Lots existing prior to November 6, 1991, may be used for any building purposes provided that the lots are connected to a central or public water supply and provided that the lot complies with the minimum setback lines set forth herein.
- (b) Lot modifications for sanitary purposes. Where individual septic tanks or other such on-site disposal facilities are to be used as a means of sewage disposal, the county health officer may require increases in the minimum lot size as necessary to conform to rules and recommendations of the Georgia Department of Public Health.  
In no case, however, shall the lot size be reduced to less than the required minimum as established herein.
- (c) Building setbacks. No building or structure shall be located closer than thirty-five (35) feet to the right-of-way line of any public road nor closer than seventy-five (75) feet to the centerline of any public road, whichever is the greater distance. As to corner lots, these setbacks shall apply as to both streets except that in the event the side street is local, nonconnector street, then the administrator shall have the authority to reduce the side street setback to not less than the standard side setback line.  
No building or structure shall be located closer than fifteen (15) feet to any side or rear property line; provided, however, the side and rear setback lines shall be as provided in the restrictive covenants of subdivisions, but in no event less than 10 feet. Said setback lines shall also be reduced to 10 feet as to buildable lots of record with widths of less than 91 feet at the building line.

(Amd. of 7-1-1991; Amd. of 6-21-1996; Amd. of 3-18-1997; Amd. of 11-18-1997; Amd. of 11-20-2001; Amd. of 6-4-2002; Amd. of 12-3-2002)

**Sec. 16.73. - Special-use performance standards.**

This code is concerned with minimizing the adverse effects on adjoining property of marginal types of land and structure uses rather than designating specific areas in which these uses may locate. Therefore, special performance standards are hereby established for these marginal uses to ensure that the adverse effects characteristics of each type of use are minimized.

For the purposes of this code, these standards are considered the minimum conditions necessary to protect and preserve public health, safety, convenience, order, and general

welfare, and to allow marginal uses to perform their particular function compatibly within areas containing or which could contain uses with which such functions could otherwise be considered incompatible.

Unless modified by grant or hardship variance, these standards shall apply, in addition to those of section 16.72 of this code and are hereby declared to be the minimum requirements for designated uses of land and structures within the unincorporated limits of the county. However, no use of land shall be forced to be changed if the city grows to within said 300 feet of a business, industrial, agricultural or other activity, as specified in sections 16.73. (a) through 16.73. (r) below.

- (a) Property within 300 feet of private property located within city limits:
  - (1) If all of the privately owned property within the city limits which lies within three hundred feet of the subject property is zone residential, then the subject property shall be used only for those uses allowed in that zone and uses provided in all more restrictive zones; and
  - (2) If all of the privately owned property within the city limits which lies within three hundred feet of the subject property is zoned commercial, then the subject property may be used for those uses allowed in that commercial zone and uses provided in all more restrictive zones, provided the setback line from any existing detached single family residence in the unincorporated area shall be 50 feet; and
  - (3) If part of the privately owned property within the city limits which lies within three hundred feet of the subject property is zoned residential and part is zoned commercial, then the subject property may be used for those uses allowed in the commercial zone and uses provided in all more restrictive zones only if the subject property lies adjacent to or within one hundred feet of the property zoned commercial and provided further that the setback line from any existing site-built detached single family residence shall be 100 feet; and
  - (4) The 100 foot and 50 foot minimum setbacks provided for in this paragraph may be waived by the owner of the property on which said residence(s) are located.
- (b) Group quarters: Except for rooming and boarding houses serving less than 10 people, no building or structure used in connection with any group quarters use shall be located closer than one hundred (100) feet to any side or rear property line, nor within 100 feet of any existing residence or residential subdivision. Group quarters shall also comply with all restrictions and requirements of density as set out for nonconventional use as provided in section 16-49. (i).
- (c) Indoor activity use: No building or structure used in connection with any indoor activity use shall be located closer than seventy-five (75) feet to any side or rear property line, except that for hospital and school uses this distance shall be not less than two hundred fifty (250) feet to any side or rear property line.
- (d) Outdoor activity use: Except for the public parks, no building or structure used in connection with any outdoor activity use or outdoor event shall be located closer than

two thousand six hundred forty (2,640) feet to any existing residence or residential subdivision. Such use must ensure that noise and odor levels do not constitute a nuisance as to any residential use. A 6' buffer at time of planting is required and shall be a width of fifty feet around entire perimeter of property. A 6' privacy fence may be erected with shorter plantings in the fifty foot buffer. This buffer shall be planted with evergreen trees and hedge-type shrubs designed to provide full noise and sight screening.

- (e) Outdoor amusement use: Except for public parks, no building or structure, including a racetrack or strip, rifle or gun firing range used in connection with any outdoor amusement or practice use, shall be located closer than two thousand six hundred forty (2,640) feet to any existing residence or residential subdivision. Such use must ensure that noise and odor levels do not constitute a nuisance as to any residential use. A 6' buffer is required and shall be a width of fifty feet around entire perimeter of property. This buffer shall be planted with evergreen trees and hedge-type shrubs designed to provide full noise and sight screening.
- (f) Airport: No building or structure, including runway surfaces, used in connection with an airport shall be located closer than five hundred (500) feet to any property line and no part of a clear zone or transitional surface shall extend beyond the boundaries of the property of which the runway is located.
- (g) Animal shelters-zoological parks: No building or structure used in connection with a zoological park, and housing any animal species shall be located closer than three hundred (300) feet to any property line nor within five hundred (500) feet of any existing residence or residential subdivision.
- (h) Utility towers: Broadcasting and communications towers and antennae shall be permitted provided that the tract of land on which located is sufficient in size to have a lineal dimension from the base of the tower or antennae, or any structure on which the tower or antennae is located, to all property lines equal to or greater than the height of the tower or antennae, and shall be not less than 300 feet from any residence or residential subdivision.
- (i) Commercial or general business use: No building or structure used in connection with any commercial or general business use shall be located closer than one hundred fifty (150) feet to any side or rear property line nor within two hundred fifty (250) feet of any existing residence or residential subdivision.
- (j) Extensive business use: No building or structure including any equipment or materials storage or processing yards or areas, used in connection with any extensive business use shall be located closer than two hundred fifty (250) feet to any side or rear property line, except that for a junkyard, this distance shall not be less than three hundred fifty (350) feet and all operations and storage shall be fully enclosed by a wall or fence which shall not be less than eight (8) feet in height, providing full screening from all adjacent properties and roadways, nor within five hundred (500) feet of any existing residence or residential subdivision.

- (k) Filling station: No building or structure, including gasoline pumps, used in connection with any filling station shall be located closer than one hundred (100) feet to any side or rear property line nor within two hundred (200) feet of any existing residence or residential subdivision.
- (l) Funeral home, restaurant, and tourist service use: No building or structure, including any equipment or materials storage barns, used in connection with any funeral home, restaurant or tourist service use shall be located closer than one hundred (100) feet to any side or rear property line nor within two hundred (200) feet of any existing residence or residential subdivision.
- (m) Truck stop: No building or structure, including gasoline pumps, use in connection with any truck stop shall be located closer than two hundred (200) feet to any side or rear property line, nor within three hundred (300) feet of any existing residence or residential subdivision.
- (n) Agricultural industry: No building or structure used in connection with any agricultural industry shall be located closer than four hundred (400) feet to any side or rear property line.
- (o) Light industry: No building or structure used in connection with any light industry use shall be located closer than three hundred (300) feet to any side or rear property line nor within five hundred (500) feet of any existing residence or residential subdivision.
- (p) General industry: No building or structure used in connection with any use in the general industry subgroup shall be located closer than four hundred (400) feet to any side or rear property line nor within six hundred (600) feet of any existing residence or residential subdivision.
- (q) Special industry, extractive industry, and mining: No building or structure used in connection with any special industry, extractive industry or mining use, nor any portion of the property, where activity essential to the principal function of such use is conducted, shall be located closer than five hundred (500) feet to any side or rear property line nor within five thousand (5,000) feet of any existing residence, residential subdivision, or stream, lake, or waterway.
- (r) Exceptions: The following described property which would otherwise be subject to the provisions of sections 16.73. (i-m) shall not be subject to the residential subdivision, rear or side setback lines provided in said sections; and the setback line from an existing site-built detached single-family residence shall be not less than fifty (50) feet:
  - (1) Property located adjacent to any railroad right-of-way; state or federal highway; or located on a county roadway when the subject property is located within one hundred fifty (150) feet of any such railroad right-of-way or state or federal highway;
  - (2) Property located on a county roadway when not less than 75% of the privately-owned property which is located within three hundred (300) feet of the subject property is presently used for commercial, rental, or multifamily use;

- (3) Property located within or adjacent to a subdivision specifically developed and approved for commercial use or in which not less than 75% of the lots are used for commercial purposes;
- (4) The fifty-foot minimum setbacks provided for in this paragraph may be waived by the owner of the property on which said residence(s) are located.
- (s) When any subdivision approved under this code specifically reserves a certain lot or lots for limited commercial use which is noted on the plat and in the restrictive covenants, then such commercial lots shall not be subject to the provisions of sections 16.73. (i-m) as to the residential subdivision, rear or side setback lines provided in said sections; and the setback line from an existing residence shall be not less than one hundred (100) feet.
- (t) These provisions shall not apply to public uses and functions being performed, operated or constructed by the State of Georgia, or Baldwin County.

(Amd. of 7-1-1991; Amd. of 5-21-1996; Amd. of 3-18-1997; Amd. of 11-18-1997; Amd. of 9-21-1999; Amd. of 6-17-2003; Amd. of 11-4-2003)

**Sec. 16.74. - Supplementary regulations.**

- (a) Street access control. In order to promote the safety of the motorist and pedestrian and to minimize traffic congestion and conflict, the following regulations shall apply:
  - (1) Vehicular access from properties to public roads shall not exceed thirty (30) feet in width.
  - (2) Not more than two (2) points of vehicular access (ingress/egress) from any lot to an abutting public road shall be permitted for each four hundred (400) feet of lot frontage or fraction thereof; provided however that lots with less than one hundred fifty (150) feet of frontage shall have not more than (1) point of access to each abutting public road.
  - (3) No point of access shall be allowed within fifty (50) feet of the right-of-way line of any public road intersection, measured from the closest point of the accessway.
  - (4) No access drive shall be located closer than thirty (30) feet to another such access drive.
  - (5) No access to a State or Federal route shall be permitted without the prior approval of the Georgia Department of Transportation.
  - (6) No access to a county road shall be permitted without the prior approval of the county public works supervisor after application thereof on forms provided by him.
  - (7) Requests for access to, or intersection with, existing public roadways for institutional, commercial, industrial, residential, or any other development or use that would involve either high volumes of traffic or intersection at locations that could cause safety or traffic flow concerns, may be subject to such owner/developer payment for, and/or provision of, improvements and/or limitations on access as may be required by the administrator to ensure traffic safety and efficient traffic flow,

such as acceleration, deceleration, and turn lanes, the relocation of access points, and/or the limitations on access, such as denying cross lane ingress or egress.

- (b) Signs and advertising devices. The use and placement of signs, billboards, and other outdoor advertising devices shall be in accordance with the following:
- (1) No sign or other advertising device shall be erected or maintained where by reason of its position, working, obstruct, impair, obscure, or interfere with the view of, or be confused with any authorized traffic control sign, signal, or device.
  - (2) No billboard, advertising device, or ground sign shall be erected to exceed forty (40) feet above the ground level, fifty (50) feet in length, nor six hundred (600) square feet in total size. The bottom coping of every advertising device shall be at least ten (10) feet above the ground or roadway level.
  - (3) Billboards and other permanent outdoor advertising devices shall be erected or placed in conformity with the side, front and rear building setback requirements.
  - (4) Real estate sales or rental signs not in excess of six (6) square feet in total area may be located not closer than five (5) feet to any road right-of-way lines.
  - (5) Flashing or intermittently illuminated signs shall not be located within five hundred (500) feet of any residential dwelling.
  - (6) No sign, other than a street sign, shall be attached to or painted on any telephone pole, or any tree rock or other natural object. No signs other than those signs erected by governmental agencies or signs required by law, shall be placed so as to overhang any portion of public rights-of-way or other public properties.
  - (7) No outdoor advertising sign may be placed closer than seven hundred fifty (750) feet from another outdoor advertising sign; and there shall be no more than six (6) advertising devices within any one (1) mile of roadway. No outdoor advertising sign shall be located closer than three hundred (300) feet to any public park, residence, church, school or other public or semi-public installation.
  - (8) Application for a permit for the installation and erection of signs subject to this regulation shall be made in the same manner as building permits, with such fees as established by county.
  - (9) On-premises signs, may be located not closer than ten (10) feet to any road right-of-way or side property lines. "On-premises" signs are signs that advertise the trade or business being conducted at that location.
- (c) Multiple use of land and structures. Where a lot or parcel contains or is intended to contain more than one use and such uses are not located within the same structure, the provisions of this article shall be applied to each use as though each were developed or constructed independently of the other uses.
- Where a structure contains more than one (1) use, the provisions of this article applicable to the use having the greater performance standards shall apply to the location and placement of the structure.
- (d) Minimum health and safety standards for pre-owned manufactured homes.

- (1) Definitions. The following words, terms, or phrases, when used in this ordinance, shall have the meanings ascribed to them in this section:
  - a. Applicant means any person seeking to install a pre-owned manufactured home in the unincorporated area of Baldwin County.
  - b. 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.
  - c. Certificate of compliance 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 ordinance, and indicating it to be in a condition suitable for residential occupancy.
  - d. Guarantee of condition bond means a surety bond to guarantee that the affidavit and photographs required by paragraphs (1) and (2) of subsection (a) of section 3 of this ordinance reasonably portray or represents the existing condition of the pre-owned manufactured home proposed for relocation. In lieu of the bond, a cash deposit may be deposited with the County.
  - e. 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.
  - f. Jurisdiction means the unincorporated areas of Baldwin County, Georgia.
  - g. 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, a wheeled house when erected on site, is 499 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. Every manufactured home to be placed in Baldwin County must be 20 years or newer from date of manufacture.
  - h. Pre-owned manufactured home means any manufactured home that has been previously used as a residential dwelling and has been titled.
- (2) Conditions. All pre-owned manufactured homes located in the jurisdiction shall bear a label certifying it was constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. Section 5401 et

- seq. (the HUD Code) and shall be installed in accordance with O.C.G.A. § 8-2-160 et seq.
- (3) Permitting, inspection, certificate of occupancy and fees. A permit shall be required to locate a pre-owned manufactured home in the jurisdiction.
- a. Permit. To obtain a permit, applicants shall provide to the building inspector:
    1. An affidavit signed by the applicant that the pre-owned manufactured home meets health and safety standards required by this Act;
    2. Photographs of the interior and exterior of the pre-owned manufactured home providing evidence that the home meets the minimum health and safety standards of section 4 of this ordinance;
    3. A \$500.00 refundable guarantee of condition bond or \$500.00 refundable cash deposit; and
    4. The permit and inspection fee required by section 16-74 (d) (3) (d.).
  - b. Inspection. Upon receipt of a permit, applicants may relocate the manufactured home on a residential site for the purposes of inspection. Applicant shall arrange for an inspection to be held once the installation of the manufactured home is complete.
  - c. Certificate of compliance. A certificate of compliance shall be issued to the applicant at such time that the building inspector certifies that the requirements of this ordinance have been met.
  - d. Fee. A permit and inspection fee of as listed in the Code Enforcement Fee Schedule as adopted by the Board of Commissioners shall be charged to the applicant to cover the cost to the County to process the permit application and inspect the pre-owned manufactured home. Such fee shall cover the initial inspection and one follow-up inspection. The applicant shall be charged a re-inspection fee for each additional follow-up inspection that may be necessary.
  - e. Alternative inspection. At the request of the applicant, the building inspector may, at his or her discretion, inspect a pre-owned manufactured home prior to its being relocated if the home is then located at another site within the county.
- (4) Minimum Health and Safety Standards. All pre-owned manufactured homes shall comply with the following before being issued a certificate of compliance by the building inspector:
- a. HUD Code. Every pre-owned manufactured home located in the jurisdiction shall be in compliance with the Federal Manufactured Housing Construction and Safety Standards Act, 42 U.S.C. 5401—5445 (the HUD Code) and shall not have been altered in such a way that the home no longer meets the HUD Code.
  - b. 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.

- c. 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.
  - d. 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.
  - e. Heating systems. Heating shall be safe and in working condition. Unvented heaters shall be prohibited.
  - f. 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 opening 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.
  - g. Hot water supply. Each home shall contain a water heater in safe and working condition.
  - h. Egress windows. Each bedroom of a manufactured home shall have at least one operable window of sufficient size to allow egress if necessary.
  - i. Ventilation. The kitchen in the home shall have at least one operating window or other ventilation device.
  - j. 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.
  - k. Skirting. All mobile homes shall be skirted with new, fireproof material such as metal or brick, unless specified otherwise by the inspector.
  - l. Ingress/Egress. All mobile homes shall have steps and/or landings at all doors of ingress and egress to the home.
- (5) Enforcement.
- a. Permanent connection to utilities shall not be approved until the building inspector has issued a certificate of compliance.

- b. Owners of pre-owned manufactured homes that are not in compliance upon a third inspection shall have their permit revoked and shall be required to remove the home from the jurisdiction at their own expense.
  - c. The guarantee of condition bond or cash deposit will be forfeited after 90 days from the date of inspection, unless all conditions and standards are met prior to the end of the 90 days or an extension has been issued in writing by the building inspector.
- (6) Penalties. Failure to remove a pre-owned manufactured home from the jurisdiction upon failure to receive a certificate of occupancy shall be punishable by a fine of \$250.00. Each day any violation under this ordinance continues shall be considered a separate offense.
- (7) Entry/Relocation Permit. It is a violation of this ordinance for any mover, hauler, person or any other entity to move a mobile home into Baldwin County or relocate an existing mobile home in Baldwin County without the owner first obtaining all necessary permits from issuing authority.
- (e) Nonconforming use: It is the intent of this code to avoid any unreasonable invasion of established private property rights; however, this code recognizes that the elimination of existing structures and uses that are not in conformity with the provisions of this article is as much a purpose of this code as is the prevention of new uses which would, if established, be contrary to the purpose and intent of this code. A nonconforming use of land or structure existing upon the effective date of this code may be continued and maintained except as provided hereinafter:
- (1) Alteration or enlargement—A nonconforming building or structure shall not be altered or enlarged in any manner unless said building structure, including additions and expansion comply with the regulations of this article.  
However, a building or structure that is conforming as to use, but nonconforming as to required building setbacks, performance standards, and applicable supplementary regulations, said building or structure may be enlarged or added to, provided that the addition or enlargement fully complies with all applicable requirements.  
No nonconforming building or structure shall be moved in whole or in part to another location on the same lot or to any other lot unless every portion of said building or structure is made to conform to all applicable provisions of this article.
  - (2) Discontinuance of use—After a nonconforming use shall have been discontinued for a period of two (2) years, it shall not be re-established or changed to any use except a conforming use.  
No nonconforming use may be discontinued for any period and changed to any other type of nonconforming use.
  - (3) Damage to structures—Any nonconforming structure or structure containing a nonconforming use which has been damaged by fire, explosion, act of God, or other

causes to the extent of sixty (60) percent of its fair market value shall not be repaired or reconstructed except in conformity with this article.

- (4) Maintenance and repairs—On any nonconforming structure or portion of a structure containing a nonconforming use, work may be done in any period of 12 consecutive months or work may be done in any period of 12 consecutive months on ordinary repairs, or on repair or replacement of nonbearing walls, fixtures, wiring, or plumbing, to an extent not exceeding ten (10) percent of the current replacement cost of the nonconforming structure or nonconforming position of the structure, provided that the total floor area existing when it became nonconforming shall not be increased.

(Amd. of 7-1-1991; Amd. of 11-6-1991; Amd. of 5-21-1996; Amd. of 3-18-1997; Amd. of 11-20-2001; Amd. of 9-16-2003; Amd. of 8-21-2007; Ord. of 8-17-2010)

**Secs. 16-75—16-80. - Reserved.**

## **Article VII - MANUFACTURED HOME PARK REGULATION**

**Sec. 16-81 - Name.**

**Sec. 16-82. - Purpose.**

This ordinance is enacted pursuant to the authority contained in the Constitution of the State of Georgia for the purposes provided therein and to encourage economically sound and stable land development, provide high standards of development and desirable living environments, assure proper health and safety compliance, and to further the general public welfare, health and safety.

**Sec. 16-83. - Definitions.**

*Commission* means the Baldwin County Board of Commissioners of their designated representative(s).

*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 normally includes the plumbing, heating, air-conditioning, and electrical systems contained therein; and is constructed in compliance with the Federal Manufactured Home Construction and Safety Standards Act, 42 U.S.C.5401-5445, as amended and as thereafter redesignated.

*Manufactured home park* herein abbreviated as MHP is a parcel of land under single ownership on which more than three (3) manufactured homes are located for the purpose of residential use and does not include sales, or manufacturer storage of said units.

*Wheeled house* means a Recreational Vehicle, Park Model (trailer type RV designed to provide temporary accommodations for recreation, camping or seasonal use) brought to a home site on wheels.

(Amd. of 5-21-1996; Amd. of 6-5-2001)

**Sec. 16-84. - Applicability.**

Any tract of land under single ownership on which more than three structures are located for the purpose of residential use shall be subject to this ordinance; unless the structures comply with industrialized building requirements of the Department of Community Affairs for single family residences or the lot size for each residence exceeds 60,000 square feet.

(Amd. of 5-21-1996)

**Sec. 16.85. - Application.**

Any person desiring to construct or alter in any manner a MHP within the limits of BALDWIN County shall make application for doing same to the Board of Commissioners of

Baldwin County or to the individual or commission designated by it (herein referred to as the Commission).

- (a) Pre-application. Prior to filing a formal application for a MHP the applicant is encouraged to confer with county officials in order to provide for review of the general character of the proposed development, location, size, and the requirements of this and related county ordinances.
- (b) Development plan. The developer shall submit to the building department, or such department as directed by the county manager, and application in letter form with six copies which shall set out all information required herein and shall show proposed compliance with all requirements herein and shall also include the following:
  - (1) Name and address of the applicant.
  - (2) Name and address of the owner of the land.
  - (3) Name and address of the proposed operator.
  - (4) The number of spaces proposed to be provided.
  - (5) The acreage of land to be utilized.
  - (6) Proposed water/sewer service and fire protection for the project proposed compliance with all other federal, state and county requirements such as soil and sedimentation control regulations.
  - (7) The application shall be accompanied by seven copies of a plat of the land to be utilized. The plats shall show the following:

- a. Bearing and distances for all property lines.
- b. Names and right-of-way widths for all streets bounding the property.
- c. Name and addresses of all surrounding property owners, in accordance with county tax records.
- d. Distance to nearest public water mains and sewer lines.
- e. Scale (not smaller than 1 inch = 100 feet)
- f. North arrow.
- g. Name and registration number of surveyor or engineer.
- h. Existing topographic conditions including, where necessary, contour intervals of not less than five (5) feet.
- i. The location of existing and proposed streets, parking areas, lot locations, buffer zones, utility locations and drainage easements.
- j. The location of any flood zone within the property limits;
- k. A summary of acres, dwelling units, and gross density in compliance with this ordinance.

(c) Approval.

The Commission shall have 30 days in which to review the application to ensure compliance with the requirements herein. Not more than 30 days after the applicant has complied with all requirements, the code enforcement officer may disapprove, approve or approve with modifications the application. Disapproval must be based upon noncompliance with this ordinance and the items of noncompliance noted.

Guarantee in Lieu of Completed Improvements: No new or extended Manufactured Home Park shall be given final approval or permits issued until one of the following conditions shall have been met.

- (1) All roads, right-of-way and drainage facilities and other improvements are designed and constructed consistent with the provisions of this regulation and so approved by the county, or
- (2) The county commission shall have accepted a surety bond in an amount equal to one and one-half times the estimated cost of all required road, right-of-way, and drainage facility or other improvements, so that if the builder defaults, the required improvements may be made by the county commission without using public funds therefor. The county commission shall determine the estimated cost of required improvements.

(Amd. of 11-18-1997)

**Sec. 16-86. - Minimum development standards.**

- (a) Minimum size of park. MHPS shall have a minimum size of 5 acres and a maximum size of 10 acres.

Recommendation: The newly appointed land use committee to address MHPs larger than 10 acres as a priority.

- (b) Minimum setback of units from adjacent properties.
  - (1) Setback from state/federal highway: 150 feet;
  - (2) Setback from county roadway: 100 feet;
  - (3) Setback from adjacent property: minimum of 30 feet, but in no event closer than 100 feet from an adjacent residence;
  - (4) Setback from right-of-way of interior streets: 20 feet;
  - (5) Setback from adjacent units: 20 feet end to end and 30 feet side to side.
- (c) Streets. Streets within MHPs shall be privately owned, constructed, and maintained. Streets shall be constructed in accordance with the standards attached hereto as Exhibit A and shall provide direct accessibility to each lot and residential unit. No lot or unit shall be accessible except by way of an internal street. Internal streets shall have a minimum of a 40 foot right- of-way and a minimum of 20 feet of paved surface.
- (d) Parking. Off-street parking shall be provided at the minimum rate of two (2) spaces for each home space. Such parking shall be conveniently located to the home space for which it is so provided and shall be provided as part of the lot space, with each parking space to be not less than 10 feet by 20 feet.
- (e) Density. The maximum density of a development shall be two (2) dwelling units per gross acre. Not less than 50 percent of the area of the development shall be devoted to open space and not less than 30 percent of the lot area shall be devoted to green space. Open space is all area not covered by paving or units.
- (f) Lot space. Each home shall be located on an individual lot. Each lot shall front on an interior private street for not less than 40 feet. Each lot shall be not less than 50 feet wide and 80 feet deep. Each lot within the MHP shall have an area of not less than 5,000 square feet with a minimum width at all points of 50 feet. Each space shall have all corners clearly marked. Each space shall have the parking areas required herein and in addition shall have a concrete deck or landing with a minimum size of at least one hundred (100) square feet which shall be convenient to the entrance to the home. In no event shall the home and parking areas cover more than one-third of the space of the individual lot.
- (g) Illumination. Street lighting shall be provided not less than every 250 feet to insure the safe movement of pedestrians and vehicles at night. Such lighting shall not create a direct glare into surrounding residential areas.
- (h) Landscaping. A buffer strip at least twenty feet wide shall be located adjacent to each exterior property line of the MHP and shall not be included within any individual home lot. This strip shall be densely planted with evergreen trees and hedge-type shrubs designed to provide full screening of the MHP.
- (i) Unit requirement. No structure shall be used as a residence in a MHP unless it has been constructed at least in conformity with the requirements of the U.S. Department of Housing and Urban Development under 42 U.S.C. section 5401, et seq., currently meets

all fire and safety requirements of said standards, and has more than 499 square feet of living area. All manufactured homes and wheeled houses located in MHPs must be fitted with skirting/underpinning that completely encloses the undercarriage and must be of brick, masonry, concrete, vinyl siding, or siding of like or similar character to the unit. All residences located in existing MHPs shall meet the underskirting requirements within 24 months of the adoption of this ordinance.

- (j) Refuse disposal. One refuse collection station shall be provided for each twenty spaces or fraction thereof and shall be located not more than 250 feet from any home in the park, easily accessible to the homes it serves, and shall be emptied and the waste properly disposed of by the operator not less than weekly; or the owner/developer shall provide weekly pick-up refuse at each residential dwelling.
- (k) Common use green areas. A minimum of ten percent of the total area of the park shall be set aside and designated for common use and recreational areas and shall be accessible to all units and in one composite tract.
- (l) Water/sewer/fire protection provision. When any proposed MHP is within 2,500 feet of existing public water and/or sewer service, the developer shall provide a proposal for the extension of said service to said MHP and to each individual unit in the MHP with individual metering of each unit by the public body providing the water and/or sewer service. The requirement for connection to a public sewerage system shall be waived if the developer can show that the costs for such connection exceed the costs for individual septic systems. County shall have the option to participate in the provision of such public sewerage connection and to require such connection if the cost to the developer does not exceed the cost of such individual systems. The developer shall provide fire hydrants in the MHP so that each unit is within 500 feet of a hydrant. A master meter for the park maybe allowed so long as there is no resale of water; i.e. metering and sale of water by the developer. The requirement for fire hydrants may be waived by the code enforcement administrator for parks with less than 10 lots in the event such requirements would constitute an undue hardship.
- (m) Mail/unit numbering. The developer shall provide and maintain in a convenient, central location mail receptacles approved by the U.S. Postal Service for each unit. Each unit shall be given a lot number or letter or combination designation. The designation of each lot shall be posted on or directly adjacent to that lot in such a way as to be clearly visible from the interior street, and in such manner, and of such size so that any lot may be readily located in the event of an emergency.

(Amd. of 5-21-1996; Amd. of 6-5-2001)

**Sec. 16-87. - Legal status provisions.**

- (a) Severability. It is intended that the provisions of this resolution be severable and should any portion be declared invalid or unconstitutional by any court of competent

jurisdiction, such declaration shall not affect the validity of the resolution as a whole or portion thereof which are not specifically declared to be invalid or unconstitutional.

- (b) Repeal of conflicting ordinances. All resolutions or parts of resolutions in conflict with this resolution are herewith repealed. Whenever the provisions of this resolution and those of some other resolution or statute apply to the same subject matter, that resolution requiring the highest, or more strict, standard shall govern.
- (c) Effective date. These provisions shall take effect and shall be in force from and after February, 1990. The use of any property in BALDWIN County as a MHP without first obtaining the permit required herein and without complying with all of the requirements herein shall constitute violations of this ordinance and shall be punished as provided herein. The requirements herein shall not apply to a MHP presently existing, but shall apply to any expansion or extension of same. Existing parks shall comply with codes in force when constructed and shall comply with all required safety and health codes. It shall be the policy of Baldwin County to encourage the upgrading of all existing parks to compliance with the requirements herein to further the safety, health and welfare of residents in MHPs. In the event such upgrades would be impossible due to limitations in existing acreage or like requirements that would place an undue hardship upon the owner of an existing park, such requirements may be waived by the code enforcement administrator upon such showing and consistent with guidelines developed by said administrator for that purpose.
- (d) Penalty clause. Any person, firm or corporation violating any provisions of this resolution shall be tried in the applicable court of Baldwin County, and upon conviction shall be punished by a fine not less than \$100,000 and costs, imprisonment in the county jail not to exceed thirty days. Each day's violation of any provision of this resolution shall be a separate and distinct offense and shall be punished accordingly.

**Sec 16.88 - Specifications for Street Construction for Mobile Home Parks.**

- (a) Subgrade Top 6" to be compacted to 100% of Density. Base Course to be Class "A" or "B", sand clay or crushed run stone; thickness to be Minimum 6" Compacted to 100% of Density.
- (b) Surfacing can be Triple Surface Treatment Stone size 5, 7 and 89 Stone, or Asphaltic Concrete using "E" or "F" Mix Minimum thickness 2".

Revised July, 2010

**Secs. 16-89—16-90. - Reserved.**

**Article VIII - ADMINISTRATION AND ENFORCEMENT, VIOLATION AND PENALTY**

**Sec. 16.91. - Administration and enforcement.**

Administrator. These regulations shall be administered, interpreted and enforced by the administrator, or designee. All other ordinances or regulations referenced herein, such as fire

prevention and life safety codes, health, water, and sewer regulations, shall be administered by the directors of the departments responsible for such regulations, as established by the board of commissioners.

Sec. 16-92. - Administrator authorized to suspend work, permit, issue summonses and direct corrective measures.

In any case in which activities are undertaken in violation of these regulations, not in compliance with the provisions of a permit issued under the authorization of these regulations, or without authorization of a permit which would otherwise be required, the administrator is hereby authorized to suspend or invalidate such permits, order that all unauthorized or improper work be stopped, direct correction of deficiencies, issue summonses to any court of competent jurisdiction, or take any other legal or other administrative action appropriate to the severity of the violation and degree of threat to the public health, safety, and welfare.

- (a) *Penalty by fine or imprisonment.* Any responsible party or other persons convicted by a court of competent jurisdiction of violating any provision of these regulations shall be guilty of violating a duly adopted ordinance of the county and shall be punished either by a fine not to exceed \$500.00, or by imprisonment not to exceed 60 days, or both. The owner of any lands or parts thereof, where anything in violation of these regulations shall be placed or shall exist, and each responsible party or other person assisting in the commission of any such violation, shall be guilty of a separate offense.
- (b) *Court empowered to fine or imprison.* The court shall have the power and authority to place any person found guilty of violation of these regulations on probation and to suspend or modify any fine or sentence. As a condition of said suspension, the court may require payment of restitution or impose any other punishment allowed by law.
- (c) *Other legal remedies.* In any case in which any land is, or is proposed to be, used or activities are undertaken in violation of these regulations or any amendment thereto adopted by the board of commissioners, the county, in addition to other remedies provided by law, may petition for a restraining order, injunction, abatement, or to take any other appropriate legal action or proceeding through a court of competent jurisdiction to prevent, restrain, or abate such unlawful use or activity.

(Amd. of 7-1-1991)

**Secs. 16-93—16-100. - Reserved.**

## **Article IX - APPEALS, MODIFICATIONS AND VARIANCES**

### **Sec. 16.101. - Modifications.**

Modification of the design standards set forth in these regulations may be authorized by the administrator in specific cases when, in his opinion, undue hardship may result from strict compliance; provided any such determination shall be based fundamentally on the fact that unusual topographical or other exceptional conditions require such modification, or that the

granting of the modification will not adversely affect the general public welfare or nullify the intent of these regulations. Any such modification granted shall be made in writing to the applicant and also made a part of the county's records. Application for any modifications shall be filed in writing on a form provided by the county with necessary supporting documents and shall explain in detail the reasons and facts supporting the application.

**Sec. 16-102. - Variances.**

Variance requests from the requirements of these regulations shall be submitted on an application form as provided by the county, along with such fees as shall be established and which may be amended by the board of commissioners from time-to-time. The administrator shall coordinate the review of each variance request by all other affected county departments and shall summarize such comments or recommendations as may be received. In the event the administrator shall decline to grant the variance then he shall provide all information gathered to the planning commission, together with a summary of his reasons for refusing the request. The administrator is authorized to grant minor variances based upon the criteria provided herein. Minor variances are defined herein as variances of up to 25% of the code requirements as to all code requirements except those set out in section 16.73. Minor variances as to section 16.73 are defined as variances of up to 10% of the code requirements.

**Sec. 16.103. - Appeals.**

- (a) Administrator and planning commission. Appeals of the interpretation of the administrator of the requirements of these regulations or appeals from his refusal to grant a modification or a variance shall first be submitted in writing to the planning commission who shall review the request in a timely manner and receive comments from other affected departments. The appeal shall be forwarded to the planning commission for final action in their normal course of business.
- (b) Planning commission, duties and power. The planning commission shall have the power to hear and decide the following types of appeals and applications and to such end shall have the necessary authority to ensure continuing compliance with its decisions.
  - (1) Interpretation - To render an interpretation of this article and the manner of its application where it is alleged that there is error in any order, requirement, or determination made by the administrator in the administration of such provisions. In reaching its decision, the planning commission shall establish firm guidelines for future administrative actions on similar or like manners.
  - (2) Variance - To authorize upon an appeal in specific cases such variance from this article as will not be contrary to the intent of this code, nor detrimental to the public interest and welfare. Variances from the terms of this article may be granted on appeal by the planning commission if it finds:
    - a. That the literal enforcement of this article will create an unnecessary hardship or practical difficulty in the development of the affected property, except

- b. That mere loss in property value shall not justify a variance—there must be a deprivation of a reasonable, beneficial use of land; and
  - c. That the situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties within the general vicinity; and
  - d. That the relief sought will not injure the permitted use of adjacent conforming property; and will not unreasonably reduce the fair market value of any adjacent property.
  - e. That the granting of the variance will be in harmony with the spirit and purposes of these codes; and
  - f. In no event will a business or other commercial use be allowed any closer to an existing residence or residential subdivision without notice of the public hearing being provided in writing by certified mail to all owners located within the code required setback specified in these codes; unless such a variance would constitute a minor variance as defined in paragraph 16-102.
  - g. In reviewing an appeal for variance, the burden of showing that the variance should be granted shall be the responsibility of the party applying for the variance. Any variance granted by the planning commission shall terminate automatically when the use ceases to be in full compliance with any conditions imposed by the planning commission, when the use has been abandoned, or when the building permit shall have expired.
  - h. Any additional factors set forth in section 16-103 (g).
- (c) Application for appeal to planning commission. A request for an interpretation of this article or an appeal for variance from its terms may be taken by any person, firm, or corporation aggrieved, or by any officer, department, or board of the county, affected by a decision or order of the administrator. Such appeal shall be taken within fifteen (15) days after the decision has been rendered by filing with the administrator and the planning commission a notice of appeal specifying the grounds therefor. The administrator shall forthwith transmit to the planning commission all papers constituting the record regarding the action appealed.
- Any appeal or application may be withdrawn upon written notice to the administrator and the planning commission but no appeal shall be withdrawn after a notice of public hearing has been posted without the written consent of the planning commission.
- (d) Public hearing. Upon receipt of a request for appeal proceedings, the planning commission shall fix a reasonable time for the hearing of an appeal and shall give, or cause to be given to the Appellant notice of the date and time of the hearing. Appellant shall give, or cause to be given, a public notice thereof by means of a notice in a newspaper of general circulation within the county at least fifteen (15) days prior to the scheduled date of the hearing. In the event the appeal concerns article six hereof, then appellant shall also provide written notice of said hearing by personal delivery of noticed or delivery by certified mail, return receipt requested, to all property owners who are adjacent to the property under appeal and to all property owners who fall

within any questioned residential set back distances. Such notices shall be delivered so as to provide not less than 10 days advance notice of the hearing. The appellant shall provide evidence of substantial compliance with the notice requirements to the planning commission.

Said notice shall contain the time, date, and place of the hearing and a general statement as to the nature of the appeal request, the location of the property affected, if any, as well as the name of the appellant. Public hearings shall be governed by policies and procedures set forth in section Sec 16-103 (f).

- (e) Decision of planning commission. The planning commission shall decide upon an appeal request within thirty (30) days after the date of the public hearing.
  - (1) Findings of fact - Every decision of the planning commission shall be based upon findings of fact and every finding of fact shall be supported in a record of the proceedings. The enumerated conditions required to exist on any matter upon which the planning commission is authorized to pass under this section shall be construed as limitations on the power of the planning commission to act.
  - (2) Approval of request - In approving any request the planning commission may designate such conditions in connection therewith in order to secure substantially the objectives of the regulation or provision to which such variance is granted and to provide adequately for the maintenance of the integrity and character of the area in which permit is granted.
  - (3) Denial of request - No appeal or application for appeal that has been denied shall be further considered by the planning commission until a subsequent request is obtained by filing of new plans and a decision rendered thereon by the administrator.
  - (4) Appeals from decision of the planning commission. Any person or persons, jointly or separately aggrieved by any decision of the planning commission may present to the county commissioners an appeal, following the procedures set out for an initial appeal. Such petition shall be presented to the county clerk/administrator within ten (10) working days after the rendering of the decision by the planning commission and not thereafter, unless an extension be granted by the county commission.
  - (5) Appeals from decision of the county commission. Any person or persons, jointly or separately aggrieved by any decision of the county commission may present to the superior court, a petition, duly verified, setting forth that such decision is illegal, in whole or in part, specifying the grounds of such illegality. Such petition shall be presented to the court within ten (10) working days after the rendering of the decision by the county commission and not thereafter, unless an extension be granted by either the county commission or a judge of superior court.
- (f) Policies and procedures governing the calling and conducting of public hearings.
  - (1) Whenever Baldwin County proposes to take any action resulting in a zoning decision as defined in O.C.G.A. Chapter 36-66 it shall provide for a public hearing on the proposed action. At least fifteen (15), but not more than forty five (45),

days prior to the date of the hearing, Baldwin County shall cause to be published within a newspaper of general circulation within the territorial boundaries of Baldwin County a notice of the hearing. The notice shall state the time, place, and purpose of the hearing. Substantial compliance with this requirement shall satisfy this procedure for calling and conducting public hearings, so long as all of the requirements of said chapter 36-66 are complied with.

- (2) It is the policy of Baldwin County that public hearings shall be conducted in such manner as to afford the most complete public input possible. The person conducting the meeting shall announce at the beginning of the meeting any limitations that may be required due to the nature of the issues or the number of persons appearing. The policy shall be that if time and numbers permit any person who indicates a desire to speak to the issues be given a reasonable opportunity to do so. If the numbers of persons attending indicate the need, then the person conducting the meeting may request that those persons desiring to speak sign a roster for that purpose. It is the policy of the county to request that any group that appears be represented by a spokesperson who will be recognized to present the position of the group. Any speakers who follow will be requested to address only issues not previously covered or positions not previously stated. Personal attacks, interruptions of the recognized speaker, inappropriate language, and remarks which extend beyond a reasonable time will not be allowed.
- (g) Standards for evaluation. Before enacting an amendment to this ordinance the board of commissioners (or planning commission as to variances, modifications, and recommendations for amendments) shall consider the following standards in evaluating such requests or proposals as factors relevant in balancing the interest in promoting the public health, safety, morality, or general welfare against the right to the unrestricted use of property.
  - (1) Existing uses in the neighborhood and of nearby property;
  - (2) The extent to which the destruction of property values of the applicants promotes the health, safety, morals, or general welfare of the public;
  - (3) The extent to which property values are diminished by the particular restrictions;
  - (4) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
  - (5) The suitability of the subject property for the allowed purposes.

(Amd. of 7-1-1991)

Secs. 16-104—16-110. - Reserved.