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ARTICLE 1. INTRODUCTORY PROVISIONS

1.1 Short Title.

A. This code shall be known as and entitled the "Habersham County Comprehensive Unified Development Ordinance" and may be referred to as the "Code," "UDO," or "Ordinance."

1.2 Components of the UDO.

A. This code consists of the following parts:

1. The text of this UDO; and
2. The official zoning map; and,
3. Any map amendment or conditions of approval adopted in accordance with this UDO.

1.3 Authority.

A. This chapter is enacted pursuant to the requirements and authority of Article IX, Section 2, Paragraph 4, of the Georgia Constitution and Georgia Zoning Procedures Law O.C.G.A. §§ 36-66-1, et seq., and the amendments thereto.

1.4 Severability.

A. Should any section or provision of this chapter be declared by a court that has authority of subject matter and parties involved, of the State of Georgia or the United States to be unconstitutional or invalid, such declaration shall not affect the validity of the chapter as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

B. Should any part be declared to be unconstitutional or invalid in its application on a particular case, such decision shall not affect or prejudice its application to other cases.

1.5 Purpose of the UDO.

A. This UDO is adopted for the following general purposes:

1. To promote the public health, safety, and general welfare of the residents, property owners, business owners, and visitors of

Habersham County.

2. To provide for the fair, orderly, harmonious and judicious use of land, as consistent with the most recent Habersham County Comprehensive Plan adopted by the Board of Commissioners.
3. To safeguard the due process rights of all Habersham County with respect to land development or land use related matters.

B. This UDO is adopted for the following specific purposes:

1. Secure safety from fire, flood, pandemics, panic and other dangers;
2. Provide for adequate light, drinking water, and air;
3. Establish standards that mitigate overcrowding or undue burden on County infrastructure or services;
4. Assure the provision of required streets, utilities, and other facilities and services;
5. Assure the adequate provision of safe and convenient traffic access and circulation, both vehicular and pedestrian;
6. Assure the provision of space for recreational, educational and other public purposes;
7. Promote desirable living conditions and the sustained stability of neighborhoods;
8. Protect against blight and depreciation;
9. Encourage the most appropriate use of land, buildings and structures;
10. Promote economically sustainable development;
11. Encourage “green building” practices;
12. Conserve unique natural resources, including delicate eco systems, forested areas, stream beds, water reservoirs, and archeological sites;
13. Protect the natural and built environment from air, water, noise, light, and aesthetic pollution;
14. Provide clear and consistent procedures for petitions and permits;
15. Provide design standards that result in attractive architecture and developments;
16. Provide standards to mitigate the effects of incompatible uses abutting each other; and,
17. Provide standards for signage to prevent visual clutter or impediments to safe traffic circulation.

1.6 Jurisdiction.

A. This UDO shall apply to all properties within Habersham County,

Georgia which are located outside the limits of any incorporated municipality.

1.7 UDO Compliance is Required.

A. No buildings, structures, or land shall be used, occupied or subdivided; and no building, structure, or land improvement or part thereof shall be erected, constructed, reconstructed, moved, enlarged, structurally altered, planted, or installed unless in conformity with the regulations of this UDO.

B. A change of use shall conform to the standards, criteria, requirements, and procedures of this UDO.

C. Nothing in this UDO shall be construed to negate a property owner's responsibility to comply with any applicable supplemental regulations or standards required by federal or state agencies.

1.8 Transitional Provisions.

1.8.1 Purpose

A. The purpose of this Section shall be to establish the procedures for handling violations, submittals, and previously approved items that existed as of the Effective Date of this UDO.

1.8.2 Violations Continue

A. Any violation of previous zoning ordinances shall continue to be a violation under this UDO and be subject to penalties and enforcement under this UDO unless the use, development, or activity complies, in its entirety, with the provisions of this UDO. The prosecution of violations which occurred under previous ordinances shall continue until resolved.

1.8.3 Prior Nonconformities and Nonconforming Uses

A. Any use, plan, structure, or property that was legally nonconforming under prior ordinances shall be considered a legal nonconformity under this UDO. The provisions of Section 15.4, Nonconformities shall be applicable to all nonconformities that existed prior to adoption of this UDO. Any use, plan, structure, or property that was previously nonconforming that becomes conforming because of adoption of this UDO shall no longer be considered a nonconformity, provided that all applicable provisions of this UDO are complied with.

1.8.4 Effect of this Ordinance on Properties Approved with Conditions of Approval

A. Conditions of approval adopted in conjunction with any legislative or quasi-judicial decisions prior to the effective date of this ordinance, including Planned Development districts, remain in full force and effect. In some cases, those conditions were imposed by action of the Board of Commissioners to apply specifically to an approved decision and in some cases, those conditions reference the text of a prior zoning ordinance which specifically applies as a condition of rezoning and incorporated into the text of the rezoning condition.

B. It is the intent under this UDO to incorporate and maintain those same conditions as they apply to those certain properties although conditions may reference a prior County zoning ordinance.

C. Enforcement of those conditions shall remain in full force and effect under this ordinance as it was under the zoning ordinance in effect at the time the zoning districts and conditions were adopted.

D. In no event shall these zoning districts or conditions imposed thereon be considered nonconforming as that term is defined and used in this UDO. However, any amendments to the aforesaid zoning districts or to the conditions applicable thereto applied for after the adoption of this ordinance shall be subject to and governed by the procedures, requirements, and restrictions of this UDO.

1.8.5 Effect of this Ordinance on Legislative and Quasi-Judicial Applications Submitted and Prior Approvals

A. Applications Submitted. Any activity for which a valid and complete legislative or quasi-judicial application authorized by a previous ordinance has been received prior to the adoption of this Ordinance, may proceed to completion of the zoning application. A complete application shall be determined based on Article 13, Public Hearing Application and Review Procedures. The application shall be processed in accordance with Article 13, but the application may be considered under the regulations of the prior Ordinance, at the applicant's option.

B. Effect upon Validity of Applications and Other Authorizations. The adoption of this Ordinance shall not be construed to affect the validity of any application lawfully submitted prior to the Effective date of this Ordinance, so long as:
   1. Such application has not by its own terms expired.
   2. Applications comply with the timing outlined for expirations in Section 13.1.2, Withdrawals, Deferrals, and Expirations.

3. Any future change in the use or development of the property, or any additional requests, shall conform to the most recent version of this UDO.

C. Approved Zoning Applications. Any development or project for which a legislative or quasi-judicial application has been approved under this provision may proceed to completion of the applicable permitting processes provided herein.

1.8.6 Effect of this Ordinance on Permit Applications Submitted and Prior Approvals

A. Applications Submitted. Any development or building activity for which a valid and complete application for a Land Disturbance Permit or Building Permit has been received prior to the Effective Date of this Ordinance may, at the applicant's option, proceed to completion, and permits, occupational tax certificates, and other authorizations may be issued as though this Ordinance had not been adopted.

B. Approved Permits and other Authorizations. Any development or building activity for which a Land Disturbance Permit or Building Permit has been issued prior to the adoption of this Ordinance may, at the applicant's option, proceed to completion, and permits may be issued as though the Ordinance had not been adopted. Permits shall be determined issued if all fees have been paid and the appropriate permit documentation has been released to the applicant by the County.

C. Effect upon Validity of Applications, Permits, and Other Authorizations. The adoption of this Ordinance shall not be construed to affect the validity of any permit lawfully issued prior to the Effective date of this Ordinance, so long as:
   1. Such permit has not by its own terms expired;
   2. Actual building or land development construction is commenced prior to the expiration of such permit;
   3. Applications, permits, and other authorizations comply with the process and timing outlined for expirations herein.
   4. Actual building or land development construction is diligently pursued pursuant to said permit and limited to and in strict accordance with said permit; and
   5. Any future change in the use or development of the property or any structure thereon shall conform with the most recent version of this UDO.

D. Effect upon Validity of Concurrent Applications. If any development or

building activity requires a series of applications (e.g., land disturbance permit, variance, building permit, occupational tax certificate), and at least one application was lawfully filed prior to the Effective Date of this UDO, then, at the applicant's request, all concurrent or related applications necessary to complete the same development project may be reviewed under the ordinance in effect at the time the first application was deemed complete, provided that:

1. Same owner/applicant. The property owner and applicant remain the same as identified in the vested application. A change in ownership/applicant terminates this provision unless a written assignment and assumption of the vested application is filed with the Planning and Development Director within sixty (60) days of the change, expressly agreeing to be bound by the same plans and conditions.
2. Substantial conformity. Each related application implements the same development project shown in the vested submittal (e.g., approved or reviewed site plan) and does not materially increase intensity, change use, or alter key conditions.
3. Filing window (sunset). All related applications are filed within twenty-four (24) months of the vested application being deemed complete. The Planning and Development Director may grant one written extension of up to twelve (12) months for good cause shown. The filing window is tolled for periods of County or external agency-caused delay, a duly adopted moratorium, or a court-ordered stay, as documented in the record.
4. Identification. Related applications authorized under this section shall be identified during review of the vested application or included in the documentation submitted with it (e.g., a development site plan that demonstrates the intent for such applications). Applications not so identified shall be added by amendment within ninety (90) days of the vested application's completeness determination.
5. Compliance standard. Related applications shall be approved if they comply with the prior ordinance referenced above and all applicable conditions of approval for the vested application.

1.9 Relationship to Comprehensive Plan.

A. The Habersham County Comprehensive Plan (Plan) is hereby established as the official land use, zoning, and development policy guide for the County. No rezoning of property in the County shall be completed in a manner inconsistent with the character areas described and delineated on the

Comprehensive Plan's future development map. If the Board of Commissioners considers a zoning map amendment that does not concur with the policies of the Plan or future development map, Board of Commissioners approval of a Comprehensive Plan amendment shall be required prior to the approval of the rezoning petition.

1.10 Minimum Requirements.

A. The provisions of this UDO are intended to be minimum requirements unless otherwise specified.

1.11 Conflicting Requirements.

A. The 2024 Comprehensive Land Development Ordinance is hereby repealed and replaced by this UDO as of the adoption date of this UDO.

B. In the event that the provisions of this UDO conflict with those of another County, state, or federal ordinance or law, the more stringent restrictions shall prevail, as allowed by law.

C. In the event that the provisions of an overlay in this UDO conflict with those of the base zoning district, the overlay shall prevail.

D. The enforcement and interpretation of this UDO shall not be affected by deed restrictions, covenants, or easements other than those made as a condition of approval of development plans under this UDO, special use permits, or other ordinances.

1.12 Responsibility for Implementation.

A. The Habersham County Planning and Development Director shall be responsible for the implementation and final interpretation of all standards and regulations of this UDO, unless otherwise stated.

B. The Planning and Development Director is permitted to authorize other County department heads or officers to perform any action or duty which such head or officer is authorized to perform under this UDO.

C. When a position is authorized to perform certain duties and decisions pursuant to this UDO, the Planning and Development Director may be responsible for absorbing said duties during periods of vacancies in those positions.

D. In the event the position of Planning and Development Director is vacant, the Assistant Planning and Development Director may absorb the duties of this UDO until the position is filled.

E. Nothing in this section shall be construed to override the right to appeal to

the Board of Commissioners as provided in this UDO or to override the responsibilities assigned by the Board of Commissioners to any commission, board, or official named in other sections or chapters of the Habersham County Code outside of this UDO.

1.13 Rules for Boundary Interpretations.

A. Official Zoning Map Reviews. Interpretations regarding boundaries of Zoning Districts shall be made in accordance with the following:

B. Boundaries shown as following or approximately following any street or railway shall be construed as following the centerline of the street or railway.

C. Boundaries shown as following or approximately following any platted lot line or other property line shall be construed as following such line.

D. Boundaries shown as following or approximately following section lines, half-section lines, or quarter-section lines shall be construed as following such lines.

E. Boundaries shown as following or approximately following the centerline of a river, stream, lake or other water body shall be construed as following such centerline.

F. Where boundaries are indicated as approximately following the boundaries of the County, such limit line shall be construed to be such boundaries.

G. In the case where the exact location of a boundary cannot be determined by the foregoing methods, the Planning and Development Director shall, upon application, determine the location of the boundary.

H. Where a public road, street, alley or other right-of-way is officially vacated or abandoned, the regulations applicable to the property to which it is reverted shall apply to such vacated or abandoned road, street, alley or right-of-way.

I. Establishment of Split Zoning Lots is Prohibited. The official zoning map shall not be amended to classify a single parcel of land into two or more base zoning districts or overlays. For purposes of clarification, master planned development projects may consist of multiple sub-areas or sub-districts. The provision of said multiple subareas or subdistricts is not a violation of this subsection.

J. Existing Split Zoned Lots. In an existing parcel of land is already split into two or more zoning districts, each such portion of the split zoned parcel shall be used only for purposes allowed within the zoning district that each such portion is classified. No development activity or use of land, building, or structures is allowed unless expressly authorized or permitted within the

base zoning district or overlay.

1.14 Documents Adopted by Reference.

A. Official land use map of Habersham County. The official land use map of Habersham County, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this UDO.

B. Building and construction codes. The building and construction codes listed below in this subsection B are hereby adopted by reference as if set forth in their entirety. The following standard building codes as approved by the Georgia Department of Community Affairs include any attachments, future editions, appendices, indexes and amendments, including local amendments adopted by Habersham County:

1. International Building Code.
2. International Mechanical Code.
3. International Fuel Gas Code.
4. International Plumbing Code.
5. National Electrical Code.
6. International Fire Code.
7. International Residential Code for One and Two Family Dwellings.
8. International Energy Conservation Code.
9. International Existing Building Code.
10. National Fire Protection Association Fire Codes.

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

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

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

F. Manual for on-site sewage management systems. The Georgia Department of Community Health's Manual for On-Site Sewage Management Systems, together with all explanatory matter thereon,

is hereby adopted by reference and declared to be a part of this UDO.

ARTICLE 2. DEFINITIONS AND ACRONYMS

2.1 Interpretation of Common Terms.

A. Words used in the present tense include the future tense.

B. Words used in the singular include the plural and words used in the plural include the singular.

C. The masculine gender includes the feminine and the neutral.

D. The word "person" includes a firm and partnership, company, corporation or association as well as individuals.

E. The word "shall" is always mandatory; the word "may" is permissive.

F. "Or" may be read "and" and "and" may be read "or" if the sense requires it.

G. The term "written" or "in writing" shall include any representation of words, letter or figures, whether by printing or otherwise.

H. The term "day" means a calendar day.

I. The term "month" means a calendar month.

J. The word "week" shall mean seven (7) days.

K. The word "year" shall mean a calendar year.

2.2 Acronyms.

ADA—Americans with Disabilities Act

AASHTO—American Association of State Highway and Transportation Officials

AC – Acreage

ADT—Average Daily Trips

AMI – Area Median Income

AVG – Average

BFE—Base Flood Elevation

BMP—Best Management Practices

CABO—Council of American Building Officials

CLOMR—Conditional Letter of Map Revision

CLOMA—Conditional Letter of Map Amendment

CPESC—Certified Professional in Erosion and Sediment Control

CO – Certificate of Occupancy

CC – Certificate of Completion

CRZ – Critical Root Zone

DBH—Diameter at Breast Height

DCA – Georgia Department of Community Affairs

DCH—Georgia Department of Community Health

DNR—Georgia Department of Natural Resources

DOT—Georgia Department of Transportation

DRI—Development of Regional Impact

DU—Dwelling Units

EMA—Habersham County Emergency Management Agency

EPD—Georgia Environmental Protection Division

FAA—Federal Aviation Administration

FCC—Federal Communications Commission

FEMA—Federal Emergency Management Agency

FHBM—Flood Hazard Boundary Map

FIRM—Flood Insurance Rate Map

FIS—Flood Insurance Study

GIS—Geographic Information System

GDOT—Georgia Department of Transportation

GPAD—Gallons Per Acre Per Day

GSMM—Georgia Stormwater Management Manual

HVAC—Heating, Ventilation, and Air Conditioning

IBC—International Building Code

ICC—Interstate Commerce Commission

IFC—International Fire Code

IFGC—International Fuel Gas Code

IMC—International Mechanical Code

ITE—Institute of Transportation Engineers

LSC—Life Safety Code

LOMR—Letter of Map Revision

MAX – Maximum

MIN – Minimum

MRPA—Metropolitan River Protection Act

MSL—Mean Sea Level

MUTCD – Manual for Uniform Traffic Control Devices

NFPA—National Fire Protection Association

NPDES—National Pollution Discharge Elimination System

NOI—Notice of Intent

NOT—Notice of Termination

NRCS—Natural Resources Conservation Service

NTU—Nephelometric Turbidity Units

NWI—National Wetlands Inventory

OCGA—Official Code of Georgia Annotated

OSHA – Occupational Safety and Health Administration

ROW – Right of Way

RV—Recreational Vehicle

SBCCI—Southern Building Code Congress International (International Building Code)

SF or Sq. Ft. – Square Feet

TRC—Technical Review Committee

ULDC—Unified Land Development Code

USACE or Corps—United States Army Corps of Engineers

USGS—United States Geological Survey

2.3 Defined Terms, General.

When used in this UDO , the following words and phrases shall have the meaning given in this Section. Terms not herein defined shall be defined by the American Planning Association's *A Planners Dictionary*.

-A-

Abandonment: The relinquishment of property, or a cessation of the use of the property, by the owner or lessee without any intention of transferring rights to the property to another owner or of resuming the use of the property.

Abatement: The method of reducing the degree and intensity of pollution, nuisance, or identified area of non-compliance with this development code.

Absorption: The penetration of one substance into or through another; or, the length of time it takes for a product or real estate to be sold or rented.

Abutting: Having property or district lines in common; or, having property separated by only an alley; or, to physically touch or border on.

Access: A way or means of approach to provide vehicular or pedestrian physical entrance to a property.

Access management plan: A plan showing the design of access upon a lot. It involves planning for the entry and exit of traffic on major roads in such a way as to keep interference with traffic flow to a minimum and maximize public safety.

Access permit: A permit issued by the appropriate governmental agency for the construction, maintenance, and use of a driveway or public street connecting to a highway.

Accessible design: Accessible generally means that environments, objects, and systems meet prescribed requirements for accessibility for people with disabilities.

Accessible route: A continuous, unobstructed path connecting all accessible elements and spaces of a building or facility.

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

Accessory Dwelling Unit (ADU): A residential dwelling unit, built to the residential or manufactured home codes, located on the same lot as a single-family dwelling unit, either within the same building as the single-family dwelling unit or in a detached building.

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

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

Acre: 43,560 square feet of area.

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

Activity center: A community focal point providing for the combination, rather than scatteration, of general retail, service, commercial, professional office,higher density housing, and appropriate public/quasi-public uses.

Act of God: An unintentional hazard event (usually a natural hazard) whereby society feels that no individual or organization is responsible for the hazard occurrence or its impact; i.e., an "accident."

Adaptive reuse: The development of a new use for an older builder or for a building originally designed for a special or specific purpose.

Addition:

A. A structure added to the original structure at some time after the completion of the subject original structure;

B. An extension or increase in floor area or height of a building or structure.

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

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

Adverse impact: A condition that creates, imposes, aggravates or leads to inadequate, impractical, unsafe, or unhealthy conditions on a site proposed for development or on off-tract property or facilities. Adverse impacts usually related to circulation, erosion, drainage, potable water, sewage collection and treatment, but may also relate to lighting and glare, aesthetics quality of life, and environmental impact.

Advertisement: Any structure, or portion thereof, on which letters, numbers,

or logos are applied for purposes of identification, description, or illustration to the general public.

Affordable housing: Housing with sales price or rent within the means of a low-, middle-, or moderate-income household as defined by state or federal legislation. Not necessarily the same as subsidized housing.

Agrarian: Relating to land, particularly agriculture.

Aggregate sign area: The sum of the total area of all signs types.

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

Agricultural building. See Barn.

Agricultural services: Establishments primarily engaged in supplying soil preparation services, crop services, landscaping, horticultural services, veterinary and other animal services, and farm labor and management services.

Agri-entertainment: Events and activities, such as mazes, hayrides, and petting zoos, that allow for recreation, entertainment, and tourism in conjunction with agricultural support and services directly associated with ongoing agricultural activity on-site. See also Agritourism.

Agritourism: Agricultural uses such as farms, ranches, and vineyards, that, through promotion and advertising, facilities, and activities seek to attract visitors and guests. Examples of agritourism include dinner on the farm where paid meals are prepared for members of the public from products of the farm, roadside stands, winery, agricultural craft and gift sales, garden and nursery sales, and special events.

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

Aisle: The traveled way by which cars enter and depart parking spaces.

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

Alteration, major: Any change or rearrangement in the supporting members of an existing building, such as bearing walls, columns, beams, girders, or interior partitions, as well as any change in doors, windows, or means of ingress or egress; or any, enlargement to or diminution of a building or structure, whether horizontally or
vertically; or the moving of a building or structure from one location to another.

Alteration, minor: Modifications to an existing structure that are of a cosmetic nature, replacement of utilities, or rearrangement of non-load bearing partitions.

Alternative Access:

A. The ability to enter a highway indirectly through another improved roadway instead of from a direct driveway entrance from the principal roadway frontage;

B. The availability of another means of access to a roadway or property in addition to the primary access.

Alternative living arrangement: An arrangement in which households maintain private rooms, yet share kitchen and bathroom facilities, central heating, and common areas. Examples may include boarding homes, residential health-care facilities, group homes for the developmentally disabled and mentally ill, and congregate living arrangements.

Ancillary use: See Accessory use.

Annexation: The incorporation of land area into an existing community with a resulting change in boundaries of that community.

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

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

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

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

Applicable codes: (i) any optional housing or abatement standard provided in Chapter 2 of Title 8 of the O.C.G.A as adopted by ordinance or operation of law, or general nuisance law, relative to the safe use of real property; (ii) any fire or life safety code as provided for in Chapter 2 of Title 25 of the O.C.G.A.; and (iii) any building codes adopted by local ordinance prior to October 1, 1991, or the minimum standard codes provided in O.C.G.A. Chapter 2 of Title 8 after October 1 provided that such building or minimum standard codes for real property improvements shall be deemed to mean those building or minimum standard codes in existence at the time such real property improvements were constructed unless otherwise provided by law.

Applicant: Any person, firm, partnership, corporation, or public agency submitting an application for development under this UDO.

Application for development: The application form and all accompanying documents and exhibits required of an applicant by an approving authority for development review and approval purposes.

Approved plan: A plan that has been granted final approval by the appropriate approving authority.

Approving authority: The agency, board, group, or other legally designated

individual or agency that has been charged with the review and approval of plans and applications.

Architectural projections: Building projections that are permitted to intrude into the required front, rear, and side yards.

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

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

As-built plans: Accurate and precise drawings of post-construction site features and characteristics, including all buildings, structures, infrastructures, boundaries, and natural features.

Assemblage: The merger of separate properties into a single tract of land. See Consolidation.

Awning: A detachable covering, intended to provide protection against sun or weather, supported by a rigid frame. Awnings may be installed so as to remain in a fixed position or be installed in a manner permitting raising and lowering or shifting to function as a shutter for the protected opening. An awning must be supported entirely from the walls of the building to which it is attached or cantilevered.

Awning sign: A sign located on an awning.

-B-

Barn: A farm building used for storing grain, hay, or straw, or housing livestock or storing equipment.

See Agricultural building.

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

Banner: A temporary flag, bunting, pennant, streamer or other flexible sign characteristically hung on a building or a pole or otherwise suspended down or along the face of a building or across any public street of the County. The banner may or may not include copy or other graphic symbols but is intended to display a message of temporary significance or garner the attention of the passing public.

Base flood: The minimum magnitude flood to be used by a community as a basis for its floodplain management regulations; presently required by regulation

to be that flood which has a one-percent change of being equaled or exceed in any given year.

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

Base Zoning District: A geographical area or areas designated with the use of symbols on the official land use map wherein performance standards regarding type, size, height and other limitations on structures are established in this UDO.

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

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

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

Best management practices (BMPs): The physical, institutional, or strategic approaches and procedures to environmental or development problems, particularly with respect to non-point source pollution control.

Big box store: A large, freestanding, single-story retail store, of more than 50,000 square feet, and usually part of a regional or national chain.

Bike lane: A portion of a road that is designated by striping, signing, and pavement markings for the preferential or exclusive use of bicyclists. Most often these are done in couplets, each one being one-way and adjacent to the outside through travel lane.

Bike path:

A. A facility that is paved or unpaved and physically separated from motorized vehicular traffic by an open space or barrier;

B. A designated right-of-way for bicycles, separated from pedestrian and motor vehicles.

Bike route: A segment of road designated by the jurisdiction having authority, with appropriate directional and informational markers, but without striping, signing, and pavement markings for the preferential or exclusive use of bicyclists.

Blank wall: An exterior building wall with no openings and constructed of a single material, uniform texture, and on a single plane.

Blighted area: An area characterized by deteriorating and/or abandoned buildings; inadequate or missing public or community services; and vacant land with debris, litter, lack of utilities, accumulation of trash and junk and impacted by adverse environmental nuisances, such as odor, noise, and heavy traffic.

Block: A piece or parcel of land entirely bounded by streets (other than alleys) or by a combination of streets, waterways, railroads, state or federal property, or

any other barrier to continuity of development.

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

Board designee: Staff member or their designee employed by the County.

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

Boat: A vessel propelled on water by oars, sails, or an engine, including but not limited to boat, raft, jet ski, and all related equipment.

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

Buffer: Land area used to visibly separate one use from another through vegetation, man-made screening, or distance; to shield or block noise, light, glare, visual or other nuisances; to block physical passage on non- similar areas; or to reduce pollution, dust, dirt, and litter.

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

Building: Any structure, either temporary or permanent, above or below ground, having a roof or other covering and designed, built or used as a shelter or enclosure for persons, animals, vehicles, equipment, or goods.

Building coverage: The ratio of the horizontal area, measured from the exterior surface of the exterior walls of the ground floor, of all principal and accessory buildings on a lot to the total lot area.

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

Building footprint: The area encompassed by a building's outer wall at ground level.

Building height: The vertical distance measured from the highest grade adjacent to the highest point of roof surface of a flat roof, to the deck line of a mansard roof, or to the top of the highest ridge of a gable, hip, or gambrel roof.

Building mass: The three-dimensional bulk of a structure: height, width, and depth.

Building permit: Written permission issued by the appropriate approving authority for the construction, repair, or alteration of a structure, or addition to a structure.

Building scale: The relationship of a particular building, in terms of building mass, to other nearby and adjacent buildings.

Building setback line: The required space between a property line and a building or specified structure to be open, unoccupied, and unobstructed by buildings or structures

from ground to sky, except where encroachments or accessory buildings and other structures are expressly permitted. Also considered the required yard. Porches, decks, roof overhangs greater than 30 inches and similar features are considered a part of the building or structure for the purpose of determining building line setbacks.

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

-C-

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

Canopy: A covering, intended to provide protection against the sun or weather, which is mounted on a rigid metal frame, and is supported in full or in part by posts attached to the ground, a deck or a concrete slab. Attached canopies shall be supported, in part, by the wall of a permanent structure. "Freestanding" shall refer to canopies supported entirely by posts.

Canopy sign: Any sign attached to or made part of a canopy.

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

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

Cemetery, Family: Also known as a family burial plot. Any land or structure dedicated to and used, or intended to be used, for interment of the property owner's familial human remains. It may be either a burial park for earth interments or a mausoleum for vault or crypt interments or a combination of 1 or more thereof.

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

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

Changeable copy: A component of a sign designed to permit change of copy manually, mechanically, or electronically (with an electronic sign face), including such signs where the change of copy is by remote or automatic means.

Character: Special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its interest/individuality.

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

Character: Special physical characteristics of a structure or area that set it apart from its surroundings and contribute to its interest/individuality.

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

Clearing: The removal of vegetation from a property, whether by cutting or other means.

Closing: Causing a dwelling, building, or structure to be vacated and secured against unauthorized entry.

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

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

Concept plan: A schematic or conceptual design for land development, prepared for informal review purposes, that carries no vesting rights or obligations to any party.

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

Commercial use: Any non-residential use.

Commercial vehicle: A vehicle that meets one of the following conditions:

A. Has a gross vehicle weight rating greater than 10,000 pounds;

B. Is designed or used to transport more than eight passengers (including the driver) for compensation;

C. Is designed or used to transport more than 15 passengers (including the driver), regardless of compensation or lack thereof;

D. Is used to transport hazardous materials;

E. Is titled or registered to a company used for business; or

F. Is a form of motorized construction equipment, except on private property for construction in progress.

Comprehensive plan: Those coordinated plans or portions thereof which have been prepared by or for the governing body for the physical development of the jurisdiction or any plans that designate regulations or programs to encourage the most appropriate use of the land in the interest of public health, safety, and general welfare or any plan by a regional development center covering the center's region proposed or prepared pursuant to be minimum planning standards and procedures for preparation of comprehensive plans and for implementation of comprehensive plans established by the DCA in accordance with O.C.G.A. §§ 50-8-1 through 50-8-12. (Note: this is the same definition as used in O.C.G.A. § 50-8-2.)

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

Conditional zoning: The granting or adoption of zoning for a property subject to compliance with restrictions as to use, size, project design or timing of development, imposed by the Board of Commissioners to mitigate adverse impacts that could be expected without the imposition of such conditions.

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

Consolidation: The removal of lot lines between contiguous parcels. See Assemblage.

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

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

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

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

Copy: Visually communicative elements, including but not limited to words, letters, numbers, designs, figures, or other symbolic presentation or combination thereof displayed on a sign face.

County or Habersham County: Unincorporated Habersham County, Georgia.

Critical root zone (CRZ): The minimum area beneath a tree. The CRZ will typically be represented by a concentric circle centering on the tree's trunk with a radius equal in feet to one and one-half times the number of inches of the trunk diameter.

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

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

Curb: A stone, concrete, or other improved boundary marking the edge of a roadway or paved area.

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

-D-

Data center: An establishment which primarily engages in digital data operations, including but not limited to the storage, management, processing, and/or transmission of digital data, and housing computer equipment, network equipment, systems, servers, appliances and other associated components related to such digital data operations. This definition specifically includes cryptocurrency mining and similar uses.

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

Deciduous: Plants that drop their foliage annually before becoming dormant.

Deck: An unroofed platform, either freestanding or attached to a building, that is supported by pillars or posts.

Dedication: The transfer of property by the owner to another party.

Density: The number of families, individuals, dwelling units or housing structures per unit of land. Gross density includes all the land within the boundaries of the particular area excluding nothing. Net density excludes street right-of-way dedications, land identified as a flood hazard area or within any electricity or gas transmission easement or right-of-way.

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

Diameter at breast height (DBH): The diameter of a tree measured at a point four and one-half feet above
the ground.

Discharge, illicit: Any direct or indirect non-stormwater discharge to the County separate stormwater sewer system, except as exempted by this UDO.

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

Dormer: A projection from a sloping roof that contains a window.

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

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

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

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

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

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

Drug crime: An act which is a violation of O.C.G.A. Article 2 of Chapter 13 of Title 16, known as the Georgia Controlled Substances Act.

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

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

Dwelling: A building designed or used exclusively for human habitation. The term "dwellings, buildings, or structures" shall not mean or include any farm, any building or structure located on a farm, or any agricultural facility or other building or structure used for the production, growing, raising, harvesting, storage, or processing of crops, livestock, poultry, or other farm products.

Dwelling unit: One or more rooms, designed, occupied or intended for occupancy as separate living quarters, with cooking, sleeping and sanitary facilities provided for exclusive use by a single household or householder.

Dwelling, multi-family: A building, under single ownership, consisting of three or more dwelling units. Subtypes of multifamily building include apartments, row houses, town houses and similar housing types but does not include motels, hotels, lodging houses, hospitals, nursing homes or public institutions such as prisons and mental institutions.

Dwelling, single-family: A building designed or arranged to be occupied by

one household.

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

-E-

Easement: A grant of one or more of the real property rights by the owner to or for the use by the public, a corporation or another person or entity which may be authorized in perpetuity, for specified number of years, or for a specific purpose. Easements do not convey title to the property in question.

Eave: The projecting lower edges of a roof overhanging the wall of a building.

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

Elevation:

A. A vertical distance above or below a fixed reference level.
B. A fully dimensioned drawing of the front, rear, or side of a building, showing features such as windows, doors, and relationship of grade to floor level.

Encroachment: Any obstruction or illegal or unauthorized intrusion into a floodway, right-of-way, or adjacent land.

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

Evergreen: A plant that retains its foliage and that remains green year-round.

Exemption plat: A plat drawn to final specifications mapping the division of land which can be administratively approved by the Planning and Development Director without the requirement to be considered by the Habersham County Planning Commission or Board of Commissioners.

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

-F-

Façade: The exterior portion of a building exposed to public view. This term is primarily used in reference to special architectural treatments that are meant to enhance the building's aesthetics. Design or architectural standards or guidelines may have specific requirements for façades as opposed to other exterior surfaces of a building (e.g., color, materials, style or articulation).

Façade, principal: The face of a building which is most exposed to public

view, such as a street, park, or plaza.

Factory: A building in which raw material and semi-finished or finished materials are converted to a different form or state, or where goods are manufactured, assembled, treated, or processed.

Family: An individual or two or more persons if related by blood, marriage, adoption or guardianship, or not more than four unrelated persons occupying a single-dwelling unit.

Family, immediate: Any person who is a natural or legally defined offspring, spouse, sibling, parent, grandparent, or grandchild. For purpose of a Family Conveyance Lot, an aunt, uncle, cousin, niece or nephew are considered immediate family.

Family Conveyance Lot: A division of a lot or parcel (aka initial lot or parent parcel) for the purpose of sale or gift to a member of the immediate family of the property owner as allowed under 7.2.10 of these regulations.

Farm: An area of land principally devoted to agriculture.

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

Fence: An artificially constructed barrier of any material or combination of materials erected to enclose, screen, or separate areas.

Fire lane: An unobstructed paved or improved surface area clearly defined by pavement markings and signs, at least 12 feet wide, and designed to provide access for fire-fighting equipment.

Flag: Any fabric, banner or bunting containing distinctive colors, patterns or symbols.

Flashing sign: A sign of which the illumination is not kept constant in intensity at all times when in use or which exhibits sudden or marked changes in lighting effects. Changeable copy signs permitted in accordance with Article 11 - Signs shall be exempted from this definition.

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

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

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

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

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

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

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

Flood plain:

A. An area within the flood contour elevations subject to periodic flooding as designated by federal, state, regional, county or local studies;

B. A channel and the relatively flat area adjoining any natural or man-made stream, pond, lake, river, or any other body that is subject to flooding during a storm.

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

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

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

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

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

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

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

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

Frontage, road: A service road, usually parallel to a highway, designed to reduce the number of driveways that intersect the highway. Also referred to as "local service road."

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

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

missing portions of a piece of furniture.

-G-

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

Gateway: A major entrance or point of access into a neighborhood, district, community or region.

Glare: The effect produced by light from a luminaire or fixture with an intensity sufficient to cause annoyance, discomfort, or loss in visual performance and visibility.

Government agency: Any department, commission, independent agency, or instrumentality of the United States, of the state, county, incorporated or incorporated municipality, district, or other governmental unit.

Governing body: the Board of Commissioners of the County of Habersham, Georgia.

Grade:

A. When used in conjunction with the terms "existing," "finished," or "natural," synonymous with "elevation";

B. When used as a measurement, grade refers to the percentage of a rise or descent of a sloping surface.

Grade, finished: The final elevation of the average ground level adjoining a building at all exterior walls after development.

Grade, natural: The elevation of the ground level in its natural state, before construction, filling, or excavation.

Grading: Any striping, cutting, filling, or stockpiling of earth or land, including the land in its cut or filled condition, to create new grades.

Grease trap: A device in which the grease present in wastewater is intercepted and congealed by cooling and from which it may be skimmed off liquid wastes for disposal.

Green area: Land shown on a development plan, master plan, or official map for conservation, preservation, recreation, landscaping, or park. See Open space.

Greenfield: Farmland and open areas where there has been no previous industrial or commercial activity.

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

Gym: The abbreviated term for gymnasium, which is an enclosed facility for exercise and athletics.

-H-

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

Habitable floor area: The total floor area of all the habitable (i.e., heated) rooms in a dwelling unit.

Habitable room: Any room in a dwelling unit other than a kitchen, bathroom, pantry, closet, hallway, cellar, storage place, garage, unfinished basement, cellar, or attic.

Handicapped parking space: Parking spaces reserved for people with disabilities.

Hardscape: Nonliving components of a landscaped design, such as walls, sculptures, paved walkways,
patios, stone and gravel areas, benches, fountains, and similar hard-surface areas and objects.

Hazard:

A. Potential or actual force, physical condition, or agent with the ability to cause human injury, illness, and/ or death, and significant damage to property, environment, critical infrastructure, agriculture or business operations, or other types of harm or loss;

B. Something that is potentially dangerous or harmful, often the root cause of an unwanted outcome.

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

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

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

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

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

Highest and best use: The reasonably probable and legal use of vacant land or an improved property that is physically possible, appropriately supported, and financially feasible that results in highest value.

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

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

Hospital: An institution providing health services for in-patients and medical

or surgical care of the sick or injured including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities and staff offices.

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

Household pets: Domesticated animals weighing less than 150 pounds and cared for by the members of the household and which are not raised for commercial gain or considered livestock as defined herein.

-I-

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

Impermeable: Not permitting the passage of water.

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

Improvement: Any permanent structure that becomes a part of, is placed upon, or affixed to real estate.

Incidental: Subordinance and minor in significance or bearing a relationship to the principal use.

Industrial waste: Any liquid, gaseous chemical, or solid residue or by products of an industrial process.

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

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

-J-

Junk: Any scrap, waste, reclaimable material, or debris, whether or not stored, for sale or in the process of being dismantled, destroyed, processed, salvaged, stored, baled, disposed of, or for other use or disposition. For example, but not limited to, tires, unregistered and inoperable vehicles, equipment, paper, rags, metal, building materials, household appliances, or lumber.

Junk/salvage yard: Any property involving the abandonment, parking, storage or disassembly of junk as defined in this subsection.

-K-

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

-L-

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

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

Land disturbance permit (LDP): A permit issued by the County that authorizes land- disturbing activities.

Land uses, existing: Any land use upon property zoned for such use or land-disturbing activity underway pursuant approved development plans or permits issued by Habersham County.

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

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

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

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

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

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

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

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

Local government: The governing authority of a political subdivision.

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

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

Lot: A designated parcel, tract, or area of land established by plat, subdivision, or as otherwise permitted by law, to be separately owned, used, developed, or built upon.

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

Lot, corner: A lot abutting upon two or more streets or roads at their intersection.

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

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

Lot, double frontage: Any lot other than a corner lot which has frontage on two streets or roads that do not intersect at a point abutting the property.

Lot, flag: A lot in which the portion fronting on a public street or approved private street is less than the required minimum width for construction of a building or structure on a lot as set forth in this UDO.

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

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

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

-M-

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

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

Manufactured home: A structure transportable in one or more sections which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or when erected on site, is 320 or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems or a structure that otherwise comes within the definition of a "manufactured home" under the National Manufactured Housing Construction and Safety Standards Act of 1974, as may be amended from time to time (42 U.S.C. 5401,et seq.).

Manufacturing, processing and assembling: The mechanical or chemical transformation of materials or substances into new products. The land uses engaged in these activities are usually described as plants, factories or mills and characteristically use power-driven machines and materials handling equipment. Establishments engaged in assembling component parts of manufactured products are also considered under this definition if the new product is neither a fixed structure nor other fixed improvement. Also included is the blending of materials such as lubricating oils, plastic resins or liquors.

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

Menu board: A freestanding sign oriented to the drive-through lane for a restaurant which has no more than 20 percent of the total area for such a sign utilized for business identification.

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

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

Mixed-use building: A building containing offices, retail, restaurants and/or other uses compatible with neighborhood-oriented commerce or entertainment and residential uses. An example of mixed-use building is residential apartments

above ground floor retail uses.

Mixed-use development: The development of a neighborhood, tract of land, building, or structure with a variety of complementary and integrated uses, including but not limited to, residential, office, retail, public and recreational uses in a compact urban form.

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

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

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

Modular home: Any structure or component thereof designed primarily for residential occupancy which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation

or assembly and installation on the building site and which is designed and constructed to conform to the local building code rather than a national housing or construction code.

Monument sign: A freestanding sign mounted directly upon the ground. Such sign may not be attached to or be a part of or supported by the building in or to which the sign applies.

Motel: A public commercial lodging facility intended for use as temporary residence including meals, entertainment and various personal services provided for compensation to persons traveling for business, tourism or other visitation purposes, distinguished from a hotel in that ingress and/or egress to and from all rooms is made primarily from an exterior walkway rather than from an interior lobby.

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

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

-N-

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

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

NIER: Non-ionizing electromagnetic radiation.

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

Nonconforming sign: Any sign legal when constructed but no longer conforms to the provisions of this UDO.

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

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

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

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

Nuisance abatement: Programs designed to acquire, in an expedited manner, properties that are declared nuisances for all or some of the following reasons: blight, habitually used for illegal purposes, fire damage, gross neglect, disrepair, and debris.

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

-O-

Off-street parking: A parking space that is not located on a dedicated street right-of-way and that is directly accessible to an access aisle.

On-site: Located on the lot that is the subject of the application for development.

On-street parking space: A parking space that is located on a dedicated street right-of-way.

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

Open space: A parcel or area of land or water that is comprised of undeveloped land, naturally landscaped areas, and/or programmed spaces that are set aside, dedicated, or reserved for the enjoyment of property owners, occupants, property guests, and/or the general public for passive recreational or conservational purposes. See Green Area.

Open space, common: Land within or related to a development, not individually owned or dedicated for public use, that is designed and intended for the common use or enjoyment of the residents of the development and their guests and that may include complementary structures and improvements as are necessary and appropriate.

Open space, natural: An open space area that is in an unimproved and undisturbed state, with no changes to existing grade or removal of existing vegetation.

Open space, private: Open space, the use of which is limited to the occupants of a single dwelling, building or property.

Open space, public: Open space owned by a public entity and maintained by it for use and enjoyment by the general public.

Ordinance: A law or regulation adopted by a governing authority.

Outdoor storage: The keeping, in an unenclosed area, of any goods, junk, material, merchandise, or vehicles in the same place for greater than 24 hours.

Overlay zone: A zoning district that encompasses one or more underlying base zoning districts and that imposes additional requirements beyond those required for the underlying base zoning district.

Owner: An individual, firm, syndicate, partnership, or corporation having sufficient proprietary interest to seek development of land; the holder of the title in fee simple and every mortgagee of record.

-P-

Parapet:

A. A barrier, roof, wall, or railing along the edge of a balcony, bridge, terrace, or roof where there is a drop and sudden danger of failing;

B. A wall or hip-roof extension along the edge of the roof to visually and acoustically screen rooftop mechanical and HVAC equipment.

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

Park, dog: A parcel or tract of public or privately owned land set aside and

designated for the use by dog owners as “off-leash” areas for exercising their canine pets.

Park, private: A tract of land owned or controlled and used by a specific person or entity for active or passive recreational purposes.

Park, public: A tract of land owned by a branch of government and available to the general public for recreation purposes.

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

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

Parking structure: A building or structure consisting of more than one level and used to store motor vehicles.

Party driveway: A single way providing vehicular access to two or more properties. Also called shared driveways.

Parties in interest:

A. Persons in possession of said property and premises;
B. Persons having of record in the County in which the dwelling, building, or structure is located any vested right, title, or interest in or lien upon such dwelling, building, or structure or the lot, tract, or parcel of real property upon which the structure is situated or upon which the public health hazard or general nuisance exists based upon a 50-year title examination conducted in accordance with the title standards of the State Bar of Georgia;
C. Persons having paid an occupational tax to the governing authority for a location or office at the subject building or structure; or(iv)Persons having filed a property tax return with the governing authority as to the subject property, building, or structure.

Party wall: A common wall shared by two attached structures, buildings, or dwelling units. Also called shared walls.

Path: A cleared way for pedestrians or bicyclists that may or may not have been improved.

Patio: A level area covered by hard surface, directly adjacent to a principal building or within three feet of the finished grade and not covered by a permanent roof.

Pavement:

D. A created surface such as brick, stone, concrete, or asphalt placed on land to facilitate passage;
E. That part of the street having improved surface.

Pedestrian: An individual who travels on foot.

Pedestrian walkway: A right-of-way for pedestrians, separated from

vehicular traffic and including access ramps, stairs, mechanical lifts, and routes through buildings and other areas that are available for public use.

Percolation test: A test designed to determine the ability of the ground to absorb water and used to determine the suitability of soil for drainage or septic system use.

Performance guarantee: Any security that may be accepted by a governmental entity to ensure that improvements required as part of an application for development will be satisfactorily completed. Examples, cash, surety bond, or letter of credit.

Permeable pavement system: An alternate or supplemental stormwater management system using cast-in- place or pre-cast modular units, both of which create voids for gravel or grass.

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

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

Perennial stream: A watercourse that flows continuously year-round in a typical year, with its water source primarily from groundwater and supplemented by rainfall. These streams have a permanent, well-defined channel and banks, and their flow is only interrupted by severe or prolonged droughts. They support aquatic organisms that require uninterrupted flow and often feature geomorphic characteristics like pools and riffles.

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

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

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

Personal transportation vehicle (PTV): A motor vehicle having not less than three wheels in contact with the ground and unladen weight less than 1,300 pounds which is designed and manufactured for operation on

a golf course for sporting or recreational purposes and that is not capable of exceeding speeds of 20 miles per hour and any motor vehicle having no fewer than four wheels and an unladen weight of 1,375 pounds or less and which cannot operate at more than 20 miles an hour. Such vehicles may also be referred to as “motorized carts” or “golf carts.” The term does not include mobility aids, including electric personal assistive mobility devices, power wheelchairs and scooters that can be used indoors and outdoors for the express purpose of enabling mobility for a person with a disability. The term also does not include any

all-terrain vehicle or multi-purpose off-highway vehicle.

Personal service establishment: A business that primarily provides services generally involving non-medical care of a person or a person's apparel including, but not limited to, barber shops, beauty salons, seamstress shops, shoe repair and shining shops, dry cleaning facilities and laundromat. Eating and drinking places are not considered personal service establishments.

Personal wireless facility: See definition for "Wireless Telecommunications Facilities."

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

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

Planning Commission: The Habersham County Planning Commission as established in this UDO.

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

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

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

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

Porch: A roofed, open area, which may be screened, attached to or part of a building, with direct access to or from it.

Porta-potty: A temporary restroom facility which is brought onto a property to serve workers and/or the public.

Prefabricated Home: See Modular Home.

Premises: A lot as otherwise used in this UDO.

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

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

Public authority: Any member of a governing authority, any housing

authority officer, or any officer who is in charge of any department or branch of the government of the county, or state relating to health, fire, or building regulations or to other activities concerning dwellings, buildings, or structures in the county.

Public hearing: A meeting announced and advertised in advance and open to the public, with the public given an opportunity to ask questions, comment, and participate.

Public officer: As used in O.C.G.A. §§ 41-2-7 through 41-2-17, shall mean the Director of the Habersham County Planning and Development Department; officer or officers who are authorized by O.C.G.A. §§ 41-2-7, 41-2-8 and 41-2-9 through 41-2-17 and by this section adopted under [O.C.G.A. §§ 41-2-7, 41-2-8, and 41-2-9 through 41-2-17 to exercise the powers prescribed by this section or any agent of such officer or officers.

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

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

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

-Q-

Quorum: A majority of the full authorized membership of a board or agency.

-R-

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

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

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

a fee.

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

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

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

Remodel: To construct an addition or alter the design or layout of a building or make alterations or structural changes.

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

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

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

Resident: Any person residing in the jurisdiction where the property is located on or after the date on which the alleged nuisance arose.

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

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

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

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

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

Ridge: An elongated crest or a linear series of crests or the long narrow

horizontal line formed by two sloping surfaces with slopes of 15 percent or more.

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

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

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

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

River corridor protection plan: That part of the local comprehensive plan which deals with the river corridor protection requirements specified in this chapter.

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

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

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

Road classification: The Georgia Department of Transportation and Federal Highway Administration classification based on the Highway Functional Classification Concepts, 2013 Edition as most recently amended. All roadways in Habersham County shall be classified as: Interstates, Freeways, Expressways, Principal Arterials, Minor Arterials, Major Collectors, Minor Collectors, or Local Roads as defined and appropriate pursuant said classification system.

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

Roof: The outside top covering of a building or structure.

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

Rural area: A sparsely developed area, with population density of fewer than 100 persons per square mile, where the land is undeveloped or primarily used for

agricultural purposes.

Rural business: A processing, assembling, packaging, or storage industry carried on for gain by at least one person residing on the property on which such establishment is located, not employing more than 15 persons, conducted entirely within the principal and accessory buildings on the property except for outside storage which meets the requirements of these regulations, and which does not generate more than 60 total vehicle trips per day, nor generates noise, smoke, odor, dust, glare, vibration, or flies/insects detectable at any property line.

-S-

Sanitary sewer: An underground system that carries wastewater and sewerage to a treatment plant.

Scale: The relationship between distances on a map and actual ground distance; or, the proportioned relationship of a size of parts to one another.

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

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

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

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

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

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

general traffic circulation.

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

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

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

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

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

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

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

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

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

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

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

Sign, digital: Electronic signs that have changeable messages or displays and which are required to meet the requirements related to the duration of messages, transition time, lighting, and brightness.

Sign face: The surface upon, against or through which the sign copy is displayed or illustrated, inclusive of any border or trim but excluding the base, apron, supports, or other structural members.

Sign, ground: Any sign which is supported by structures or supports in or upon

the ground and independent of support from any building.

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

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

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

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

Sign, portable: A sign designed to be carried or transported from one place to another..

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

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

Sign, snipe: A sign of any material whatsoever that is attached in any way to a utility pole, tree, fence, rock or any other similar object located on public or private property.

Sign, stanchion: A freestanding sign mounted on one or more steel poles set in the ground and of sufficient strength and size to support the sign face which rests upon or is supported by such poles.

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

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

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

Sign, window: A sign installed flush with or on a windowpane, glassdoor, or

other transparent material intended to be viewed from the outside of a building.

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

Site plan: The development plan for one or more lots on which is shown the existing and proposed conditions of the lot including topography, vegetations, drainage, floodplains, and waterways; landscaping and open areas; walkways; means of ingress and egress; circulation; utility services; structures and buildings; lighting; berms, buffers, and screening devices; surrounding development; and other information that may be reasonably required in order for the governing authority to make an informed decision.

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

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

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

Specimen tree: A particularly impressive or unusual example of a species because of its size, age, shade, or other trait that epitomizes the character of the species.

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

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

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

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

Street: Any thoroughfare which affords the motoring public a means of access onto and from a property:

A. An existing state, county or municipal roadway;

B. Shown upon a plat approved pursuant to law;

C. Approved by other official action; or

D. Shown on the official map or adopted master plan or GDOT record.

Structure: That which is built or constructed.

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

Subdivision, major: The division of a tract of land into any number of lots, which requires the construction of a new street or the widening of an existing roadway; or the division of land into more than three lots, regardless of construction of a new street or the widening of an existing roadway are involved.

Subdivision, minor: The division of a tract of land into three or less lots which does not require construction of a new street or the widening of an existing roadway**.**

Subdivision of land: The dividing of a parcel or tract of land into two or more lots, all of which have the required frontage on an existing public road, private street, or easement and complies with the dimensions and minimum acreage requirements of this chapter.

Substantial damage: Refers to any change to a building, structure, or natural resource which impairs its value, usefulness, or normal function.

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

Substantial improvement: Any combination of repairs, reconstruction, alteration or improvements which supports or enables the value, usefulness, or normal function of a building, structure, or natural resource.

-T-

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

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

Telecommunications, site: The land which includes the following but is not limited to: the equipment compound, facility, or structure used in the provision of services described in the definition of wireless telecommunication facilities.

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

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

Tiny House: Dwelling with a floor area of 400 square feet or less, excluding lofts.

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

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

Traditional neighborhood: As defined and identified in the Habersham County Comprehensive Plan.

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

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

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

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

-U-

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

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

-V-

Vacancy: Any unoccupied land, structure, building or part thereof that is available and suitable for occupancy.

Variance: Permission to depart from the specific requirements of a zoning standard

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

government.

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

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

-W-

Wall:

A. The vertical face of a building including any parapet but excluding the roof;

B. The vertical interior surfaces that divide the building into rooms;

C. Structural elements designed to hold back earth or to achieve a slope grade in compliance with this UDO (also called retaining walls).

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

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

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

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

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

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

Width, "wireless support structure": The dimensions of the structure as noted on the design documents submitted at the time of application and used as a basis for approval by the administrative officer.

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

transmission of electrical service.

Wireless* t*elecommunications facilities: Includes a "telecommunications site" and "personal wireless facility." It means a structure, facility or location designed or intended to be used as or used to support antennas or other transmitting or receiving devices. This includes, without limit, wireless support structures of all types, kinds and structures including, but not limited to, buildings, church steeples, silos, water towers, signs or other structures that can be used as a support structure for antennas or the functional equivalent of such. It further includes all related facilities and equipment such as cabling, equipment shelters and other structures associated with the site. It is a structure and facility intended for transmitting and/or receiving radio, television, cellular, SMR, paging, 911, personal communications services (PCS), commercial satellite services, microwave services and any commercial wireless telecommunication service not licensed by the FCC.

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

-Y-

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

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

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

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

-Z-

Zero lot line: The location of a building on a lot in such a manner that one or more building sides have no side building setback and rest directly on a side lot line. Also called the 'build-to-line'.

ARTICLE 3. BASE ZONING DISTRICTS

3.1. General District Provisions.

3.1.1 Generally.

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

3.1.2 Establishment of Districts.

A. For the purpose of this UDO, Habersham County is hereby divided into Zoning Districts as set out below:

1. AG, Agricultural District.
2. RR, Rural Residential District.
3. SR, Suburban Residential District.
4. NC, Neighborhood Commercial District.
5. GC, General Commercial District.
6. PI, Public Institutional District.
7. GI, General Industrial District.
8. PD, Planned Development District.

3.1.3 Zoning Map.

A. The location and boundaries of the above listed districts are hereby established as shown on the official zoning map of Habersham County, Georgia. Said map, together with all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this UDO.

B. The official zoning map shall be stored in an electronic database maintained by the Habersham County Planning and Development Department. So stored and maintained, the official zoning map shall be the final authority as to the current land use status of all land, water, buildings and structures within the County.

C. On a quarterly basis, when changes are made in the boundaries or other matter portrayed on the official zoning map, the official Zoning District map shall be printed. The official zoning map shall be identified by the signature of the County commission chairman, attested by the County clerk and bear the seal of the County under the following words: "This is to certify that this is the Official Zoning Map referred to in Article I of the Comprehensive Unified Development Ordinance, Habersham County, Georgia."

1. If, in accordance with the provisions of this chapter and the applicable laws of the State of Georgia, changes are made in boundaries or other matter portrayed on the official zoning map, such changes shall be entered on the official zoning map promptly after the amendment has been approved by the governing body with appropriate entry or indication of such

amendment on the official map.

2. No changes of any nature shall be made in the official zoning map or matter shown thereon except in conformity with the procedures set forth in this chapter. Any unauthorized change of whatever kind by any person or persons shall be considered a violation of this chapter.

3. Establishment of Split Zoning Lots is Prohibited. The official zoning map shall not be amended to classify a single parcel of land into two or more base zoning districts. For purposes of clarification, master planned development projects subject to Article 5, Planned Development District may consist of multiple sub-areas or sub-districts.

4. Existing Split Zoned Lots. If an existing parcel of land is already split into two or more zoning districts, each such portion of the split zoned parcel shall be used only for purposes allowed within the zoning district that each such portion is classified. No development activity or use of land, building, or structures is allowed unless expressly authorized or permitted within the base zoning district or overlay.

5. Omitted Land. It is the intent of this UDO that the entire area of the Habersham County, including all waterways, roadways, railroads and other public rights-of-way, be included in the districts established by this UDO. Any area not shown on the Official Zoning Map as being included in any such district shall be tentatively classified in the Conservation District, until such time that the property is reviewed before the Board of Commissioners through the formal rezoning process.

3.2 Residential Districts.

3.2.1 Purpose.

A. This section will establish regulations to implement the existing residential zoning districts (AG, RR, SR). Residential zoning districts are established to provide varied neighborhoods and housing types in a range of densities to accommodate the unique character areas of Habersham County. The districts provide comfortable, healthy, safe, and pleasant communities with convenient access to schools, recreation, and other public facilities necessary for a high-quality residential environment.

3.2.2 Agricultural District (AG).

A. Purpose. This district provides for agriculture and low-density, single-family residential land uses. Compatibility of nearby land uses in the district is encouraged.

B. Dimensional Standards.

Table 3.2.2.B – Dimensional Standards for the AG District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all im-pervious surfaces
3 acres	3 acres	3 acres	100	125	60	35	15	15	25%

C. Signs. See Article 11, Signs for sign regulations.

3.2.3 Rural Residential District (RR).

A. Purpose. This district provides for detached single-family residential development at varying scales, but not to exceed lower densities, together with such other accessory uses as may be necessary to and compatible with low density residential surroundings.

B. Dimensional Standards.

Table 3.2.3.B – Dimensional Standards for the RR District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all impervious surfaces
2 acres	2 acres	2 acres	100	125	60	35	15	15	30%

C. Signs. See Article 11, Signs for sign regulations.

3.2.4 Suburban Residential District (SR).

A. Purpose. This district provides suitable areas for multi-family dwellings, including townhouses, duplexes, and apartments of varying scales. Larger scale development in this district is intended to provide inclusive active and passive resident amenities. This district is optimally located near public water and sewerage services, or where suitable alternatives are provided.

B. Dimensional Standards.

Table 3.2.4.B – Dimensional Standards for the SR District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all impervious surfaces
Single Family Detached: 0.5 acres	1 acre	1 acre	100	125	60	35	15	15	50%
Townhouse: 5,000 Sq-ft.	N/A	N/A	23	N/A	60	35	15	15	50%
Duplex: 1 acre	2 acre	2 acre	100	125	60	35	15	15	50%
Multi-Family 5 acres (with SUP)	N/A	N/A	100	125	60	35	15	15	75% (maximum density is 5 dwellings per acre)

D. Signs. See Article 11, Signs for sign regulations.

3.3. Non-residential or Multi-use Districts.

3.3.1 Purpose.

A. This section will establish regulations to implement within the existing non-residential and multi-use zoning districts (NC, C, PI, LI). These districts generally support more density than those found in the residential districts and provide space for uses that range from community services to commercial spaces.

3.3.2 Neighborhood Commercial (NC).

A. Purpose. This district provides for commercial uses that are both necessary for and harmonious with surrounding residential and agricultural land uses. This district is envisioned for retailers, restaurants, services, and offices in a moderately dense, interconnected setting. Visitors to this district are anticipated to use pedestrian circulation infrastructure within a given development to patronize more than one business in each visit. Land uses here are not intended to generate excessive noise, traffic, or odors.

B. Dimensional Standards.

Table 3.3.2.B – Dimensional Standards for the NC District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all impervious surfaces
0.5 acre	1 acre	1 acre	100	125	60	35	15	15	50%

C. Signs. See Article 11, Signs for sign regulations.

3.3.3 General Commercial District (GC).

A. Purpose. This district provides for commercial uses that serve the local community and the broader region, at varying scales and intensities. Development is appropriately screened from nearby dissimilar land uses to minimize adverse impacts. Uses, processes or equipment employed shall be limited to those which are not objectionable by reason of odor, noise or vibration.

B. Dimensional Standards.

Table 3.3.3.B – Dimensional Standards for the GC District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all impervious surfaces
0.5 acre	1 acre	1 acre	100	125	60	35	15	10	75%

C. Signs. See Article 11, Signs for sign regulations.

3.3.4 Public Institutional District (PI).

A. Purpose. This district provides a variety of uses at moderate and large scales, including facilities for

education, recreation, government, health and wellness, and cultural resources.

B. Dimensional Standards.

Table 3.3.4.B – Dimensional Standards for the PI District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all impervious surfaces
0.5 acre	1 acre	1 acre	100	125	60	35	15	10	75%

C. Signs. See Article 11, Signs for sign regulations.

3.3.5 General Industrial District (GI).

A. Purpose. This district provides for industrial uses in location that are least detrimental to surrounding areas, maintaining considerable separation from residential zoning districts and land uses. Land uses which may not be industrial, but which involve significant outdoor storage and/or operations, are also envisioned for this district. Activities generating noise, vibrations, odors, fumes, and traffic are not anticipated to have significant effects on nearby properties.

B. Dimensional Standards.

Table 3.3.5.B – Dimensional Standards for the GI District									
Minimum Lot Area			**Minimum Lot Width (feet)**		**Setbacks (feet)**				**Max. lot coverage (%)**
Public Water & Sewer	Public Water & Septic	Private Well & Septic	Public Water	Private Well	Arterial Streets	Other Streets	Rear	Side	Inclusive of all impervious surfaces
0.5 acre	1 acre	1 acre	100	125	60	35	15	10	75%

C. Signs. See Article 11, Signs for sign regulations.

ARTICLE 4. USE STANDARDS

4.1 Allowable Uses.

4.1.1 Scope.

A. Principal and accessory uses that are permitted by right and uses permitted with special use permits herein identified and listed are not intended to be exhaustive but only representative of those uses permitted in each zoning district. It shall be the responsibility of the administrative officer to determine any additional uses not herein specifically identified as permitted uses.

4.1.2 Table of Allowable Uses.

A. Explanation of Table Abbreviations.

Table 4.1.2.A – Use Table Abbreviations	
P	Permitted Uses, by Right
SUP	Special Use Permit Required
*	Use has Supplemental Standards, as found in Article 4

B. Organization. For the purposes of Article 4, the Table of Allowable Uses is organized into Use categories. These categories are as follows:
   1. Agricultural and Related Uses.
   2. Residential Uses.
   3. Office Uses.
   4. Service Uses.
   5. Retail Uses.
   6. Public, Institutional, and Civic Uses.
   7. Industrial, Transportation, and Storage Uses.

C. Uses for Other Purposes Prohibited. Any use left blank will henceforth be established as prohibited in the associated Zoning District.

D. Classification of New and Unlisted Uses.
   1. Uses not Specifically Listed.
      a. Any use not specifically listed is expressly prohibited unless the Planning and Development Director determines that the use is similar to a permitted use listed in this UDO using the criteria in this Section below. Where the similar permitted use is subject to any use standard contained in Article 4 or subject to a special use permit, the proposed use shall also be subject to such standard and/or approval.
      b. The Planning and Development Director shall apply the following criteria in determining whether an unlisted use is comparable to a listed use for the purposes of interpreting and regulating a use in accordance with the provisions herein:
         i. The actual or projected characteristics of the activity in relationship to the stated characteristics of each group of uses;

ii. The relative amount of site area or floor space and equipment devoted to the activity;
iii. The existence, number and frequency of residents, customers, or employees;
iv. The types of equipment and processes to be used;
v. Hours of operation;
vi. Building arrangement and programming;
vii. Parking demands associated with the use;
viii. The relative number of vehicle trips generated; and
ix. Other factors deemed relevant to a use determination.

2. If a use can reasonably be classified in multiple categories, sub-categories, or specific use types, the Planning and Development Director shall categorize the use in the category, sub-category, or specific use type that provides the most exact, narrowest, and appropriate match.
3. Where a use not listed is found by the Planning Development Director or their designee not to be consistent or compatible with a category, sub-category, or specific use type, the use shall be permitted only following a text amendment to this UDO.
4. In the Planned Development District, uses that are permitted shall be specified as part of the zoning approval for each development.

E. Table of Allowable Uses.

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Agricultural and Related Uses								
Agricultural Production—Crops	P	P	P	P	P		P	
Agricultural Production—Livestock	P	P	P	P	P		P	
Agricultural Production— Swine	P	P		P			P	
Agricultural Production—Poultry	P	P	P	P	P		P	
Aquaculture Production	P	P	P	P	P		P	
Forestry	P	P	P	P	P		P	
Portable Sawmill—Temporary	P	P	P	P	P		P	

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Horse Stables	P	P	P	P	P		P	
Farm Winery as defined in OCGA 3-6-21.1	P	P	P	P	P		P	
On Farm Sales of Agricultural Products	P	P	P	P	P		P	
Farmer's Market or Livestock Pavilion	P	P	P	P	P		P	
Residential Uses								
Single Family Dwellings—Detached	P	P	P	P	P			
Townhouse (Single Family—Attached)			P	SUP	P			
Two Family Dwellings (i.e. Duplex)			P	P	P			
Multi-Family Dwellings			P	SUP	P			
Manufactured Home Dwelling on Individual Lot	P	P	P	P	P			
Convalescent Home		SUP	SUP	SUP		SUP		
Personal Care Home	P	P	P	P				
Nursing Home		SUP	SUP	P	P	SUP		
Rooming or Boarding House		SUP	SUP	P	P			
Lodging House/ Dormitory						P		
Mobile home/manufactured home parks	SUP*	SUP*	SUP*	SUP*	SUP*			
Short-Term Rentals	P	P	P	P	P			
Office Uses								

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Attorney or Law Office			P		P		P	
Engineering or Architectural Office			P		P		P	
General Business Office			P		P		P	
Insurance Office			P		P		P	
Professional Financial Office			P		P		P	
Medical or Dental Office			P		P		P	
Medical or Dental Laboratory			P		P		P	
Real Estate Office			P		P		P	
Temporary Subdivision Sales Office	P	P	P	P	P			
Utility Company Office			P		P		P	
Veterinary Office	SUP	SUP	P		P		P	
Service Uses								
Adult Entertainment							SUP	
Ambulance Service—Private					P			
Family Entertainment Center			SUP		P		SUP	
Major Tourist Attraction	SUP		SUP		SUP		SUP	
Appliance Repair					P		P	
Automotive Repair					P		P	
Automotive Rental Agency					P	P		

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Personal Service Establishment			P		P			
Bed and Breakfast Inn	SUP	SUP	P	SUP	SUP			
Business Service, Miscellaneous					P			
Campground	SUP	SUP			SUP			
Car wash					SUP			
Catering Service			SUP		P		P	
Computer and Electronics Repair			P		P			
Arts or Dance Studio			P		P		P	
Day Care Center (13 or more persons)			P		P			
Dry Cleaning or Laundry Establishment			P		P		P	
Dry Cleaning Plant							P	
Freight Shipping Company							P	
Funeral Home or Crematory					SUP		SUP	
Golf or Baseball Driving Range					P			
Golf Course or Tennis Club (part of residential development)	SUP	P	P		P			
Golf Course, Tennis Club, or Country Club		SUP		P	P			
Gym			P		P		P	
Health Services Facility or Clinic			P		P			

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Hospital					P	P	P	
Hotel or Motel			SUP		P			
Jewelry Repair			P		P			
Kennel	SUP		SUP		P			
Pawn Business					SUP			
Pest Control Business					P			
Pet Grooming	P		P		P		P	
Printing and Duplicating Service			P		P			
Photography Studio	SUP		P		P			
Radio or TV Station					P		P	
Recreational Vehicle (RV) Park	SUP*			SUP*	P*			
Self-Storage Facility					SUP			
Theater—Movie or Performing Arts					P			
Welding Repair Shop					SUP		P	
Retail Uses								
Agricultural Equipment Sales	P				P		P	
Agricultural or Roadside Stand	P	P	P	P	P			
Auto, Boat, RV, or Motorcycle Sales					P			
Bakery, Retail			P					
Book Store			P		P			
Building Materials					P			
Convenience Store with Gas Sales					SUP			

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Electronics, Computer or Software Sales			P		P			
Equipment Rental Business					P			
Animal Supply Store	SUP				P			
Flea Market with Outside Vendors					SUP			
Furniture Store			P		P			
Gift, Novelty, and Souvenir Shop			P		P			
Grocery Store			P		P			
Hardware Store			P		P			
Jewelry Store					P			
Landscape Supplies	SUP		P		P			
LP Gas or Fuel Oil Dealer	SUP				P			
Manufactured Home Sales					P		SUP	
Medical Supply Sales & Service			P		P		P	
Pharmacy			P		P			
Plumbing, Electrical, and HVAC Dealers					P		P	
Recreational Vehicle Parks	SUP*	SUP*	SUP		SUP*		SUP*	
Restaurant without Drive Thru			P		P			
Restaurant with Drive Thru					P			

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Retail Stores, Miscellaneous			P		P			
Sporting Goods Store			P		P			
Thrift or Used Merchandise Store			P		P			
Tire Sales and Service					P		P	
Public, Institutional, and Civic Uses								
Athletic Fields: less than 10 acres combined	P	P		P	P	P		
Athletic Fields: over 10 acres combined	SUP	SUP			SUP	SUP		
Cemetery	SUP	SUP	SUP	SUP			P	
Churches or Places of Worship	P	P	P	P	P	P	P	
Civic, Social, or Fraternal Organizations		SUP	P	P	P			
College or Technical College						P		
COW/Co-location/Concealed Wireless Facility	SUP	SUP	SUP	SUP	SUP	SUP	SUP	
All other Telecommunications Towers	SUP*	SUP*	SUP*	SUP*	SUP*	SUP*	SUP*	
Fairgrounds						P		
Governmental Buildings and Facilities	P	P	P	P	P	P	P	
Private Resident Amenities	P	P	P	P				

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Public Neighborhood Recreation Center				SUP	P	P		
Museum or Art Gallery					SUP	SUP		
Outdoor Special Events Venue	SUP		P	SUP	P		P	
School, Elementary and Secondary							P	
Solar Farm	SUP	SUP					P	
Special Events Venue	SUP	SUP	SUP	SUP	P	P	P	
Industrial, Transportation, and Storage Uses								
Airport	SUP	SUP				P	P	
Concrete Mixing Plant							P	
Contractor Yard with Equipment Storage							P	
Gravel Pit							P	
Junkyard							SUP*	
Petroleum Storage							SUP	
Quarrying or Mining							SUP	
Recycling or Scrap Center, Private							SUP	
Sawmill							P	
Solid Waste Landfill, Private							SUP	
Solid Waste Transfer Station							SUP	
Textiles							P	
Truck Terminal							P	
Warehousing or Indoor Storage Facility					P		P	

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Wholesale Trade Operations including Storage							P	
Bakery, Industrial							P	
Bottling Works							P	
Chemicals and Allied Products							P	
Data Center							SUP	
Distillery or Brewery	SUP		SUP		SUP		P	
Electrical Equipment and Components							P	
Fabricated Metal Products							P	
Furniture and Fixtures							P	
Industrial or Commercial Machinery							P	
Miscellaneous Manufacturing Industries							P	
Paper and Allied Products							SUP	
Petroleum Related Industries (Not Refinery)							P	
Printing and Publishing							P	
Research or Testing Laboratory					P		P	
Rubber or Plastic Products							P	

Table 4.1.2.E – Allowable Uses								
Principal Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	
Stone, Clay, Glass, or Concrete Products							P	
Transportation Equipment							P	

F. Table of Allowable Accessory Uses:

Table 4.1.2.F – Allowable Accessory Uses								
Accessory Land Use	**Zoning District**							
	AG	**RR**	**NC**	**SR**	**GC**	**PI**	**GI**	**CS**
Accessory Uses								
Accessory Dwellings	P	P		P				
Accessory Uses Normally Incidental to Principal Use	P	P	P	P	P	P	P	
Day Care, Home (12 or fewer persons)	P	P		P				
Home Occupation	P	P		P				
Roadside Stand	P	P						
Pit Privy	P	P						
Rural Business	SUP*	SUP*	SUP*	SUP*	SUP*		SUP*	
Temporary Uses								
Temporary Construction Structures (dwellings and offices)	*	*	*	*	*	*	*	
Portable Outdoor Storage Containers	*	*	*	*	*	*	*	

Construction Dumpsters	*	*	*	*	*	*	*	
Temporary Outdoor Sales of Merchandise	*	*	*		*	*		

4.2 Principal Use and Structure Specific Standards.

4.2.1 Dwelling Construction Adjacent to Poultry Houses.

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

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

4.2.2 Manufactured Home Location.

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

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

   1. The person, firm, corporation or other entity moving it specifies the new map and parcel and address of the proposed location to which it is to be moved.

   2. The owner of said manufactured home submits to the aforesaid Tax Commissioner proof that all state and County taxes, interest and penalties theretofore accruing and payable with respect to such manufactured home have in fact been paid.

   3. The person, firm, corporation or other entity moving it acquires a building permit, a sanitary/septic permit for wastewater hookup, and suitable proof of a potable water source for that site. In the event that a municipality provides water and/or sewer hookup, a letter must be provided by a duly authorized representative of the municipality verifying that such hook-up is available and obtainable.

C. Location permit issuance. Any owner of a manufactured home who has made application for the location of a manufactured home and whose application meets the requirements of this article shall be issued a location permit and decal. The location decal authorizing location of a manufactured home within unincorporated Habersham County shall be the same color as prescribed by state law and shall be affixed to the manufactured home in such a manner as to cause it to be easily visible for inspection at all times.

D. Penalty.

   1. Failure to remove a pre-owned manufactured home from the jurisdiction upon failure to receive a certificate of occupancy shall be punishable by a fine in the amount specified in the current Habersham County fee schedule. This subsection shall not prohibit or limit the County authorities

from providing other methods of prosecution of an owner.

2. Failure to attach and display current decal shall be a misdemeanor and punishable by fine of not less than $25.00 nor more than $200.00; except that upon receipt of proof of purchase of a decal prior to the date of issuance of a summons, the fine shall be $25.00.
3. Moving or transporting a manufactured home within the jurisdiction without a current decal attached and displayed shall constitute a misdemeanor and be punishable by a fine of not less than $200.00 nor more than $1,000.00 or by imprisonment of not more than twelve (12) months, or both.
4. Violations of subsection (2) and (3) may be prosecuted in the Magistrate Court of Habersham County in accordance with O.C.G.A. § 15-10-60 et seq. Each day any violation under this section continues shall be considered a separate offense. The tax commissioner may issue executions for nonpayment in the manner prescribed in O.C.G.A, § 48-3-3 and the collection shall follow procedures prescribed in Title 48. Executions shall bear interest at the rate set forth in O.C.G.A. § 48-2-40 once issued.

4.2.3 Manufactured Home Relocation.

A. Issuance of relocation permit and affixation of decal. Any owner of a manufactured home who makes application for the relocation of a manufactured home and whose application meets the requirements of this article must obtain in addition to approval, a relocation permit and decal. The relocation permit, as set forth in Section 4.2.2, Manufactured Home Location, issued authorizing relocation of a manufactured home shall be orange in color and shall be affixed to the manufactured home at all times such manufactured home is being transported. Such location decal shall be designed in such manner and affixed to the manufactured home in such a manner as to cause it to be easily visible for inspection at all times.

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

C. No used manufactured home more than seven (7) years old being moved into Habersham County shall be allowed to locate for permanent or temporary occupancy. See OCGA 8-2-171

4.2.4 Site Built/Stick-Built House Moving.

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

B. Moving permit required. Any person owning a site/stick-built house shall not move nor authorize the moving of any house or other similar structure or any portion thereof from within the County to a point outside the County, or from within the County to another point within the County, or from a point outside the County to a point within the County, or from a point outside the County through the County

to another point outside the County without first having obtained all permits required by this article.

1. A County moving permit shall not be required if the route of travel is located entirely on roads under the jurisdiction of the State Department of Transportation which requires the appropriate state permit.
2. A person shall not be issued a permit to move any house or other similar structure or any portion thereof in the County, or into the County, or from the County to a point outside the County, or through the County until he or she has paid a moving permit fee as established by the governing body.
3. Upon filing of complete application for a permit to move a site/stick-built house, and upon compliance with all other applicable ordinances of the County and all permit fees paid, the administrative officer shall be authorized to issue a moving permit to the applicant. Said permit shall be displayed at all times during transportation and erection.
4. A permit to move a site/stick-built house from inside the County to a point inside or outside the County shall not be issued until the applicant has posted performance surety in the amount listed in the County fee schedule as adopted and amended with the planning and development department. The performance surety may be in the form of cash deposited with the County or a bond, irrevocable letter of escrow or letter of credit from a bank or other financial institution in a form acceptable to the administrative officer or County attorney. The performance surety shall be released to the applicant after the structure has been moved, the applicant has placed the premises or location in the condition as set forth in this article, and any damages to County property caused by the move have been repaired by the applicant. In the event the permit holder should fail to comply with these requirements, all or any portion of the performance surety shall be applied by the County to the cost of the County performing the work to the premises or location from where the structure was moved or performing the repairs to County property damaged as a result of the move. In the application for the moving permit, the applicant shall grant in writing unto the County, its agent or employees, the right to enter upon the premises to perform the work.
5. The application for a moving permit shall include information as to the route, date and time of the move which shall be subject to the approval of the Georgia Department of Transportation and County road department or engineer.
6. The mover shall, in writing, indemnify the County and hold the County employees and staff harmless from any and all damages which the County may suffer and from any and all liability claims including interest thereon, demands, attorney's fees, and costs of defense, or judgment against it arising from damages caused by the move of the structure.
7. Structures regulated in this article shall only be moved on Mondays through Thursdays between the hours of 9:00 a.m. and 3:00 p.m. unless otherwise approved in writing by the department of transportation or County road department or engineer.
8. Any individual, firm or corporation transporting any house or other structure formerly used for human habitation across or along the public roads or highways of the County shall be required to furnish proof that it has, in effect, public liability insurance in the amount of at least $300,000.00 combined single limit to protect the property and persons who may be damaged as a result of the moving of the structure.
9. All mailboxes, highway signs, and other movable obstacles involved in the move of the structure

and located in the street right-of-way shall be removed as the structure approaches such an obstacle and re-erected immediately after the structure passes such obstacles in equal or better condition than prior to removal.

10. Trees located in the street right-of-way shall not be removed or trimmed without the written permission of the Georgia Department of Transportation or County road department.
11. During the move, the mover shall obtain an escort from a County law enforcement officer at the mover's expense.
12. For moving a structure or any portion of a structure for which a moving permit has been issued, the mover shall provide at least two calendar days' notice to the sheriff's department prior to the date of moving.

C. Building permit required.

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

4.2.5 Mobile Home/Manufactured Home Park Regulations.

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

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

6. Setbacks required: No mobile home/manufactured home or other building or structure shall be located closer than 60 feet to any mobile home/manufactured home park perimeter property boundary. Each mobile home/manufactured home shall be set back from the front lot line of the lot space and any other mobile home/manufactured home by at least 25 feet.
7. Perimeter buffer required: A buffer at least 50 feet in width shall be provided and maintained around the entire exterior perimeter of the mobile home park.
8. Lighting: All mobile home parks shall have lighting of appropriate height, spacing and intensity so that each mobile home/manufactured home site's access and parking is appropriately illuminated. Mercury vapor or high- or low-pressure sodium lights at not less than 500 feet intervals with a minimum height of 18 feet.
9. Utilities: All mobile home parks shall be served by water and sanitary sewer systems and shall be subject to approval by the Habersham County Health Department.
10. Service buildings: Accessory structures and community service facilities are hereby permitted for the convenience and well-being of park residents. Such structures may include, but are not limited to, the following uses:
    a. Park management offices, repair shops and storage;
    b. Community sanitary facilities;
    c. Community laundry facilities;
    d. Community postal facilities;
    e. Indoor community recreation areas;
    f. Commercial uses supplying essential goods or services.
11. Listing of mobile homes/manufactured homes required: Every person or other entity owning or operating a mobile home/manufactured home park and each such entity engaged in the sale or rental of mobile homes/manufactured homes or lots upon which to place them shall furnish the tax commissioner of Habersham County on January 1 and July 1 of each year with a complete list of all mobile homes/manufactured homes parked, rented or otherwise located upon the property of the entity or in a mobile home/manufactured home park operated by the entity.
12. Registration of park residents required:
    a. Park management must maintain a register of all park residents. The register must be available to any authorized person inspecting the park.
    b. Uninhabitable mobile/manufactured homes. Any home alleged by the owner to be or determined by the administrative officer, fire chief and/or the health official of Habersham County to be no longer safe for habitation for reasons of structural safety, sanitation, fire safety or environmental concerns which impose a threat to the health, safety or general welfare of the public shall be made safe by removal, replacement or repair within one hundred and eighty (180) calendar days of official notification by the County. The vacant lot may remain vacant for a period not to exceed one year while improvements are made and a suitable replacement home can be found. This period is an exception to the six-month restriction contained in this UDO. Any replacement home must be installed in compliance with the requirements of this chapter.

4.2.6 Individual Recreational Vehicle Regulations.

A. No recreational vehicle shall be permanently occupied. For the purposes of this section, any recreational vehicle shall be deemed permanently occupied if:
   1. The recreational vehicle is occupied for thirty (30) or more consecutive days;
   2. The recreational vehicle is occupied for thirty (30) or more non-consecutive days during a ninety (90) day period; or
   3. The recreational vehicle is connected to metered water or electrical power at a unique mailing address.

B. The foregoing provisions shall not apply to all recreational vehicles regardless of location, excluding locations within approved recreational vehicle parks.

C. No recreational vehicle shall be permanently connected to water or electrical power. For the purposes of this section, any recreational vehicle shall be deemed permanently connected if:
   1. The recreational vehicle is directly connected to metered water or metered electrical power;
   2. The recreational vehicle is directly connected to any water or any electrical power for thirty (30) or more consecutive days;
   3. The recreational vehicle is connected to water or electrical power for thirty (30) or more non-consecutive days during a ninety (90) day period;

D. All recreational vehicles must display a current license before being moved.

E. Recreational vehicles occupied on a temporary basis shall be permitted.

4.2.7 Recreational Vehicle Park Regulations.

A. All recreational vehicle parks shall conform to the following regulations:
   1. Site plan approval required: All recreational vehicle parks shall require site plan approval by the governing body in accordance with the procedures and requirements established in this UDO hereof.
   2. Location and frontage: All recreational vehicle parks shall be located on property with a minimum frontage of 200 feet on a public street.
   3. Street requirement: An interior road(s) serving the development shall be suitably graded, stabilized and covered with a dust-free material which shall be durable and well drained under normal use and weather conditions. Said interior road(s) shall have unobstructed access to a public street or highway.
   4. Lot area and width: The minimum land area of any recreational vehicle park shall be five contiguous acres. Each space within the park shall have a minimum area of not less than 2,000 square feet, and lot lines shall be clearly delineated. Lots may be set at an angle, set parallel to the street, or varied in other ways provided that the arrangement is approved as a part of site plan approval. Each lot within the park shall have a minimum of 25 feet of street frontage and a minimum depth of 50 feet.
   5. Utilities and improvements: Each vehicle/camping space shall be equipped with a suitable and

approved electrical outlet, a threaded potable water standpipe and faucet, an approved connection to the community sewer system except at tent-only sites, a fire pit with permanent masonry or stone enclosure, a picnic-type table and a covered trash and garbage container. Garbage shall be removed daily from campsites. A separate dump station shall be available and monitored for those campers using chemicals in holding tanks which would be harmful to the community sewer system.

6. All recreational vehicle parks must be equipped with men's and ladies' restrooms with toilet, shower and lavatories at a ratio of two fixtures for each sex per 20 vehicle spaces and a central sanitary dump station. Each recreational park must provide on-site public telephone access.
7. Recreation facilities required: Parks designed to accommodate 15 or more recreational vehicles, campers, etc. shall provide one or more recreation areas. The size of the recreation area(s) shall be based on a minimum of 200 square feet for each travel trailer space. No recreation area shall be smaller than 3,000 square feet and each shall be equipped for family activity.
8. Service buildings permitted: Community service facilities and accessory structures are hereby permitted, subject to site plan approval, for the convenience of park patrons. Such structures may include, but are not limited to, the following uses:
    a. Park management offices.
    b. Community laundry facilities.
    c. Indoor community recreation areas.
    d. Commercial uses supplying goods or services for the use of park patrons.

4.2.8 Wireless Communications Uses.

A. Generally. The supplemental wireless communication facility regulations of this Section shall be applied within the constraints of state and federal law, the federal Telecommunications Act of 1996 and Section 6409 of the federal Middle Class Tax Relief and Job Creation Act of 2012, as well as all applicable rulings of the FCC and the Streamlining Wireless Facilities and Antennas Act of 2019, as codified in title 36, chapters 66B and 66C.

B. Wireless Communication Types. The wireless communication use category includes definitions and, in some cases, supplemental use regulations, for wireless communication facilities and wireless support structures. The location of wire communication facilities/structures may be permitted under the provision of this Section. The intent of this Section is to provide for the appropriate location and development of communication towers to serve the residents and businesses of the County; minimize adverse visual impacts of towers through careful design, siting, landscape and innovative camouflaging techniques; and to encourage and concentrate the location of new communication towers in areas which are not zoned for residential use. The following are regulations for wireless communication facilities:

1. Wireless Communication Facility. The equipment and network components necessary to provide wireless communications service, excluding the underlying wireless support structure. The term includes antennas, accessory equipment, transmitters, receivers, base stations, power supplies, cabling, and associated equipment necessary to provide wireless communications services.
    a. Carrier on Wheels (COW). A portable, self-contained wireless facility that can be moved to a location and set up to provide wireless services on a temporary or emergency basis. A COW is

normally vehicle-mounted and contains a telescoping boom as the antenna support structure.

b. Co-location. The placement or installation of wireless communication facilities on existing structures, including electrical transmission towers, water towers, buildings and other structures customarily used for and capable of structurally supporting the attachment of wireless communication facilities in compliance with all applicable codes and regulations.

c. Concealed Wireless Facility. Any wireless communication facility that is integrated as an architectural feature of an existing structure or any new wireless support structure designed to camouflage or conceal the presence of antennas or towers so that the purpose of the facility or wireless support structure is not apparent to a casual observer.

2. Wireless Support Structure. A freestanding structure, such as a monopole or tower, designed to support wireless communication facilities.

C. Standards for All Wireless Communications Uses.

1. Wireless communication facilities are allowed in accordance with Section 4.1, Allowable Uses.

2. In addition, the following activities are permitted as of right in all districts:

a. Removal or replacement of transmission equipment on an existing wireless support structure that does not result in a substantial modification of the wireless communication facility; and,

b. Ordinary maintenance of existing wireless communication facilities and wireless support structures; and,

c. Distributed antenna systems when located within a building or on the exterior of a building.

3. Removal of Abandoned Antenna and Towers.

a. Any wireless support structure that is not actively used by wireless carriers for a continuous period of six (6) consecutive months will be considered abandoned, and the owner of the wireless support structure shall remove it within sixty (60) days of receiving written notice from the County.

b. The County shall ensure and enforce removal by means of its existing regulatory authority, with costs of removal charged to the owner.

4. Existing Towers and Antennas.

a. Wireless telecommunication facilities lawfully existing on or before the effective date of this UDO are allowed to remain in place and continue in use and operation.

b. Ordinary maintenance and co-location is permitted, provided that any substantial modification requires review and approval in accordance with the special use procedures found in Section 13.1, Application and Procedural Requirements.

5. Safety standards.

a. To ensure the structural integrity of communication structures, the owner of a structure shall ensure that it is maintained in compliance with standards contained in applicable local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time.

b. Tower owners shall conduct periodic inspections of communication towers at least once every three years to ensure structural integrity. Inspections shall be conducted by a structural

engineer licensed to practice in the State.

6. Regulatory compliance.
    a. All structures and facilities shall meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate communications towers and antennas. If such standards and regulations are changed then the owners of the communications towers and antennas shall bring the structures into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
7. Lighting.
    a. No illumination is permitted on an antenna or tower unless required by the FCC, FAA, or other State or federal agency of jurisdiction, in which case the Planning and Development Director shall review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding uses and views.
8. Signage.
    a. No signage is permitted on a facility or structure, except standard informational signs as regulated herein the UDO by zoning district.
9. Visual impact.
    a. Structures shall either maintain a galvanized steel finish or subject to any applicable standards of the FAA or other applicable federal or state agency, or be painted a neutral color, so as to reduce visual obtrusiveness.
    b. At a structure site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and built environment.
10. Decisions.
    a. The environmental effects of radio frequency emissions may not serve as a basis to approve, deny, or otherwise regulate a telecommunication facility to the extent that emissions comply with Federal Communications Commission regulations.
    b. All decisions denying a request to place, construct, or modify a wireless communication use must be in writing and be supported by a written record documenting the reasons for the denial and the evidence in support of the decision.
11. The placement of additional buildings or other supporting equipment necessarily required in connection with an otherwise authorized wireless communication use is specifically authorized.

D. Co-locations and Concealed Wireless Facilities.

1. The requirements of this Section apply to installments on existing buildings and structures on private property.
2. Antennas that are attached or affixed to existing wireless support structures or alternative telecommunication support structures are permitted as of right in all zoning districts, provided that the antenna does not substantially change the physical dimensions of such structure.
3. Co-locations and concealed facilities in Residential Zoned districts shall be visually screened from

view of all abutting lots. Facilities in other zoning districts must be screened or designed and installed so as to make the antenna and related equipment as visually unobtrusive as possible.

4. If a facility is installed on a structure other than a tower, the facility and supporting electrical and mechanical equipment must be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
5. Co-location antennas or concealed facilities that substantially change the physical dimensions of such structure require special use permit approval. For the purpose of this Section, "substantial change" shall mean:
    a. Increases height by more than ten percent (10%) or 20 feet, whichever is greater, as measured from facility as it existed prior to enactment of this Section.
    b. Appurtenances added protrude from body of structure more than 20 feet in width.
    c. If it involves installing more than the standard number of cabinets for the technology involved, not to exceed four cabinets; or if it involves installation of any cabinets if there are no pre-existing cabinets or involves installation of ground cabinets that are more than ten (10) percent larger in height or overall volume than any other associated ground cabinets.
    d. Involves excavation or deployment outside the current "site." "Site" shall be defined as the current boundaries of the leased or owned property surrounding the tower and any access or utility easements.
    e. For concealed or stealth-designed facilities, if a modification would defeat the concealment elements of the wireless tower or base station.
    f. The modification would not comply with other conditions imposed on the applicable wireless support structure or base station, unless the non-compliance is due to an increase in height, increase in width, addition of cabinets, or new excavation that does not exceed the above thresholds.

E. Wireless Support Structures.

1. The requirements of this Section apply to stand-alone towers and structures.
2. Height requirements.
    a. Towers shall be erected a minimum height necessary to provide parity with existing similar tower supported antenna and shall be freestanding where the negative visual effect is less than would be created by use of a guyed tower.
3. Setbacks.
    a. Wireless support structures shall be set back from all property lines a distance that is at least equal to its engineered fall zone. The wireless support structures shall be setback from all habitable buildings a distance that is at least equal to its engineered fall zone plus 25%.
4. Security.
    a. Communication towers shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall be equipped with an appropriate anti-climbing device that meets the fencing and wall requirements of this UDO.
5. Landscaping.

a. Landscaping shall be used to effectively screen the view of the tower compound from adjoining public rights-of-way, public property, and residential property and shall be as follows:
    i. A buffer area no less than six (6) feet wide shall commence at the base of the tower.
    ii. The buffer zone shall consist of materials of a variety and spacing which can be expected to grow to form a continuous hedge at least five (5) feet in height within two (2) years of planting.
    iii. Trees and shrubs in the vicinity of guy wires shall be of a kind that would not exceed 20 feet in height or would not affect the stability of the guys, should they be uprooted, and shall not obscure visibility of the anchor from the transmission building or security facilities staff and maintenance.
    iv. Native vegetation on the site shall be preserved to the greatest practical extent. The applicant shall provide a site plan showing existing significant vegetation to be replanted to replace that lost.
    v. In lieu of these standards, the Planning and Development Director may allow use of an alternate detailed plan and specifications for landscape and screening, including plantings, fences, walls, and other features designed to screen and buffer towers and accessory uses. The plan shall accomplish the same degree of screening achieved by the provisions above, except as lesser requirements are desirable for adequate visibility for security purposes.

F. Application Requirements for Wireless Communications Uses.

1. In the case where a special use permit is required, the information required herein shall be required for the special use permit review process. Regardless, the information shall be provided with a permit for the construction or a facility or support structure.

    a. Each applicant requesting approval of a wireless communication use must provide to the Planning and Development Director, as a part of the application, an inventory of its existing facilities that are either within the County and/or within one-quarter mile of the County boundaries, including information regarding the location, height, and design of each facility.

    b. No new wireless support structure may be permitted unless the applicant demonstrates that no existing facility or structure can accommodate the applicant's proposed antenna. Evidence must be submitted at the time of application demonstrating that no existing facility or structure can accommodate the applicant's proposed antenna and may consist of one or more of the following:
        i. No existing facilities or structures are located within the geographic area required to meet applicant's engineering requirements.
        ii. Existing facilities or structures are not of sufficient height to meet applicant's engineering requirements.
        iii. Existing facilities or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
        iv. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing facilities or structures, or the antenna on the existing facilities or structures would cause interference with the applicant's proposed antenna.

v. The fees, costs, or contractual provisions required by the owner in order to share an existing or structure or to adapt an existing facility or structure for sharing are unreasonable; or

vi. There are other limiting factors that render existing facilities and structures unsuitable.

G. No person shall be permitted to site, place, build, construct, modify or prepare any site for the placement or use of a wireless telecommunications facility unless exempted below. No Permit shall be required for those non-commercial exceptions noted in this section.

1. All legally permitted wireless telecommunications towers and facilities in existence on or before the effective date of this article.
2. Any repair and maintenance of a wireless facility does not require an application for a permit. However, no additional construction or site modification will be permitted.
3. The County's fire, sheriff's or other public service facilities owned and operated by the County.
4. Any facilities expressly exempt from the County's siting, building and permitting authority.
5. Over-the-Air reception devices including the reception antennas for direct broadcast satellites (DBS), multi-channel multipoint distribution providers (MMDS), television broadcast stations (TVBS) and other customer-end antennas that receive and transmit fixed wireless signals that are primarily used for reception.
6. Facilities not exceeding 75 feet in height used exclusively for private, non-commercial radio and television reception and private citizen's bands, licensed amateur radio and other similar non-commercial telecommunications.
7. Facilities used exclusively for providing unlicensed spread spectrum technologies, such as IEEE 802.11a, b, and g services (e.g. wi-fi and bluetooth) where the facility does not require a new tower.
2. Any electrical utility pole or tower used for the distribution or transmission of electrical service or other utilities not regulated by the County.

4.2.9 Data Centers

4.2.9.1 **Purpose**. The purpose of this Section 4.2.10 is to establish minimum requirements and regulations for the placement, construction and modification of data centers and digital infrastructure, as defined herein, while promoting the safe, effective and efficient use of such facilities and accompanying infrastructure systems.

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

"Data center" means real and personal property consisting of a building or group of buildings or group of buildings or structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, power and cooling equipment.

"Data center power plant" means a utility-scale commercial facility that produces electric power for consumption by a data center, which may store, produce, transmit and/or distribute electric power by any combination of energy storage, solar energy, thermal energy or other power conversion technology, including from hydrocarbon-based fuels, geothermal wells, wind energy systems, or nuclear fuel systems, for the primary purpose of supplying power to the data center.

"Digital infrastructure" means any electrical infrastructure, energy and fuel infrastructure, transmission and/or distribution infrastructure supporting data center development, including but not limited to, fiber optic cable conduit, fuel transmission and distribution infrastructure supportive of data centers and data center power plants.

"Mechanical equipment" means the networked computer systems along with supporting equipment such as batteries, backup generators, and cooling systems housed on the data center's property.

"Noise attenuation" means the reduction of noise levels through the use of sound-absorbing material, architectural design techniques, and/or any other suitable means.

"Person" means an individual, association, partnership, or corporation, including any officer, employee, department, or agency.

"Sound" means an oscillation in pressure, particle displacement, particle velocity or other physical parameter, in a medium with internal forces that causes compression and rarefaction of that medium. The description of sound may include any characteristic of such sound, including duration, intensity and frequency.

4.2.9.3 **Regulations and design standards for data centers and data center power plants**. All data centers and data center power plants shall comply with the following minimum regulations and design standards unless otherwise specified.

A. Permitted Locations. A Data center and/or data center power plant that complies with the provisions of this chapter, whether as a primary use or as an ancillary use, are not permitted to operate in the jurisdictional boundaries of Habersham County unless explicitly approved by the Habersham County Board of Commissioners via issuance of a special use permit. Data centers are considered ancillary to another primary use if they:
    1. Occupy no more than ten (10) percent of the building footprint,
    2. Are used to serve the enterprise functions of the on-site property owner and are not used to lease data storage and processing services to third parties, and
    3. Are not housed in a separate stand-alone structure on the parcel.

B. Design Standards.
    1. Minimum Lot Size.
        a. No data center power plant shall be erected on any lot less than twenty acres in size.
        b. No data center shall be erected on any lot less than five acres in size.
    2. Maximum Height. The maximum height for all structures shall be established through the conditional use permit process, provided a structure height of thirty-five (35) feet or less shall always be permitted.
    3. Setbacks. Data center and data center power plant structures shall be set back from all property lines and public road rights-of-way at least sixty (60) feet, or one and one-quarter times the height of the structure, whichever is greater. In addition, data center and data center power plant structures must be located at least one thousand (1,000) feet from all residentially zoned lots and existing residences. Additional setbacks may be required to mitigate noise and glare impacts, or to provide for designated road or utility corridors, as identified through the review process.
    4. Safety/Access/Fencing. An appropriate security/livestock fence (height and material to be

established through the conditional use permit process) shall be placed around the perimeter of the data center facilities and/or any data center power plant. Knox boxes and keys shall be provided at locked entrances for emergency personnel access.

5. *Noise Attenuation Requirements.* Before a data center has commenced construction or operating within this jurisdiction, the property owner and operator proposing to build a data center shall comply with the following:

   a. Noise Study Requirements. The property owner of the lands upon which the data center is to be located shall conduct a sound study performed by a third-party acoustic engineer to document baseline sound levels in the area of the proposed data center, including noise levels measured at the boundary of the site in eight (8) locations (north, south, east, west, northeast, northwest, southeast, southwest.) The report of the study must include sound mitigation recommendations based on the results of the sound study. The property owner must provide a copy of the report of the study to the Planning and Development Department within thirty (30) days of completion of the report.

   b. Noise Attenuation Plan Requirements.

      1. The property owner must consult with a third-party architectural or design firm to develop a building plan that includes necessary noise attenuation measures in order to prevent the external sound level emanating from the data center from exceeding the sound level limitations contained in this section which would be considered a noise disturbance. The building plan is not required to adopt any or all of the noise attenuation recommendations so long as the plan includes noise attenuation measures that the County deems adequate to be in compliance with this section. Noise attenuation measures may include but not limited to:

         i. Soundproofing walls, screens, panels, fences, or enclosures.

         ii. Buffer yards.

         iii. Other noise attenuation measures recommended by the third-party acoustic engineer or the county.

   c. Noise. No operating data center or data center power plant shall produce noise that exceeds any of the following limitations. Adequate setbacks shall be provided to comply with these limitations.

      i. Fifty-five (55) dBA, as measured at the property line of any neighboring residentially-zoned lot;

      ii. Fifty (50) dBA, as measured at any existing neighboring residence between the hours of nine p.m. and seven a.m.

      iii. Sixty-five (65) dBA, as measured at the property lines of the project boundary, unless the owner of the affected property and the Habersham County Board of Commissioners agree to a higher noise level, as follows.

   The owner of a neighboring property that would otherwise be protected by the sixty-five dBA noise limitation may voluntarily agree, in writing, to a higher noise level. Any such agreement must specifically state the noise standard being modified, the extent of the modification, and be in the form of a legally binding contract or easement between the landowner (including assignees in interest) and the data center and/or data center power

plant developer, effective for the life of the project. Any such noise agreement must be submitted with the special use permit application and filed with the county upon issuance of the sspecial use permit.

C. Visual Appearance.

1. Data center and data center power plant buildings and accessory structures shall, to the extent reasonably possible, use materials, colors, and textures that will blend the facility into the existing environment.
2. During the consideration of any application for special use permit pursuant to this Chapter, the Habersham County Board of Commissioners may, in its discretion, choose to require appropriate landscaping and/or screening materials to help screen the data center and/or the data center power plant and accessory structures from major roads and neighboring residences. The necessity and exact specifications of the landscaping and/or screening materials will be determined on a case by case basis based upon the development proposed in the special use permit application.
3. Mechanical equipment must be shown on any proposed plan and must be fully screened on all sides. Mechanical equipment not screened by a facade of the building must be screened by a visually solid fence, screen wall or panel, or parapet wall and constructed with a design, materials, details, and treatment compatible with those used on the nearest facade of the building.
4. Lighting of the data center and/or data center power plant and accessory structures shall be limited to reasonably necessary lighting to mitigate visual impacts as determined by the Habersham County Board of Commissioners. To the extent practicable, all exterior lighting shall be fully shielded and directed downward so as to prevent glare, light trespass, or illumination beyond the boundaries of the property. Lighting shall not be of excessive brightness or intensity and shall be designed and installed to minimize impacts on adjacent properties, public rights-of-way, and the night sky. The Board of Commissioners may impose additional conditions relating to lighting design, placement, shielding, and hours of operation as necessary to protect the character of surrounding properties and to ensure compliance with the intent of this Chapter.

D. Electrical Interconnections. All electrical and interconnection and distribution lines smaller than twenty (20) kV within the project boundary shall be underground, except for power lines that leave the project or are within the substation. Said electrical lines larger than twenty (20) kV may be given an exemption from burial because of severe environmental constraints (e.g., wetlands, cliffs, hard bedrock), distance and other project factors, determined by the Board of Commissioners. All electrical interconnections and distribution components must comply with all applicable codes and public utility requirements.

E. Fire Protection. All data centers and data center power plants shall have a defensible space for fire protection in accordance with standards approved by the Habersham County Emergency Services Director. At a minimum, any applicant for a special use permit pursuant to this chapter shall prepare and submit a fire protection plan in his or her application for review and subject to approval by the Habersham County Emergency Services Director. The plan shall identify the proposed defensible space surrounding all principal and accessory structures, including the clearing or management of vegetation, removal of combustible materials, and maintenance practices intended to reduce fire risk and allow for safe emergency response access. The approved defensible space shall be maintained in a condition that

minimizes the accumulation of combustible vegetation, debris, or other flammable materials within a distance determined by the Habersham County Emergency Services Director from all buildings, fuel storage areas, generators, battery storage systems, and similar equipment. The Habersham County Emergency Services Director may impose additional requirements regarding vegetation management, fuel break widths, access for firefighting equipment, and other fire protection measures necessary to protect life, property, and adjacent lands based on the size, location, and operational characteristics of the proposed data center development. The owner or operator shall remain responsible for ongoing maintenance of the defensible space and compliance with all approved fire protection measures.

F. Employment Infrastructure. Necessary utility infrastructure such as water, sewer, parking, office space, etc., shall be provided to accommodate data center and/or data center power plant employees and service personnel in compliance with Georgia Public Health, the Georgia Environmental Protection Division and Habersham County zoning regulations and building codes, as applicable.

G. Local, State and Federal Permits. A data center power plant shall be required to obtain all necessary permits from the Georgia Environmental Protection Division, including the Georgia Environmental Protection Agency and the Georgia Department of Traffic Safety, applicable permits required by Habersham County, and any applicable Federal Permits.

H. Emergency backup generators shall be permitted only as accessory equipment to a data center facility and shall not be used for primary electrical generation or commercial sale of electricity. The number, capacity, location, and operational characteristics of all generators shall be disclosed in the conditional use permit application. Generator testing shall not exceed fifty (50) hours per calendar year per generator, excluding emergency operations. All generators and associated fuel storage shall comply with applicable federal, state, and local regulations and shall meet the noise standards established in this section.

I. Electrical Demand and Utility Infrastructure

The applicant shall provide documentation of the projected electrical demand for the proposed data center facility, including both initial and ultimate buildout demand measured in megawatts (MW).

The special use permit application shall include:

1. The maximum electrical demand anticipated for the project.
2. A description of the source of electrical service and any required transmission lines, substations, or switching facilities.
3. Any required upgrades to local or regional electrical infrastructure necessary to serve the project.

   The Habersham County Board of Commissioners may condition approval of a data center on the availability of adequate electrical infrastructure and may require that all necessary utility upgrades be completed prior to operation of the facility.

The Board of Commissioners may deny or condition approval of an application if the proposed electrical demand or related infrastructure requirements would create significant adverse impacts on local infrastructure, public services, transportation systems, water supply infrastructure, or the reliability of the electrical grid serving Habersham County.

J. Water Demand

A closed-loop water (cooling) system is required, whenever possible. The Board of Commissioners may deny or condition approval of an application if the proposed water demand or related infrastructure requirements would create significant adverse impacts on local infrastructure, public services,

transportation systems, or water supply infrastructure.

4.2.9.4 Permit applications. An application for a conditional use permit to establish a data center and/or data center power plant shall include a complete description of the project and documentation to sufficiently demonstrate that the requirements set forth in this ordinance will be met.

It is preferred that any related conditional use permit applications for substations or transmission lines be considered in conjunction with the conditional use permit application for the data center and/or data center power plant; however, if the details of those improvements are not available at the time of application for the data center and/or data center power plant, they may be considered later, through subsequent conditional use permit review. At a minimum, the intended route for connecting to the power grid and the alternative locations of any substation shall be disclosed with the application for the data center and/or data center power plant.

The applicant shall provide a water demand analysis demonstrating the projected daily and peak water usage for the facility and the source of such water supply. The Board of Commissioners may deny or condition approval if the project would materially impact the County's water supply infrastructure or regional water resources.

4.2.9.5 Provisions for conditional use permit review. Following the provisions of this section, additional or more thorough consideration shall be given to the following as the county determines appropriate mitigation for potential impacts or whether the application does not comply with county ordinances and should be denied:

A. Project Rationale. Project rationale, including estimated construction schedule, project life, phasing, and likely buyers or markets for the generated energy.

B. Siting Considerations. Siting considerations, such as avoiding areas/locations with a high potential for biological conflict such as wilderness study areas, areas of environmental concern, county and state parks, historic trails, special management areas or important wildlife habitat or corridors; avoiding visual corridors that are prominent scenic areas designated by the county; avoiding areas of erodible slopes and soils, where concerns for water quality, landslide, severe erosion, or high storm runoff potential have been identified; and, avoiding known sensitive historical, cultural or archeological resources.

C. Site and Development Plans. Site and development plans, which identify and/or locate all existing and proposed structures; setbacks; access routes; proposed road improvements; any existing inhabitable structures and residentially zoned lots within one-quarter mile of a data center or data center power plant project; existing utilities, pipelines, and transmission lines; utility and maintenance structures; existing topographic contours; existing and proposed drainage ways; proposed grading; areas of natural vegetation removal; revegetation areas and methods; dust and erosion control; any floodplains or wetlands; and other relevant items identified by the county staff or Board of Commissioners. All maps and visual representations need to be drawn at an appropriate scale.

D. Analysis of Local Economic Benefits. Analysis of local economic benefits, describing estimated: Project cost, generated taxes, percent of construction dollars to be spent locally, and the number of local construction and permanent jobs.

E. Visual Impacts and Appearance. Potential visual impacts may be caused by components of the project such as cooling towers, steam plumes, aboveground electrical lines, accessory structures, access roads, utility trenches and installations, and alteration of vegetation. Those projects that are within a prominent scenic area or that propose structures taller than thirty-five (35) feet must provide a view

analysis of the project, including visual simulations of the planned structures and analysis of potential glare impacts. The number of visual simulations shall be sufficient to provide adequate analysis of the visual impacts of the proposal, which shall be from no less than four vantage points that together provide a view from all sides of the project. The Board of Commissioners may also require a Zone of Theoretical Visibility/Zone of Visual Impact (ZVI) Analysis, which is a three hundred sixty-degree computer analysis to map the lands within a defined radius of a location that would likely be able to see an object. Significant visual impacts that cannot be adequately mitigated are grounds for denial.

F. Wildlife Habitat Areas and Migration Patterns. Specifically include information on any use of the site by endangered or threatened species and whether the project is in a biologically significant area. If threatened or endangered species exist in the area, consultation with United States Fish and Wildlife Service (USFWS) will be necessary.

G. Environmental Analysis. In the absence of a required state or federal agency environmental review for the project, the Board of Commissioners may require an analysis of impacts to historic, cultural and archaeological resources, soil erosion (water and wind), flora, and water quality and water supply in the area, when there is reason to believe that adverse impacts to such may occur.

H. Solid Waste or Hazardous Waste. As applicable, the application must include plans for the spill prevention, clean-up, and disposal of fuels, oils, and hazardous wastes, as well as collection methods for solid waste generated by the project.

I. Height Restrictions and FAA Hazard Review. Compliance with any applicable airport overlay zoning requirements and the ability to comply with FAA regulations pertaining to hazards to air navigation must be demonstrated.

J. Transportation Plan for Construction and Operation Phases. Indicate by description and map what roads the project will utilize during the construction and operation/maintenance phases of the project, along with their existing surfacing and condition. Specify any new roads and proposed upgrades or improvements needed to the existing road system to serve the project (both the construction and O&M periods)—remember to identify needed bridges, culverts, etc. Also identify all areas where modification of the topography is anticipated (cutting/filling) to construct or improve the roadways. Address road improvement, restoration, or maintenance needs associated with the construction, ongoing maintenance/repair, and potential dismantling of the project. Provide projected traffic counts for the construction period, broken down by the general type/size of vehicles, and identify approximately how many trips will have oversized or overweight loads. If significant impacts to the transportation system are anticipated, the county may require financial guarantees to ensure proper repair/restoration of roadways or other infrastructure damaged or degraded during construction or dismantling of the project. In such case, the "before" conditions of the roadways and other infrastructure must be documented through appropriate methods such as videos, photos, and written records, to provide a proper reference for restoration.

K. Public Safety. Identify and address any known or suspected potential hazards to adjacent properties, public roadways, communities, aviation, etc., that may be created by the project.

L. Noise Limitations. Submit sufficient information regarding noise, including but not limited to sound level modeling which demonstrates compliance with the decibel levels required by this Chapter, so as to demonstrate compliance with the Habersham County Code of Ordinances.

M. The data center operator or property owner must notify residents within a half-mile radius of the parcel, including any affiliated homeowners' association operating within the half-mile radius, that

the property owner intends to build and operate a data center on the property. The notice required in this section must be mailed to all postal addresses and homeowners' association addresses contained within a half-mile radius extending from the property line where the proposed data center will be built.

N. The data center operator must schedule and attend two (2) neighborhood meetings with residents to describe the project and the proposed sound-mitigation aspects of the project design. Notice of the neighborhood meetings must be mailed to all residents and homeowners associations within a half-mile radius of the parcel. A representative of the developer or owner with decision-making authority on the design of the data center must attend the neighborhood meetings. The data center operator or property owner must also post a sign on the subject property, at least fifteen (15) days before each neighborhood meeting. The sign must be located along an arterial street or other high-visibility location as reasonably determined by the Director. The content of the sign shall (i) be consistent with the County's generally applicable sign guidelines for posting signs, (ii) include the applicant name and contact information, a brief description of the data center project, and the date, time, and location of the neighborhood meeting, and (iii) must be reviewed and approved by the Director before installation. The applicant must remove the sign at the conclusion of the citizen review process.

O. As part of any application for a data center or data center power plant, the applicant shall submit a decommissioning plan for review and approval by the Habersham County Board of Commissioners. The purpose of the decommissioning plan is to ensure the safe removal of the facility and restoration of the property upon cessation of operations.

   The decommissioning plan shall, at a minimum, include the following:

   1. Trigger for Decommissioning. A statement identifying the conditions that will trigger decommissioning, including but not limited to abandonment of the facility, cessation of operations for a continuous period of twelve (12) months, or expiration or revocation of any required permits or approvals.
   2. Removal of Improvements. A description of the procedures for dismantling and removing all buildings, structures, equipment, generators, battery storage systems, power generation equipment, substations, fencing, foundations, and other above-ground or below-ground improvements associated with the facility.
   3. Site Restoration. A plan for restoring the site following removal of improvements, including grading, stabilization, revegetation, and other measures necessary to return the property to a safe and stable condition or to a condition otherwise approved by the Habersham County Board of Commissioners.
   4. Waste Disposal. A description of the procedures for the proper handling, recycling, and disposal of all equipment, hazardous materials, fuels, batteries, and other waste generated during the decommissioning process in accordance with all applicable federal, state, and local regulations.
   5. Cost Estimate. An estimate of the total cost to complete decommissioning and site restoration, prepared by a qualified professional and based on the full cost of removal and restoration without regard to the salvage value of materials.
   6. Financial Assurance. A description of the proposed financial assurance mechanism to guarantee completion of the decommissioning plan, which may include a bond, letter of credit, escrow account, or other security acceptable to the County.

The Board of Commissioners may require revisions to the decommissioning plan as a condition of approval and may require the applicant to provide financial assurance in an amount sufficient to ensure that decommissioning and site restoration can be completed if the owner or operator fails to do so. The approved decommissioning plan shall be binding upon the owner and any successors or assigns.

P. Other probable and significant impacts, as identified through the review process.

4.2.9.6 Post Completion Noise Study Requirements. Upon the data center's completion, the data center operator must conduct a post-construction noise study performed by a third-party acoustic engineer to document noise levels emanating from the data center when mechanical equipment is running at full capacity, including all HVAC units and generators necessary for peak operation. Noise levels are to be measured at the boundary of the site in the original eight (8) locations used during the baseline study. The data center operator must provide a copy of the report to the county within ten (10) days of completion of the study.

A. The data center shall not begin operations until the completion of the post-construction noise study and submission to the county as required above. In order for the data center to be in compliance, the noise study results must show that its operation is in compliance with this section and will not adversely impact residential neighbors. If the results show that the data center is not in compliance with this section or will adversely impact residential neighbors, the data center will be unable to commence operation until the required noise attenuation measures and noise limitations are met.

B. Furthermore, the data center operator must conduct annual noise studies under the baseline and post-construction studies specifications in accordance with this subsection and subsection (a) above. The data center operator must provide the results to the county within ten (10) days after the anniversary date of the first sound study report.

4.2.9.7 Violations and Penalties. Violations of the noise limitations shall be subject to the enforcement and penalty provisions of Article 16, as well as any remedies available to the county pursuant to the Habersham County Code of Ordinances, state or federal law. Violations of other provisions of this section shall be subject to the enforcement and penalty provisions of the Habersham County Code of Ordinances.

A. Any or all of the following persons may be held responsible for noise violations:

1. The person operating the equipment or creating the noise;

2. The person who employs the person operating the equipment or creating the noise at the time of the violation;

3. The person who owns or rents the property where the violation occurs.

B. The following acts, and the causing thereof, are declared to be in violation of this section:

1. The sound level emanating from the data center exceeds that allowed by ordinance.
2. The noise attenuation measures provided in the design plan to the county are not incorporated in the construction of the data center.
3. Any of the required sound study results are not filed with the county within thirty (30) days of completion of the report.
4. The building plan is not filed with the county within thirty (30) days of completion of the plan prior to construction.
5. Failure to act in accordance with any other provision of this section.

C. All data centers shall be in compliance with the requirements of this section before the county will issue a certificate of occupancy; failure to do so will be deemed a violation of this section and may result in an injunction, a stay in commencing operation and/or denial of allowed occupancy.

4.2.10 Height Limit

No building within Habersham County shall exceed 50 feet in height as measured from the adjacent finished grade. Church steeples are specifically exempted from this height limit. Other buildings may be exempted by the Planning and Development Director on a case-by-case basis.

4.3 Accessory Uses and Structures.

4.3.1 Purpose.

A. It is the intent of this section to regulate the installation, configuration, and use of accessory structures. Regulation is necessary to ensure that accessory structures are compatible with the surrounding area and are consistent with the character and intent of the zoning district in which the accessory structures are located.

4.3.2 Accessory Use Standards.

A. Accessory buildings and uses shall be permitted only inside of rear yard setbacks, unless otherwise permitted herein.

B. Accessory buildings and uses shall be permitted only if they meet the following:

1. Only one principal building and its customary accessory buildings may hereafter be erected on any one lot, regardless of the land use intensity district.
    a. The limitation on the number of principal buildings specified above shall not apply to ADUs, multi-family, office, institutional, commercial, and industrial buildings within projects planned and constructed on a single tract, subject to all other provisions of this UDO.
2. More than one principal building may be allowed as follows:
    a. Bona fide commercial agricultural operations where another dwelling is necessary for the occupancy of employed personnel to that commercial agricultural operation.
3. Permissible accessory uses and structures are identified in Section 4.1.2.F, Table of Allowable Accessory Uses.
4. Accessory structures shall be on the same lot and subordinate to the principal use or structure.
5. One storage building may be erected on a lot prior to the time of construction of the principal building to be used for storage purposes only. The storage building shall meet all applicable setbacks for accessory buildings.
6. Where any accessory building is structurally attached to a principal building, it shall become subject to and must conform to all regulations applicable to the principal building.
7. Accessory buildings shall meet all front yard requirements and, in the case of multiple frontage lots, accessory buildings shall observe front yard requirements on all streets.
8. Accessory structures may be allowed in the front yard, subject to the following:
    a. The accessory structure meets the setback requirements for a principal building in that land

district.

b. Entry to the principal building does not face the road.

c. The front yard is the only location available to meet required setbacks.

9. Accessory structures, other than fences located in compliance with applicable requirements, shall not be located within any required buffer or landscaping area, parking lot, protected resource area, easement, or stormwater management area.

10. Accessory buildings shall be set back a minimum of five (5) feet from side and rear property lines except as allowed herein.

    a. Barns and other agricultural accessory structures used for the keeping of livestock, compost, or other waste shall be setback a minimum of 50 feet from side and rear property lines.

C. A pit privy, as defined in this UDO, is only allowed as an accessory structure within the agriculture (AG) or Rural Residential (RR).

1. A pit privy shall have a minimum of 25 contiguous acres and shall be located a minimum of 200 feet from any property line.

2. For the purposes of this section, a pit privy use does not include a porta-potty or any other portable, temporary, or movable sanitation unit.

4.3.3 Home Occupations.

A. Home Occupations are intended to allow residents to engage in customary home-based work activities, while also helping to ensure that neighboring residents are not subjected to adverse operational and land use impacts (e.g., excessive noise or traffic or public safety hazards) that are not typical of residential uses.

1. Exclusions. The following uses are not considered home occupations and are not subject to the home occupation regulations of this section. Each use is allowed as indicated in Section 4.1.2.F, Table of Allowable Accessory Uses.

    a. Bed and Breakfast Inn.

    b. Short-Term Rentals.

2. Prohibited Home Occupations. The following uses are expressly prohibited as home occupations:

    a. Any type of assembly, cleaning, maintenance, or repair of vehicles or equipment with internal combustion engines or of large appliances (such as washing machines, clothes dryers or refrigerators); and,

    b. Animal care, grooming, or boarding businesses;

    c. Veterinarian Clinics;

    d. Restaurants;

    e. Clubs and drinking establishments;

    f. Motor vehicle repair;

    g. Small engine repair;

    h. Funeral parlors or internment services;

i. Retail sales of goods not made on the premises;

j. Tow truck services; and

k. Adult uses.

3. Standards applicable to all Home Occupations.

a. Home occupations and all related activities, including storage (other than the lawful parking or storage of vehicles), shall be conducted entirely within the dwelling unit or within a lawfully permitted accessory dwelling unit or accessory structure.

b. The gross floor area of a dwelling unit devoted to each home occupation shall not exceed 1,000 square feet or 25 percent of the gross floor area of the dwelling, whichever is less.

c. No internal or external alterations, structural changes, or site improvements inconsistent with the residential character of the lot shall be permitted.

i. Prohibited alterations include, but are not limited to, the construction of parking lots, the addition of commercial-like exterior lighting, or the addition of a separate building entrance visible from abutting streets.

d. No window display or other public display of any material or merchandise is allowed.

e. Home occupations shall not produce light, noise, vibration, odor, parking demand, traffic, or other impacts greater than those typical of a residential neighborhood.

f. Home occupations shall be operated so as not to create or cause a nuisance.

g. Tools or equipment shall be operated, shielded, or sound-proofed so as not to be audible beyond the lot lines of the subject property.

h. The use or storage of hazardous substances is prohibited, except at the consumer commodity level as defined in 49 C.F.R. § 171.8, and limited to household-scale quantities customary for residential use.

i. Marked business vehicles in connection with the home occupation shall not be routinely parked on public streets or in driveways in public view.

j. No more than one commercial vehicle, not exceeding one-ton capacity and two axles, may be associated with a home occupation.

k. Any permitted commercial vehicle shall be parked within an enclosed garage or otherwise completely concealed from view when not in use.

l. Incoming vehicles related to the home occupation shall be parked off-street within the residential driveway or other lawfully permitted on-site parking areas.

m. Except as expressly permitted below, no clients or patrons shall be allowed on the premises in conjunction with a home occupation.

i. Personal care homes may serve up to six (6) clients.

ii. Instruction in music, dance, arts and crafts, or similar subjects shall be limited to one student at a time.

n. No visits, deliveries, or other vehicle trips associated with a home occupation shall occur between the hours of 9:00 p.m. and 6:00 a.m.

4.3.4 Roadside Stands.

A. Roadside vendors selling agricultural products or firewood are permissible in accordance with the standards of this section.
   1. The applicant shall have written permission of the property owner to conduct sales.
   2. The applicant shall possess a valid occupational license.
   3. Roadside vendors shall not be located within:
      a. The public right-of-way;
      b. Any required buffer area;
      c. Any driveway or access way or in such a manner as to block a driveway or access way; or
      d. Any designated fire lane or in such a manner as to block a fire lane.

4.3.5 Rural Business.

A. Rural Business. The regulations of this section are intended to allow residents to engage in rural business activities while maintaining and enhancing the rural character of the AG, RR, and SR Zoning Districts.
   1. These regulations are designed to ensure that rural businesses operate in a manner that minimizes adverse impacts on neighboring properties, protects natural resources, and supports the overall vision for sustainable and harmonious land use in rural zones.
   2. Rural Business activities include small-scale enterprises that are compatible with and supportive of the agricultural, forestry, and open space uses that define the rural character of these areas.
   3. Lot Requirements.
      a. Rural Businesses shall be permitted on a lot meeting the following requirements:
         i. The lot shall be zoned AG, RR, or SR; and
         ii. The lot shall have frontage on a public road, unless otherwise approved by the Planning and Development Department.
   4. General.
      a. A Rural Business use shall utilize no more than 50% of the principal property's total lot area or five (5) acres of the principal property, whichever is less.
      b. All business shall be conducted entirely within a building and such structures shall not exceed a combined total square footage of 2,500 square feet.
         i. Such structures shall be considered accessory structures and shall comply with all accessory structure regulations of this section in addition to those dedicated specifically to rural businesses in this Section.
         ii. No portion of a rural business structure shall be used for dwelling purposes.
      c. One (1) permanent sign is permitted, with a sign area not to exceed 15 square feet. Otherwise, signs shall comply with all applicable provisions in this UDO.
      d. Parking and loading areas shall comply with all applicable provisions in this UDO. Alternative designs and materials are subject to review and approval by the Planning and Development

Department.

e. No outside storage of equipment or materials used in the conduct of the rural business, other than trade vehicles, is permitted.

5. Permitted Rural Business Uses are as follows:

   a. Cabinet and millwork;

   b. Metal work;

   c. Equipment repair (e.g., farm equipment and small engine repair);

   d. Small lumber operations;

   e. Retail sales, when at least 25% of retail products available are produced on site (of the principal property, including the rural business portion); or

   f. Alternative rural business uses, as approved by the Planning and Development Department and/or the Board of Commissioners.

4.3.6 Temporary Construction Structures.

A. Temporary dwelling when house is under construction. A mobile/manufactured home or recreational vehicle may be occupied on a temporary basis in cases where a permit has been issued for a permanent residence on the same property as the permanent residence, provided the following are met:

   1. A permit is obtained from the administrative officer. Said permit shall be valid while permit for the permanent residence is active.

   2. Suitable provisions are made for water, sanitary sewerage or septic tank and utilities to the satisfaction of both the administrative officer and the Habersham County Health Department.

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

C. Portable Outdoor Storage Containers. Portable outdoor storage containers shall be allowed in all Zoning Districts on a lot, parcel, or tract of land for a period of time not to exceed thirty (30) days.

D. Construction Dumpsters. Temporary refuse containers to store trash and recycling during affiliated construction activities, which are not enclosed.

E. Standards applying to all construction structures:

   1. Temporary Construction Structures may be parked or stored on any lot when used in conjunction with a valid, unexpired building or land development permit.

   2. All Temporary Construction Structures shall be completely removed from the premises within thirty (30) days of issuance of the final Certificate of Occupancy or project close-out pertaining to the building(s)/land development associated with the construction.

4.3.7 Temporary Outdoor Sales of Merchandise.

A. The temporary Outdoor Sales of Merchandise are subject to the following regulations:

1. No temporary outdoor sales of merchandise shall be conducted on public property, within any public right-of-way, and no display or sales area shall block safe pedestrian movement.
2. Tents may be used in conjunction with temporary sales activities for a maximum of five (5) days over a one (1) month period.
3. No operator, employee, or representative shall solicit directly to the motoring public.
4. No temporary outdoor sales shall be located within or encroach upon any drainage easement, public sidewalk or right-of-way, required parking spaces, fire lanes, designated loading areas, driveways, maneuvering aisles, or ADA minimum sidewalk width within private sidewalks or other areas intended for pedestrian movement.

4.3.8 Accessory Dwelling Units

An accessory dwelling unit or guest house shall be permitted as an accessory use on any lot on which a detached single-family dwelling unit exists in accordance with the provisions of this section and all applicable codes and regulations, including, but not limited to, building and health codes.

A. A detached accessory dwelling unit or guest house must be clearly subordinate to the principal structure and must be of a design and construction allowed in the zoning district and be of a similar design and construction as the principal structure.

B. An attached accessory dwelling unit must utilize the same septic system as the primary structure and utilize the same electrical meter. If there is a separate electrical meter or septic system, the use shall be considered a duplex.

C. The minimum lot size for a detached accessory dwelling unit with a separate septic system from the principal dwelling shall be twice the minimum lot size in Article 3. If a single septic system serves both dwellings, accessory and principal, the minimum lot size shall be the minimum lot size listed for each district in Article 3.

D. The accessory dwelling unit or guest house shall be limited in size to a maximum of 50 percent of the total living area of the principal dwelling. The maximum size of an accessory dwelling unit, however may not exceed 1,500 square feet.

E. No more than one accessory dwelling unit may be located on a lot.

F. The accessory dwelling unit must be owned by the owner of the principal structure.

G. The accessory dwelling unit must be situated to the rear or side of the principal structure and must meet the minimum setbacks required for the principal structure.

H. The height of an accessory dwelling unit cannot extend higher than the principal structure as measured from grade.

I. All accessory dwelling units must be attached to a permanent foundation.

J. The single-family dwelling unit must be a conforming use in the zoning district.

K. A stick-built or modular accessory dwelling unit shall be constructed to the residential building code as adopted by the State of Georgia. A manufactured home accessory dwelling unit shall be constructed to the United States Department of Housing and Urban Development (HUD) Manufactured House and Safety Standards and shall be certified by HUD as meeting the standard.

4.3.9 Family Cemeteries, Burial Plots

A. Family cemeteries and/or burial plots are allowed on private properties subject to the following requirements:

1. The family cemetery or burial plot shall not be located within a FEMA designated special flood hazard area.
2. The family cemetery or burial plot shall not be located within 100 feet of state waters.
3. The family cemetery or burial plot shall not be located within the septic area or repair area as designated by the Georgia Department of Public Health.
4. A plat of survey of the cemetery or family burial plot prepared by a state-registered land surveyor shall be submitted to the Habersham County Planning and Development Department. Upon approval of the survey by the Habersham County Planning and Development Department, the applicant shall file, or cause to have filed, two signed original copies of the survey with the superior court clerk for recording.
5. The family cemetery or burial plot shall be located on an occupied property of at least one and a half (1.5) acres and have a setback of a minimum of thirty-five feet (35') from any property line or building.
6. The family cemetery or burial plot shall be limited to no more than five (5) persons being buried on a property.

ARTICLE 5. PLANNED DEVELOPMENT DISTRICTS

5.1 Purpose.

A. The purpose of the Planned Development district (PD) is to allow for the establishment of development standards proposed by the applicant to accommodate innovative mixed use development patterns not articulated in base zoning districts, but which uses and standards are supportive of the policies of the Comprehensive Plan. The PD district is intended to provide a means of accomplishing the following specific objectives:

1. To provide for development concepts not otherwise allowed within non-PD zoning districts; and,
2. To provide flexibility, unity, and diversity in land planning and development, resulting in convenient and harmonious groupings of uses, structures, and common facilities; and,
3. To accommodate varied design and layout of housing and other buildings; and,
4. To allow appropriate relationships of open spaces to intended uses and structures; and,
5. To encourage innovations in quality residential, commercial, and industrial development and renewal so that the growing demands of the population may be met by greater variety in type, design, and layout of buildings and by the conservation and more efficient use of open space; and,
6. To attenuate the burden of traffic on streets and highways; and
7. To provide a procedure that can relate the type, design, and layout of residential, commercial, and industrial development to the particular site, thereby encouraging preservation of the site's natural characteristics.

5.2 Establishment of a Planned Development District.

A. A PD may be requested on any property or properties within the County that meet the minimum standards herein and in accordance with the rezoning procedures of Article 13, Public Hearing Application and Review Procedures to establish the boundaries and regulations of the PD.

B. No PD district may be established without the concurrent approval of Overall Development Standards (ODS) and an Overall Development Plan (ODP) by the Board of Commissioners.

5.3 Minimum Standards.

A. PD districts shall have a minimum contiguous area of ten (10) acres.

B. The characteristics of each PD shall be in conformance with the adopted Comprehensive Plan, and the approved Overall Development Standards (ODS) and Overall Development Plan (ODP).

C. The required phasing plan shall accurately outline the proposed schedule and timing of development of each proposed use. Any variation to the phasing plan in timing or sequencing of uses shall be considered a Major Modification pursuant to Article 13.

D. Any development standards not expressly defined by the Overall Development Regulations shall be regulated by this UDO. At a minimum, the following development standards shall be met for the proposed development:

1. Streets shall be a minimum of 26 feet curb to curb.

2. Site standards of Article 9 shall be met, unless a specific alteration is noted in the application.

E. A PD shall provide a mix of Individual Uses from a minimum of two (2) different Major Use Sub-Districts identified in Table 5.3.E, Menu of Major Use Districts. This requirement does not preclude other uses, but no other use shall fulfill the mixed-use requirement.

Table 5.3.E - Menu of Major Use Districts	
Major Use Sub-District	**Individual Uses**
Lodging and Residence	Bed and Breakfast Household Living Hotel
Institutional	Education Services Hospital Library
Office	Office Medical Service
Retail Sales	General
Service	Animal service (all types) Banks, credit unions, brokerage, and investment services Personal Service Daycare (all types) Eating and drinking

5.4 Required Characteristics.

A. At a minimum, each PD shall provide a combination of at least two (2) of the following characteristics that support the innovative nature of the request. Fulfillment of each required characteristic shall be at the discretion of the Planning and Development Director and shall remain in place for the life of the project or as necessary to carry out the intent:

1. New or unique concept or land use. Project shall describe the extent that it is a new concept or land use, meaning there are no other developments within 2,000 feet like the proposed development and the project will demonstrate how the business/development concept will be successful in Habersham County.
2. Catalyst project. Project shall describe the extent that it will serve as a catalyst for subsequent development. This requires a significant project in a relatively unproven area of town and is expected to have a multiplier effect by spurring further economic development projects.
3. Target Employment Industry. A project that offers one or more of the following industries:
   a. Entrepreneurship; or,

b. Technical, research, consulting, or corporate operations; or,

c. Local and regional distribution; or,

d. Healthcare, non-profits, and educational institutions; or,

e. Production (construction and manufacturing); or

f. Entertainment and recreation (ex. Restaurants, movie theaters, film studios).

4. Usable Public Green Space.

   a. Green spaces shall have unobstructed access from the nearest right-of-way or adjacent building and shall be deeded to the County or a public access easement granted; and

   b. Green spaces shall be programmed with at least one of the following amenities: public art, decorative water feature, community garden, playground/recreational equipment, plaza, public outdoor dining area, other amenity approved by the Planning and Development Director.

5. Adaptive Reuse Project. The project shall preserve a substantial portion of an existing structure of relative significance or architectural interest.

5.5 Overall Development Regulations.

A. Overall Development Standards (ODS). Development of the PD is governed by the ODS that designate the standards of zoning and development for the property. These standards replace the standards in the UDO and should include, at a minimum, the following:

1. Permitted and prohibited uses; and,
2. Maximum density; and,
3. Maximum impervious surface; and,
4. Minimum open space; and,
5. Minimum and maximum building heights; and,
6. Minimum lot size; and,
7. Required setbacks; and,
8. Parking requirements; and
9. Building massing.

B. Overall Development Plan (ODP). Development of the PD is also governed by the ODP, which includes a series of plans and design-related documents regulating the development of the property. At a minimum, the ODP shall include the following:

1. Analysis of Existing Conditions. An analysis of existing site conditions, including a boundary survey and topographic map of the site that shall include information on all existing man- made and natural features, utilities, all streams and easements, and features to be retained, moved or altered. The existing shape and dimensions of the existing lot to be built upon including the size, measurement, and location of any existing buildings or structures on the lot shall be included. The analysis should include all buffers and other applicable standards of federal and state law related to maintenance and protection of wetlands and the banks of navigable waters of the federal and state governments.

2. Overall Master Plan. A master plan outlining all proposed regulations and calculations which shall include, but not be limited to, information on all proposed improvements including proposed building footprints, entrances, densities, parking ratios, open space, height, sidewalks, setbacks, under and over-head utilities, internal circulation and parking, landscaping, preliminary grading, lighting, drainage, amenities, and similar details and their respective measurements.
3. Phasing Plan. Should a PD be expected to require five (5) years or longer to complete, a phasing plan shall be provided by the applicant that indicates the time frame for construction and development of different aspects of the PD. This is required in all cases for a PD seeking to meet the Minimum Standards through a Mixed-Use project.
4. Regulating Plan. A regulating plan shall be provided with street types and open space for all property within the PD boundary. The regulating plan shall be keyed to a set of standards developed based on location. This plan should consider how all modes of transportation will be accommodated, including pedestrians, bicycles, cars, transit, rideshare, etc. Detailed right-of-way cross sections shall also be included in this plan or as an attachment to this plan.
5. Streetscape and Hardscape Manual. A streetscape and hardscape manual shall be created that includes specifications for the following: sidewalk clear zones, landscape zones, supplemental zones including details regarding lighting fixtures, on-street parking, street furniture, landscape materials and other amenities. A streetscape map shall accompany this manual that identifies appropriate streetscape and hardscape designs for all streets, plazas, open space, locations for public art etc. within the plan.
6. Architectural Pattern Book. An Architectural Pattern Book demonstrating approved building materials, features, exterior finishes, windows, doors, colors, and other items affecting exterior appearance, such as signs, mechanical systems, fencing, etc. The pattern book shall include renderings of proposed buildings.
    a. To the extent that the approved ODS and ODP for a PD contradict the UDO, the approved ODS and ODP for the PD district governs. All other chapters govern, unless specific alternatives are proposed and written into the ODS as part of the amendment application.
    b. Applications shall include any additional information deemed necessary by the Planning and Development Director to determine compliance with Ordinance standards.

ARTICLE 6. OVERLAY DISTRICTS

6.1 HWY365 Overlay.

6.1.1 Title.

A. This section shall be known and cited as the Highway 365 Corridor Overlay District of Habersham County, Georgia. This ordinance may be referenced as the "HWY365 Overlay" or the "SR365 Overlay" throughout other parts of this UDO.

6.1.2 Purpose.

A. The Highway 365 Corridor overlay zone encourages a mixture of industrial, commercial, and residential uses within the HWY365 Corridor and any accessible surrounding transitional residential areas, identified in the Comprehensive Plan. The regulations are intended to:

1. Foster a safe environment for long distance transportation and commerce.
2. Reduce potential negative environmental impacts associated with rapid growth;
3. Utilize buffers and screening to secure the existing rural character of the HWY365 Corridor;
4. Support well-designed inter-parcel access among compatible developments; and
5. Safeguard and uphold the public safety, health, and general welfare of Habersham County.

6.1.3 Jurisdiction.

A. The provisions of this section shall apply to unincorporated lands within the territorial limits of the County for parcels that are formally designated as such on the official zoning map.

6.1.4 Relationship to Base Districts and Other Regulations.

A. The provisions of this HWY365 Overlay shall be supplemental to and imposed concurrent with those of the base zoning district or other Habersham County Ordinances. In the event that an HWY365 Overlay standard conflicts with a base zoning district standard, the HWY365 Overlay standard shall apply.

6.1.5 Authorized Uses.

A. Permitted Uses. Uses classified as by right, limited, or eligible for consideration as a special use permit in their base zoning district shall be allowed in the HWY365 Overlay as per their assigned classification as indicated in Section 4.1.2.F, Table of Allowable Accessory Uses. Any use not explicitly permitted shall be prohibited.

B. Exemptions. The following land uses and properties are exempt from the development standards specific to the HWY365 Overlay:

1. New infill residential construction in neighborhoods platted prior to adoption of this ordinance.
2. Properties whose principal land use is an active agricultural operation authorized by the base zoning district.
3. Properties with 60 percent or more of total land area set aside for conservation through the use of a recorded conservation easement and a recorded plat.
4. Properties owned by Habersham County, the State of Georgia, or the Government of the United

States.

C. General Statements.

1. Rezoning property located in the HWY365 Overlay to a different base zoning district does not automatically remove the property from the HWY365 Overlay. All HWY365 Overlay development standards apply to rezoned properties, unless the Board of Commissioners has expressly approved removal of the property from the HWY365 Overlay.
2. Car garages attached or detached from primary residences, parking decks attached or detached to non-residential buildings, and unroofed features protruding from the exterior façade of buildings such as patios, decks, and terraces shall not be credited towards the satisfaction of minimum floor area requirements.

6.1.6 Dimensional Standards.

A. All property abutting and proposing access from a divided four-lane highway, regardless of zoning classification, must have at least 500 feet of frontage.

B. The minimum lot size requirement shall be determined by the base zoning district.

6.1.7 Access Management Requirements.

A. Curb Cuts: Frontages abutting Highway 365 or roadways which directly feed into Highway 365 shall comply with the following curb cut spacing standards listed in Table 6.1.9.A.2, Minimum Curb Cut Spacing in addition to the general standards listed below, subject to the Georgia Department of Transportation approval:

1. One vehicular access point per lot may be permitted provided that approval from the Georgia Department of Transportation must be obtained prior to the issuance of any permits for construction. New curb cuts shall be located at least 300 feet from roadway intersections. Additional vehicular access points may be approved by the Planning and Development Director upon finding that:
   a. The additional access is essential to the use of the property;
   b. Alternative access from another road, joint access with adjoining property or the construction of a frontage road is not feasible;
   c. Additional access would not be detrimental to existing or proposed uses in the area; and
   d. The Georgia Department of Transportation has approved or will approve the proposed access.
2. Except where necessary to support freight access to industrial uses, curb cuts shall be limited to a maximum width of 28 feet as measured at the right-of-way line.

Table 6.1.9.A.2 – Minimum Curb Cut Spacing	
SPEED LIMIT OF THE STREET	***MINIMUM SPACING***
30 MPH (or less)	125 FT
35 MPH	150 FT
40 MPH	175 FT
45 MPH	200 FT
50 MPH	275 FT
55 MPH	350 FT
60 MPH (or more)	500 FT

3. All new roads shall provide curbing and be constructed to Habersham County standards for public roads.
4. The existence or approval of vehicular access for residential or agricultural purposes does not obligate or require the county or the Georgia Department of Transportation to approve access for a change in use to nonresidential or non-agricultural uses.

B. Lots of Common Ownership. Parcels under common ownership and/or control by a single entity or person shall consolidate curb cuts to a maximum of one entrance for each 300 feet of parcel frontage to support cohesive streetscape along the HWY365 Overlay corridor.

6.1.8 Inter-Parcel Connections.

A. Connection Required. Vehicular and pedestrian connections shall be provided where new non-residential uses abut other non-residential uses, except where undisturbed buffers are required or where topographical constraints such as steep slopes exceeding a grade of 15 percent make such connections infeasible as determined by the Planning and Development Director.

B. Vehicular Connections. New developments shall provide at least one (1) vehicular connection to each adjacent parcel. Connections shall be constructed to the same standards as public or private internal roads and shall accommodate emergency vehicles.

C. Pedestrian Connections. An on-site pedestrian circulation system is required. The system shall connect all main entrances on the site and provide connections to other areas of the site to be used by building occupants, including parking areas, or any pedestrian amenities. It shall comply with the following:

1. Walkways shall be hard surfaced and at least 6 feet wide;
2. Walkways shared between four (4) lots or fewer may be reduced to 4 feet wide;
3. Where walkways cross parking areas or driveways, the path shall be made identifiable through the use of a different paving material, elevation changes, speed bumps, or similar pedestrian-oriented design element;
4. Walkways that run parallel to an auto-travel lane shall be physically separated from the auto travel lane through the use of raised curbing, landscaping, or other physical barrier, except where the travel lane has a posted speed limit no greater than 10 mph.
5. Pedestrian connections requirements may be waved in areas that are intrinsically non-pedestrian, at the discretion of the Planning and Development Director.

6.1.9 Streetscapes.

A. Each street frontage shall have a minimum 15-foot-wide landscape strip which runs continuously along the full length of both sides of the roadways internal to the site or along one side of the roadway abutting the external frontage of the site, except where interrupted for driveways, utilities, or other access. The landscape strip shall have street trees, hedges, streetlights, and minimum 6-foot-wide sidewalks.

B. Street trees shall be provided at a minimum rate of 1 tree for each 40 feet of linear frontage. More trees can be provided at owner's discretion. Trees shall measure at least 3-inch caliper (deciduous) or 8 feet tall (evergreen), and be in good health at time of planting.

C. To prevent utility line and driver sightline conflicts, trees shall be planted as follows:

   1. At least 3.5 feet behind the back of curb.
   2. At least 5 feet from underground utility lines.
   3. At least 10 feet away from driveways.
   4. At least 20 feet from streetlights and other existing or required trees.
   5. At least 30 feet from street intersections.

D. Street trees shall be a native species and an overstory tree that reaches at least 45 feet at full maturity. If the site has overhead power lines which cannot be relocated underground, the Planning and Development Director may authorize use of a tree that will grow to less than 25 feet at maturity (i.e., an understory tree) in lieu of an overstory tree.

E. Shrubs at least 5 gallons in size at time of planting shall be planted between street trees to provide additional screening of the property from the roadway. Shrubs shall be of a species that reaches at least 4 feet height at maturity.

F. Streetlights shall be provided in the 15-foot-wide landscape strip along any public or private roadways at a rate of 1 streetlight for each 80 feet of frontage. Streetlights shall be installed between the required street trees in an alternating streetlight, street tree, streetlight, street tree pattern.

G. Streetlights fixtures shall be LEDs and full cut off and poles shall not exceed 25 feet in height.

H. Streetlights and site lighting, including flood lighting or security lighting mounted to the building or internal to the site, shall be installed in accordance with the approved lighting plan. No changes to lighting apart from regular repair and maintenance shall be permitted without approval of a new lighting plan.

6.1.10 Internal Parking Area Design.

A. Off-street parking shall be required and shall be subject to the requirements of Article 9, Site Standards of the Habersham County UDO, except as provided in this section.

B. Parking Maximums. The maximum number of parking spaces that may be constructed on impervious surfaces shall be no more than 125 percent of the minimum number of required parking spaces for the anticipated land use.

C. Separate parking and loading/unloading areas shall be provided for freight, trucks, and buses.

D. Paving materials for parking lots.

   1. All parking areas shall be paved with asphalt, concrete, or pervious materials approved by the

Planning and Development Director.

2. Pervious paving. Recommended pervious paving materials include those described in the current edition of the Georgia Stormwater Management Manual as the Porous Concrete or Modular Porous Paver Systems under the Limited Application Stormwater Structural Controls.
3. Paving areas shall be of sufficient size and strength to support the weight of service vehicles.

E. On-street parking may be permitted, where appropriate, in accordance with on-street parking standards of Article 9, Site Standards.

6.1.11. Signage.

A. Applicability. Except as provided in the subsection, signage shall comply with the regulations of Article 11, Signs of the Habersham County UDO.

B. Freestanding and project entrance signs shall be limited to ground signs, and constructed of materials such as brick, stone, stucco, wood or metal consistent with the architecture and exterior treatment of the building.

C. The maximum sign area of any ground sign, inclusive of any border and trim, but excluding the base, apron, supports and other structural members shall be:

1. Ground signs on lots zoned commercial or industrial, including shared signs, on lots with more than one tenant shall be no greater than 100 square feet in sign area.
2. Ground signs on lots zoned commercial or industrial with one tenant shall be no greater than 64 square feet in sign area.
3. Ground signs on lots zoned institutional shall be no greater than 64 square feet of sign area.

6.2 Airport Hazard Overlay: General.

6.2.1 Title.

A. This section shall be known and may be cited as the Airport Hazard Overlay District (AH).

6.2.2 Purpose.

A. The description of airport zones is comprehensive for the Habersham County Airport airspace requirements, but enforcement of this section applies only to the unincorporated areas of Habersham County.

6.2.3 Authority, Findings, and Policies.

A. This section is adopted pursuant to the authority conferred by Article IX, Section II, Paragraph IV of the Constitution of the State of Georgia. It is hereby found that an obstruction has the potential for endangering the lives and property of users of the Habersham County Airport and property or occupants of land in its vicinity; that an obstruction may affect existing and future instrument approach minimums of Habersham County Airport and that an obstruction may reduce the size of areas available for the landing, takeoff and maneuvering of aircraft, thus tending to destroy or impair the utility of Habersham County Airport and the public investment therein. Accordingly, it is declared:

1. That the creation or establishment of an obstruction has the potential of being a public nuisance and may injure the region served by Habersham County Airport;
2. That it is necessary in the interest of the public health, public safety and general welfare that the creation or establishment of obstructions that are a hazard to air navigation be prevented; and
3. That the prevention of these obstructions should be accomplished, to the extent legally possible, by the exercise of the police power.

B. It is further declared that the prevention of the creation or establishment of hazards to air navigation; the elimination, removal, alteration or mitigation of hazards to air navigation and the marking and lighting of obstructions are public purposes for which a political subdivision may raise and expend public funds and acquire land or interests in land.

6.2.4 Airport Zones.

A. In order to carry out the provisions of this section, there are hereby created and established certain zones which include all of the land lying beneath the approach surfaces, transitional surfaces; horizontal surfaces, and conical surfaces as they apply to the Habersham County Airport. Such zones are shown on the Habersham County Airport zoning map consisting of one sheet, prepared by the Habersham County Planning and Development Department, which is, by this reference, a part of this division. An area located in more than one of the following zones is considered to be only in the zone with the more restrictive height limitation. The various zones are hereby established and defined as follows:

B. Utility runway visual approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 1,250 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

C. Utility runway non-precision instrument approach zone: The inner edge of this approach zone of this approach zone coincides with the width of the primary surface and is 500 feet wide. The approach zone expands outward uniformly to a width of 2,000 feet at a horizontal distance 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

D. Runway larger than utility visual approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 1,500 feet at a horizontal distance of 5,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

E. Runway larger than utility with a visibility minimum greater than three-fourths-mile nonprecision instrument approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 3,500 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

F. Runway larger than utility with a visibility minimum as low as three-fourths-mile nonprecision instrument approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 4,000 feet at a horizontal distance of 10,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

G. Precision instrument runway approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 1,000 feet wide. The approach zone expands outward uniformly to a width of 16,000 feet at a horizontal distance of 50,000 feet from the primary surface. Its centerline is the continuation of the centerline of the runway.

H. Heliport approach zone: The inner edge of this approach zone coincides with the width of the primary surface and is 100 feet wide. The approach zone expands outward uniformly to a width of 500 feet at a horizontal distance of 4,000 feet from the primary surface.

I. Transitional zones: The transitional zones are the areas beneath the transitional surfaces.

J. Heliport transitional zones: These zones extend outward from the sides of the primary surface and the heliport approach zones a horizontal distance of 250 feet from the primary surface centerline and the heliport approach zone centerline.

K. Horizontal zone: The horizontal zone is established by swinging arcs of 10,000 feet radii from the center of each end of the primary surface of each runway and connecting the adjacent arcs by drawing lines tangent to those arcs. The horizontal zone does not include the approach and transitional zones.

L. Conical zone: The conical zone is established as the area that commences at the periphery of the horizontal zone and extends outward therefrom a horizontal distance of 4,000 feet.

6.2.5 Airport Zone Height Limits.

A. Except as otherwise provided in this article, no structure shall be erected, altered, or maintained, and no tree shall be allowed to grow in any zone created by this article to a height in excess of the applicable height limit herein established for such zone. Such applicable height limitations are hereby established for each of the zones in question as follows.

B. Utility runway visual approach zone: Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

C. Utility runway nonprecision instrument approach zone: Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

D. Runway larger than utility visual approach zone: Slopes 20 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 5,000 feet along the extended runway centerline.

E. Runway larger than utility with a visibility minimum greater than three-fourths-mile nonprecision instrument approach zone: Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

F. Runway larger than utility with a visibility minimum as low as three-fourths-mile nonprecision instrument approach zone: Slopes 34 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline.

G. Precision instrument runway approach zone: Slopes 50 feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a horizontal distance of 10,000 feet along the extended runway centerline; thence slopes upward 40 feet horizontally for

each foot vertically to an additional horizontal distance of 40,000 feet along the extended runway centerline.

H. Heliport approach zone: Slopes eight feet outward for each foot upward beginning at the end of and at the same elevation as the primary surface and extending to a distance of 4,000 feet along the heliport approach zone centerline.

I. Transitional zones: Slopes seven feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the approach surface, and extending to a height of 150 feet above the airport elevation which is 1,598 feet above mean sea level. In addition to the foregoing, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface and extending to where they interest the conical surface. Where the precision instrument runway approach zone projects beyond the conical zone, there are established height limits sloping seven feet outward for each foot upward beginning at the sides of and at the same elevation as the approach surface, and extending a horizontal distance of 5,000 feet measured at 90-degree angles to the extended runway centerline.

J. Heliport transitional zones: Slopes two feet outward for each foot upward beginning at the sides of and at the same elevation as the primary surface and the heliport approach zones and extending a distance of 250 feet measured horizontally from and at 90 degree angles to the primary surface centerline and heliport approach zones centerline.

K. Horizontal zone: Established at 150 feet above the airport elevation or at a height of 1,598 feet above mean sea level.

L. Conical zone: Slopes 20 feet outward for each foot upward beginning at the periphery of the horizontal zone and at 150 feet above the airport elevation and extending to a height of 350 feet above the airport elevation.

6.2.6 Uses Restricted.

A. Notwithstanding any other provisions, no use may be made of land or water within any zone established by this article in such a manner as to create electrical interference with navigational signals or radio communication between the airport and aircraft, make it difficult for pilots to distinguish between airport lights and other lights, result in glare in the eyes of pilots using the airport, impair visibility in the vicinity of the airport, create bird strike hazards or otherwise in any way endanger or interfere with the landing, takeoff or maneuvering of aircraft intending to use the airport.

6.2.7 Nonconforming Uses in Airport Zones.

A. Regulations not retroactive. The regulations prescribed by this article shall not be construed to require the removal, lowering or other change or alteration of any structure or tree not conforming to the regulations as of the effective date or otherwise interfere with the continuance of nonconforming use. Nothing contained herein shall require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this article, and is diligently prosecuted.

B. Marking and lighting. Notwithstanding the preceding provisions of this section, the owner of any existing nonconforming structure or tree is hereby required to permit the installation, operation and maintenance thereon of such markers and lights as shall be deemed necessary by the Habersham County Airport Commission to indicate to the operators of aircraft in the vicinity of the airport the

presence of such airport obstruction. Such markers and lights shall be installed, operated and maintained at the expense of the airport commission.

6.2.8 Permits.

A. Future uses. Except as specifically provided in paragraphs (1), (2) and (3) hereunder, no material change shall be made in the use of the land, no structure shall be erected or otherwise established and no tree shall be planted in any zone created in this article unless a permit therefore shall have been applied for and granted.

1. Each application for a permit shall indicate the purpose for which the permit is desired, with sufficient particularity to permit it to be determined whether the resulting use, structure or tree would conform to the regulations herein prescribed. If such determination is in the affirmative, the permit shall be granted.
2. No permit for a use inconsistent with the provisions of this article shall be granted unless a variance has been approved in accordance with this subsection.
3. In the area lying within the limits of the horizontal zone and conical zone, no permit shall be required for any tree less than 75 feet of vertical height above the ground, except when, because of terrain, land contour or topographic features, such tree would extend above the height limits prescribed for such zones.
4. In areas lying within the limits of the approach zones, but at a horizontal distance of not less than 4,200 feet from each end of the runway, no permit shall be required for any tree less than 75 feet of vertical height above the ground, except when such tree would extend above the height limit prescribed for such approach zones.
5. In the areas lying within the limits of the transition zones beyond the perimeter of the horizontal zone, no permit shall be required for any tree less than 75 feet of vertical height above the ground, except when such tree, because of terrain, land contour or topographic features, would extend above the height limit prescribed for such transition zones.
6. Nothing contained in any of the foregoing exceptions shall be construed as permitting or intending to permit any construction, or growth of any tree in excess of any of the height limits established by this article.

B. Existing uses. No permit shall be granted that would allow the establishment or creation of an obstruction or permit a nonconforming use, structure or tree to become a greater hazard to air navigation than it was on the effective date of this article or any amendments thereto or than it is when the application for a permit is made. Except as indicated, all applications for such a permit shall be granted.

C. Nonconforming uses, abandoned or destroyed. Whenever the administrative officer determines that a nonconforming tree or structure has been abandoned or more than 50 percent torn down, physically deteriorated, or decayed, no permit shall be granted that would allow such structure or tree to exceed the applicable height limit or otherwise deviate from the zoning regulations.

D. Variances. Any person desiring to erect or increase the height of any structure or permit the growth of any tree or use property not in accordance with the regulations prescribed in this article, may apply to the Planning Commission for a variance from such regulations.

1. The application for variance shall be accompanied by a determination from the Federal Aviation

Administration as to the effect of the proposal on the operation of air navigation facilities and the safe, efficient use of navigable airspace.

2. Such variances may be allowed where it is found that a literal application or enforcement of the regulations will result in unnecessary hardship and relief granted will not be contrary to the public interest, will not create a hazard to air navigation, will do substantial justice and will be in accordance with the spirit of this article. ‘
3. No application for variance to the requirements of this article may be considered by the Planning Commission unless a copy of the application has been furnished to the Habersham County Airport Commission for advice as to the aeronautical effects of the variance.
4. If the Habersham County Airport Commission does not respond to the application within thirty (30) days after receipt, the Planning Commission may act on its own to grant or deny said application.

E. Obstruction marking and lighting. Any permit or variance granted may, if such action is deemed advisable to effectuate the purpose of this article and be reasonable in the circumstances, be so conditioned as to require the owner of the structure or tree in question to install, operate and maintain, at the owner’s expense, such markings and lights as may be necessary. If deemed proper by the Planning Commission, this condition may be modified to require the owner to permit the Habersham County Airport Commission, at its own expense, to install, operate and maintain the necessary markings and lights.

6.2.9 Enforcement.

A. It shall be the duty of the administrative officer to administer and enforce the regulations prescribed in this section.

1. Applications for permits and variances shall be made to the administrative officer upon a form published for that purpose.
2. Applications required by this article to be submitted to the administrative officer shall be considered at the next available Planning Commission meeting in accordance with advertising requirements as listed in Article 14.

6.2.10 Conflicting Laws and Regulations.

A. Where there exists a conflict between any of the regulations or limitations prescribed in this article and any other regulations applicable to the same area, whether the conflict be with respect to the height of structures or trees, and the use of land, or any other matter, the more stringent limitation or requirement shall govern and prevail.

6.2.11 Severability.

A. If any of the provisions of this article or the application thereof to any person or circumstances are held invalid, such invalidity shall not affect other provisions or applications of the article which can be given effect without the invalid provision or application, and to this end, the provisions of this article are declared to be severable.

ARTICLE 7. SUBDIVISIONS

7.1 Purpose and Authority

7.1.1 Purpose.

This chapter is adopted for the following purposes, among others:

(a) To assure equitable handling of all subdivision plats by providing uniform procedures and standards for the subdivider;

(b) To assure, in general, the wise development of new land areas, in harmony with the comprehensive plan of the county;

(c) To assure the accurate description of property, the identification of property boundaries with monuments, and the proper recording of property descriptions in public records;

(d) To help eliminate the costly maintenance problems which occur when streets and lots are laid out without proper consideration given to various public purposes;

(e) To protect lot purchasers who generally lack the specialized knowledge to evaluate subdivision improvements and design; and

(f) To implement the Georgia Plat and Condominium Plan Recording Act of 2017 and other applicable state laws.

7.1.2 Authority of Director.

(a) In accordance with the provisions of this chapter, the Planning and Development Director shall have authority to review and approve, conditionally approve, or disapprove of preliminary plats, and final plats for major subdivisions. The Planning and Development Director shall have authority to approve final plats for minor subdivisions including lot combination plats and boundary line adjustments, provided, however, the Planning and Development Director does not have authority to accept any public improvements on behalf of the Habersham County Board of Commissioners. Public streets shall only be accepted by the Habersham County Board of Commissioners, following procedures for public dedications specified in this chapter.

(b) The Planning and Development Director shall not sign and approve any final or other plat required by this chapter, nor shall any plat be authorized for recording, unless the plat meets the minimum requirements of this chapter and any other applicable provision of this UDO.

Sec. 7-104. Exemptions.

The following types of land subdivisions, transfers, and sales are specifically exempted from the plat approval requirements of this chapter; provided, however, that such exemptions shall not apply to land development requirements and improvement requirements of this chapter or compliance with other applicable requirements of this development code:

(a) Retracement surveys and easement surveys, as specifically authorized in this chapter;

(b) The creation and sale of cemetery plots;

(c) The sale of lots consistent with previously approved and recorded plats or deeds;

(d) The creation of leaseholds for space within a multiple-occupancy building or the division of property into leaseholds (but not for sale) for commercial, industrial, or institutional use;

(e) The creation of leaseholds (but not for sale) for the agricultural use of property where the use does not involve the construction of a building to be used as a residence or for other purposes not directly related to agricultural use of the land or crops or livestock raised thereon.

(f) Any division of land to heirs through a judicial estate proceeding, or any division of land pursuant to a judicial partition, or any division of land occurring from the foreclosure of a deed of trust; provided, however, that such exemption shall not require the Planning and Development Director to issue permits if the resulting lots or parcels fail to meet any applicable zoning provisions regarding lot size, lot width, or other dimensional requirements.

7.2 General Provisions

7.2.1 Land is one lot until subdivided.

Until property proposed for subdivision has received final plat approval and been properly recorded, the land involving the subdivision shall be considered as one lot, or as otherwise legally recorded.

7.2.2 Subdivision of land.

(a) No person shall subdivide land except in accordance with this chapter and this UDO generally.

(b) It shall be unlawful to sell or transfer title to another person any lot or tract or portion thereof of land that has not been established as a lot of record, except in compliance with this chapter. Unless the lot to be sold or transferred is a lot of record, final plat approval by the county in accordance with this chapter shall be required. This section shall not be interpreted as limiting the sale or transfer of lots consistent with previously lawfully approved recorded plats or deeds.

(c) It shall be unlawful for any person, firm, corporation, owner, agent or subdivider, by deed or plat, to sell, transfer, agree to sell, offer at public auction, negotiate to sell or subdivide any land until a preliminary plat, if required, and final plat have been approved by the Planning and Development Director and final plat recorded in accordance with this chapter. Said restriction applies to lands subdivided for non-residential as well as residential uses. The description by metes and bounds in the instrument of transfer or other document used in the process of selling or transfer shall not exempt the transaction from compliance with this chapter or from the penalties established for violations of this development code.

(d) The county through its attorney or other designated official may enjoin such transfer of, sale, or agreement by appropriate action.

7.2.3 Lots must comply with development code requirements.

No person shall subdivide land, and the Planning and Development Director shall not approve any subdivision of land, unless the lots created pursuant to said subdivision meet or exceed all applicable requirements of the zoning district in which it is located, overlay district if applicable, environmental overlay district if applicable and any other applicable requirements of this UDO, as may be amended from time to time. For minimum lot frontage, minimum lot width and minimum lot size requirements by zoning district, see chapter 2 of this UDO.

7.2.4 Improvements required for final platting.

No final subdivision plat involving a public dedication of land or public improvement of streets or public utilities shall be approved and signed by the Planning and Development Director or accepted for recordation by the Clerk of Superior Court of Habersham County until all improvements, if required by this chapter or development code generally, have been constructed or installed in a satisfactory manner and approved by the Planning and Development Director and public utility provider as applicable.

7.2.5 Creation of homeowner's association.

(a) **Required.** For any major subdivision a homeowner's or property owner's association shall be required to be created which shall be responsible for the ownership and maintenance of common areas, open spaces and/or stormwater detention facilities within the subdivision. The homeowner's or property owner's association must be maintained as the responsible owner of such facilities and lands and shall not be dissolved unless another ownership entity is accepted by the Habersham County Board of Commissioners.

(b) **Mandatory membership.** Membership in the homeowner's association must be mandatory for each property in the development.

(c) **Bylaws and covenants.** Such association must also include homeowner's or property owner's declaration and bylaws, including covenants, conditions and regulations applicable to each property in the development.

(d) **Approval and recording.** The instruments of such creation and financial endowment shall be submitted to the Planning and Development Director for review and approval; covenants are also subject to approval by the county attorney, and such approval shall be obtained prior to recording. said instruments shall also be recorded at the time of final plat recording with cross-references to recording information on both the instruments and the final plat. A copy of the recorded instruments shall be filed with the Planning and Development Director following recording.

(e) **Enforcement.** The declaration and bylaws shall be enforced by an association management company, which shall have the power to compel the payment of membership dues and assessments.

(f) **Condominium association.** For condominium projects, incorporation of a condominium association consistent with state law will serve in lieu of the requirements of this section.

7.2.6 Easements.

(a) Easements for drainage or public utilities may be required in connection with any major or minor subdivision as determined by the Planning and Development Director in conjunction with utility providers. A drainage easement is required and shall be provided along any manmade drainage channel or drainage pipe located outside a street right-of-way. When required, easements shall be shown on the final plat.

(b) The minimum width of any drainage, water, or sanitary sewer easement shall be twenty (20) feet. Easements for water, sanitary sewers and/or drainage purposes may be combined, but must be a minimum of thirty (30) feet if in combination. Pedestrian easements, if required by the Planning and Development Director, shall be at least ten (10) feet wide.

7.2.7 Retracement surveys.

Pursuant to O.C.G.A. 44-2-26, the owner of real property, or of any interest therein or any holder of a lien thereon may file a plat of the property in the office of the clerk of superior court of the county in which the property or any part thereof is located. Said plat shall be considered a retracement survey, provided that it contains the surveyor certification box and all other applicable information for retracement surveys as required by this chapter. Such retracement survey shall not require local approval and shall be entitled to be filed and recorded.

7.2.8 Surveyor certification box for retracement surveys.

(a) Each plat of a retracement survey shall have depicted thereon a box which contains the following applicable certifications of the land surveyor:

"This plat is a retracement of an existing parcel or parcels of land and does not subdivide or create a new parcel or make any changes to any real property boundaries. The recording information of the documents, maps, plats, or other instruments which created the parcel or parcels are stated hereon. Recordation of this plat does not imply approval of any local jurisdiction, availability of permits, compliance with local regulations or requirements, or suitability for any use or purpose of the land. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67."

(b) The land surveyor shall sign on a line immediately beneath the certification on the plat. At the discretion of the land surveyor and in conformity with local regulations, the surveyor may electronically sign the certification using a facsimile signature. The facsimile signature may be a reproduction of an original signature or an electronically created signature. If the land surveyor elects to use a facsimile signature, the surveyor must maintain full control over the application and use of such signature.

(c) In the case of a plat that is a retracement survey, the land surveyor shall state clearly the recording information of any document, map, plat, or other instrument which created any of the parcels depicted. The depiction of gores, overlaps, or other parcel delineation as may be necessary to remedy or address title issues or deficiencies shall be allowed as part of the retracement function.

(d) Plats bearing the certification required for retracement surveys shall be entitled to recordation without further review or local approval.

7.2.9 Easement surveys.

Plats that depict existing or proposed easements, including for any purpose including utilities, access, no access, or for conservation purposes, may be recorded using the certification for retracement surveys, provided that there are no changes to any real property boundaries, and provided that the plat includes information required by this chapter. Plats bearing the certification required for retracement surveys shall be entitled to recordation without further review or local approval.

7.2.10 Family Exemption Subdivisions.

Family Exemption subdivisions shall comply with the following requirements:

A. Be drawn in accordance with the Final Plat Specifications in Section 7.5 and shall be submitted with appropriate fees to the Planning and Development Department for review and approval. Upon approval, the Plat shall be recorded with the Clerk of Superior Court and building permits issued pursuant to Habersham County codes and ordinances.

B. Buildings in family exemption subdivisions are subject to the requirements of Secs. 8.4 and 8.5 for building permits and certificates of occupancy.

C. Family Conveyance Lots shall comply with the following:

1. The minimum lot size shall be one (1) acre.
2. For the purpose of this section, the property owner (grantor) may be a family trust or family partnership so long as the trustees, beneficiaries and/ or partners (grantee) are composed only of members of the immediate family of the landowner as defined in Sec. 2.3, Defined Terms.
3. The lot to be conveyed shall only be conveyed to an immediate family member who shall not receive more than one lot under the Family Conveyance Lot.
4. The purpose of a family conveyance transfer must be to provide for the housing needs of the grantee.
5. Each lot proposed to be created must comply with all applicable requirements of this UDO.
6. The initial or parent parcel may only be subdivided under the provisions of a Family Conveyance Lot to create a maximum of three (3) new lots.
7. All proposed plats for a family exemption shall include the following statement: “This subdivision survey creates new parcels under a limited exemption to the Habersham County Unified Development Code for Immediate Family Members of the grantor, and the intent and purpose of this exemption is to allow the sale or transfer of such newly created parcels only to Immediate Family Members as defined by the Unified Development Ordinance.”
8. For any newly created family exemption subdivision not abutting a public road, access to the public road shall be provided by a permanent easement. Proof of recorded easement must be provided prior to the issuance of a building permit.
9. The family conveyance transfer may not be proposed for the purpose of circumvention of the subdivision ordinance.
10. The provisions of this section shall not prohibit the conveyance of interest in a lot to a third party as security for a mortgage, deed of trust or other secured loan.
11. A family exemption subdivision shall follow the permitting procedures of Sec. 7.2.10 (A)

7.2.11 Limitations on minor subdivisions.

(a) **Purpose.** Minor subdivisions provide certain advantages, such as a shorter application process and less public scrutiny, that tend to favor their use over the filing of major subdivision applications. Also, major subdivisions are subject to higher standards of improvement for abutting substandard streets. Given these advantages, the prospect exists that subdividers may seek to divide a parcel via consecutive and/or contiguous minor subdivisions instead of filing for a major subdivision. It is the intent of Habersham County to prohibit the practice of "chain" subdivisions where the same land owner subdivides land and then files minor subdivision applications on common contiguous parcels, which collectively total more than three (3) lots. It is also the intent of Habersham County to prohibit minor subdivisions adjacent to each other within a three-year time period, in cases where part of an original tract of land is now owned by another person or entity and was transferred or sold to another owner.

(b) **Contiguous common parcels shown on minor subdivision plats.** Contiguous common parcels shall be referenced on all applications for minor subdivisions, and contiguous common parcels shall be considered part of any application for minor subdivision, for purposes of determining whether or not the division of land proposed is a major subdivision or a minor subdivision. Contiguous common parcels shall not be counted as lots in the case of a minor subdivision.

(c) **Limitations.** Land within a minor subdivision, including all contiguous parcels owned by the subdivider, shall not be further divided for a period of three years unless a preliminary plat application is filed and approved as a major subdivision pursuant to the requirements of this chapter. If property proposed to be subdivided was part of an original tract, and if the property proposed to be subdivided abuts land that has been divided as a minor subdivision in the last three years, then minor subdivision of said property shall be prohibited. This provision shall not be construed to prohibit the approval of two contiguous minor subdivisions under separate ownership; however, this provision is intended to be construed liberally so that one property owner does not develop a minor subdivision on part of an original tract and transfer or sell another part of the original tract for the purposes of minor subdivision within a three year period. It is the intent that land abutting a minor subdivision that was owned by the subdivider of the abutting minor subdivision shall not be subdivided as a minor subdivision for a period of three years, regardless of ownership.

7.3 Preliminary Plat

7.3.1 Preliminary plat – when required.

Any subdivision involving the dedication of a public street or public land, any subdivision involving a new private street, and any subdivision requiring a public improvement as defined, and any subdivision of more than three (3) lots shall require the submission of a preliminary plat.

7.3.2 Relationship of preliminary plat to development permit.

(a) A preliminary plat application may be processed in conjunction with an application for development permit. However, the preliminary plat must be approved prior to issuance of a development permit for the project. Further, applicants who submit development permit applications simultaneously with a preliminary plat are subject to possible revision of development plans if the preliminary plat is changed in a manner inconsistent with the development plans.

(b) A development permit per the requirements of this development code shall be required prior to initiation of any land disturbing or construction activities on the lands proposed for subdivision, as provided in Article 8 of this development ordinance.

(c) Preliminary plat approval shall be valid for a period of two (2) years, after which preliminary plat approval shall expire if there have been no improvements installed on the land subject to subdivision.

7.3.3 Preliminary plat specifications.

The following specifications are required for a preliminary plat:

(a) Proposed name of subdivision. The proposed name of the subdivision shall not duplicate or too closely approximate, phonetically, the name of any other subdivision in the county. If shown to the contrary, the Planning and Development Director may refuse to accept such subdivision name.

(b) Plat scale and sheet size. The preliminary plat shall be clearly and legibly drawn at a scale of 100 feet or less to 1 inch. The recommended maximum dimensions of the sheet size is 36 inches by 48 inches and the minimum dimensions of 17 inches by 22 inches; however, the Planning and Development Director may approve other sheet sizes and scales as appropriate.

(c) Owner and professional contact information. Name, mailing address, telephone and e-mail address of the property owner and the professional preparing the preliminary plat.

(d) Miscellaneous. Date of boundary survey, north point and graphic scale, source of data, date of plan drawing, and, if any, revision dates.

(e) Location and tract boundaries**.** Location and size of the property in acres (or in square feet if less than an acre), and the external boundaries of the tract to be subdivided or developed shown by bearings and distances. The preliminary plat must reference and be based on a boundary survey of the exterior boundaries of the proposed subdivision, prepared by a registered land surveyor.

(f) Vicinity map. A location map of the property in relation to the surrounding area with regard to well-known landmarks such as arterial streets, railroads, and major water courses.

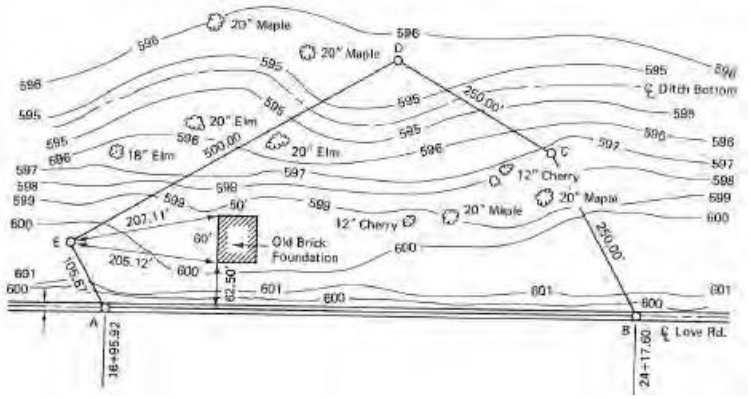
(g) Abutting property information. Names of adjoining property owners per recorded deeds, zoning district of all adjoining properties, and if applicable overlay district designations of all adjoining properties.

(h) Prior subdivision. Name of former approved subdivision, if any, for all of the land in the preliminary plat that has been previously subdivided, showing boundaries of same.

(i) Zoning. Zoning district boundaries and zoning designation(s) of the subject property and, if applicable, overlay district.

(j) Application number and conditions. Rezoning, conditional use, and variance application number, date of approval, and conditions of approval, if applicable.

(k) Natural features and flood plains. Natural features within the property, including topographic contours at no less than five-foot intervals, drainage channels, bodies of water, wetlands, streams with required buffer designated, wooded areas and other significant natural features such as groundwater recharge areas and rock outcroppings. On all water courses entering or leaving the property, the direction of flow shall be indicated. The 100-year flood plain, if any, shall be delineated.



Illustrative Topography and Existing Conditions

(l) Streets, easements, political boundaries and built features. Man-made features within and adjacent to the property, including street right-of-way and pavement widths, names of existing streets, all easements, city and county political boundary lines, and other significant information such as location and dimensions of bridges, existing buildings to remain, and other features.

(m)Subdivision block and lot layout. The proposed subdivision layout including lot lines and street right-of-way lines, with proposed street names or letter designations and right-of-way widths, along with the front building setback line and the approximate dimensions of the length and width of each lot. The total number of lots in the subdivision and the total acreage in the tract to be subdivided shall be indicated. Lots shall be numbered consecutively in a clockwise fashion, and the approximate land area of each lot shall be indicated for each lot. The proposed phasing of the subdivision shall be indicated, if it is proposed to be platted in phases.

(n) Water and sewage disposal. A statement as to the source of the domestic water supply and provisions for sanitary sewage disposal. For those properties that will not be served by a public sanitary sewerage system, location and results of soil tests or percolation tests as required and approved by the Habersham County Environmental Health Department.

(o) Stormwater management. The approximate location of proposed storm water detention facilities. Compliance with stormwater management requirements of this development ordinance will be required for the issuance of a development permit.

(p) Public land reservations. In addition to public streets, the preliminary plat shall indicate land if any to be dedicated for public use.

(q) Additional information. Additional information as may be required by the Planning and Development Director to ensure compliance with this UDO.

7.3.4 Procedures.

(a) Pre-application Conference. Whenever a subdivision is proposed within Habersham County, the developer is urged to consult early with the administrative officer, his designee, and/or the review committee. The developer may present sketch plans and data showing existing conditions within the site and in its vicinity and the proposed layout and development of the subdivision and request advice and guidance concerning the project and the administrative procedures involved.

(b) Sequence of Administrative Procedures. Listed below in sequential order are the steps required to successfully complete development of a subdivision:

1. Pre-application conference with the administrative officer: For projects of unique design, a conceptual site drawing would aid in the conference.
2. Review the UDO for guidance in design.
3. Determine the public school district(s) and school(s) that will be necessarily impacted by the proposed subdivision.
4. Request the board of education determine the current student load and maximum capacity in each public school to be necessarily impacted by the proposed subdivision.
5. Consult with Habersham County Health Department to identify any possible water or sewage problems associated with the land proposed for subdividing.
6. Consult FIRM maps, historical flood data, county review staff and design professionals to ensure that land being developed does not propose building sites in flood plains, flood hazard areas and that natural waterways will not be interrupted.
7. Have land surveyed to obtain required data for plat submittal and to determine and detail natural features such as topography and geometry, establish lot lines and other specifications required in this chapter. Submit the preliminary plat to the planning department with the following:
   i. Submit a letter requesting review and approval of a preliminary plat.
   ii. Submit five copies of the preliminary plat and other documents as may be specified.
   iii. A preliminary plat filing fee shall be assessed as established in the fee schedule approved by the Habersham County Board of Commissioners.
   iv. A department of transportation letter is required at the preliminary plat stage if any new road or street is created that abuts/joins a state route.
   v. Submit a traffic study when any new road or street is created.
8. Be prepared to accompany the Planning and Development Department staff to the development

site.

9. Obtain approval from the Planning and Development Director. The preliminary plat does not constitute nor provide assurance of approval of the final plat or building or development permits but is to be used as the development design for the subdivision and for the acquisition of a development permit as provided for in the UDO.

7.3.5 Amendments to approved preliminary plats.

The Planning and Development Director is authorized to approve amendments to preliminary plats. Any proposed amendment to a preliminary plat that is determined by the Planning and Development Director to constitute a public interest shall be deemed a major amendment. For all amendments to preliminary plats determined to be major amendments, the Planning and Development Director shall approve, conditionally approve, or deny the proposed major amendment to a preliminary plat following the same procedures required for an initial application for preliminary plat approval as specified in this article.

7.4 Standards for Major Subdivision Blocks and Lots

7.4.1 Suitability of land.

Land physically unsuitable for subdivision because of flooding, poor drainage, steep slopes, rock formations or other such features that may endanger health, life or property, aggravate erosion, increase flood hazard, or necessitate excessive expenditures of public funds for supply and maintenance of services shall not be approved for subdivision or development unless adequate methods are formulated by the subdivider for solving the problems.

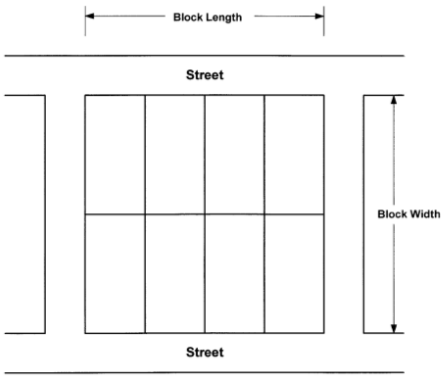
7.4.2 Conformance with comprehensive plan and other plans.

(a) All proposed major subdivisions shall conform to the comprehensive plan and development policies in effect at the time of submission to the Planning and Development Director. All highways, streets and other improvements recommended in the county transportation plan, if applicable, shall be platted by the developer in the location and to the dimension indicated in the county transportation plan.

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

7.4.3 Block length.

Intersecting streets shall be provided at such intervals so as to provide adequate cross traffic and connectivity. Blocks in residential subdivisions should not exceed 1800 feet nor be less than 600 feet in length, except where topography or other conditions justify a departure from these standards.



Block, Block Length, and Block Width

7.4.4 Block width.

(a) The width of a block shall be sufficient to allow two tiers of lots of appropriate depth, except where double frontage lots on arterial streets are provided, or when prevented by topographic conditions or size of the property, or for lots along the periphery of the subdivision, in which case the county may approve a single row of lots.

(b) Blocks intended for business or industrial use shall be of such width as to be considered most suitable for their respective use, including adequate space for off-street parking, deliveries, and service.

7.4.5 Lot depth.

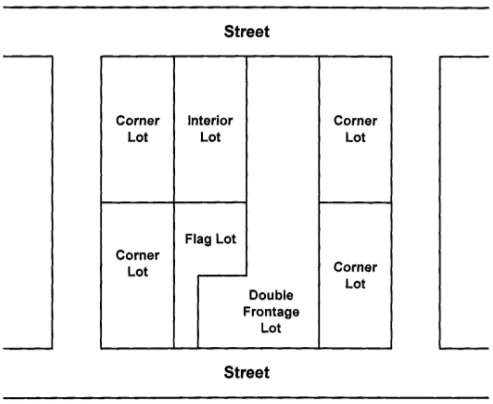
The depth of lots intended for detached, single-family residential shall not be greater than four times the width of the lot at the regulatory building line, unless unusual circumstances make these limitations not practicable. Lots intended for other uses should observe this maximum lot depth standard where practicable.

7.4.6 Adequate building site.

Each lot shall contain an adequate building site not subject to flooding and outside the limits of any existing easements, required building setback lines, and required stream buffers.

7.4.7 Lot lines.

All side lot lines shall be perpendicular to street lines, and all rear lot lines shall be parallel or radial to street lines, unless not practicable because of topographic or other features.



TYPES OF LOTS

7.4.8 Double frontage lots.

Double frontage lots shall be avoided except where essential to provide separation of residential development from traffic arteries or overcome specific disadvantages of topography or orientation. The county may require a no-access easement of at least ten (10) feet in width, across which there shall be no right of access, along the line of lots abutting such a traffic artery.

7.4.9 Flag lots.

(a) Flag lots, which meet minimum lot area requirements and meet the minimum lot width at the front building setback line where the building is placed, may be allowed where conditions of hardship make standard design or frontage impossible, impractical, or inefficient with regard to land use.

(b) Where flag lots are allowed, the street frontage of each panhandle portion of the lot shall not be less than sixty (60) feet wide, and the panhandle portion of the lot shall be no less than sixty (60) feet wide and not more than 300 feet long.

(c) Not more than two such panhandle access points shall abut each other. The county may require shared driveways for abutting flag lots.

7.4.10 Lot remnant not permitted.

All remnants of lots less than the required minimum lot size which may be left over after subdividing a larger tract, must be added to adjacent lots, rather than allowed to remain as unusable or noncompliant parcels. The Planning and Development Director may permit a lot remnant for a specific purpose such as a detention pond or buffering, provided that access and design is appropriate and the lot remnant is restricted to specific public, utility, or conservation use.

7.5 Final Plat Specifications

7.5.1 Format for plats

All images of a plat submitted for filing in the office of the clerk of superior court shall:

(a) Be at full size of the drawing scale stated thereon;

(b) Be an electronic image of a plat presented to the clerk electronically in conformance with all specifications set forth in any rules and regulations promulgated by the Georgia Superior Court Clerks' Cooperative Authority;

(c) Comply with the minimum standards and specifications adopted in the rules and regulations of the State Board of Registration for Professional Engineers and Land Surveyors; and

(d) Provide a box of not less than three inches square, if at full size, in the upper left-hand corner which shall be reserved for the clerk to append filing information.

7.5.2 Data for plats required per state law.

This section enumerates data required to be shown on plats per the Georgia Plat Recording Act of 2017.
(a) County. The county where the property lies.

(b) City. Any municipality wherein the property lies.

(c) Owner. The name and address of the property owner or owners of the subject property as stated on the most current or applicable title instrument.

(d) Plat type. The type of plat (final subdivision, boundary line adjustment, lot combination, retracement survey, easement survey, dedication plat, etc.).

(e) Name. The name of any subdivision if the property lies within a named subdivision or if the plat is creating a new subdivision.

(f) Division designations. The applicable units, pods, blocks, lots, or other sub-designations of any named subdivision.

(g) Developer. The name or names and address(es) of the developer or developers of any named new subdivision.

(h) Land lots and districts. All applicable land lots, land districts, sections, reserves, or militia districts wherein the platted property lies.

(i) Date and revision dates. The date of initial preparation and issuance and any revision dates, including a brief explanation of each revision.

(j) Surveyor. The name, address, and telephone number of the land surveyor who prepared and sealed the plat and, if working for or through a firm, corporation, partnership, association, limited liability company, or other entity, then also the certificate of authorization number of that entity, in which case the address and telephone number of such entity are acceptable in lieu of the individual surveyor's address and telephone number.

(k) Surveyor registration. The registration number of the land surveyor or a statement that he or she is the county surveyor and is not required by law to be a registered surveyor.

(l) Surveyor seal. The seal of the land surveyor who has prepared the plat and is signing the surveyor certification, which shall be placed within or next to the surveyor certification box.

(m)Page numbers. If the plat has multiple pages the page number for each applicable page and the total number of sheets in the set shall be placed on each sheet in the same or similar location. The information required by this paragraph may be placed on all sheets or on different sheets within the set submitted for filing.

(n) Scale. The scale of the plat stated and shown graphically.

(o) Surveyor certification box for subdivision plats. Each plat involving a subdivision shall have depicted thereon a box which contains the following certification of the land surveyor:
"As required by subsection (d) of O.C.G.A. Section 15-6-67, this plat has been prepared by a land surveyor and approved by all applicable local jurisdictions for recording as evidenced by approval certificates, signatures, stamps, or statements hereon. Such approvals or affirmations should be confirmed with the appropriate governmental bodies by any purchaser or user of this plat as to intended use of any parcel. Furthermore, the undersigned land surveyor certifies that this plat complies with the minimum technical standards for property surveys in Georgia as set forth in the rules and regulations of the Georgia Board of Registration for Professional Engineers and Land Surveyors and as set forth in O.C.G.A. Section 15-6-67."
The land surveyor shall sign on a line immediately beneath the certification on the plat. At the discretion of the land surveyor and in conformity with local regulations, the surveyor may electronically sign the certification using a facsimile signature. The facsimile signature may be a reproduction of an original signature or an electronically created signature. If the land surveyor elects to use a facsimile signature, the surveyor must maintain full control over the application and use of such signature.

(p) Additional certifications. Additional dates, certifications, and signatures, which may be electronically created signatures, may be placed on plats. Such certifications may include, but are not limited to, those that may be required by local jurisdictions or agencies, the United States Small Business Administration, the United States Department of Housing and Urban Development, and the American Land Title Association.

7.5.3 Data required for plats per state rules and regulations.

This section enumerates selected data required to be on plats per Rules and Regulations of the State of Georgia, Title 180, "State Board of Registration for Professional Engineers and Land Surveyors," Chapter 180-7, "Technical Standards for Property Surveys", and local requirements. It is the land surveyor's responsibility to provide all data required by said rules, and the lack of inclusion of said rule requirements in this section shall not relieve a land surveyor from complying with said requirements:

(a) **Point of beginning and point of reference.** There shall be a point of commencement and/or a point of beginning that can be readily re-established. The direction and distance from a point of reference to a point on the boundary of the individual survey, and such additional data as may be required to relocate the boundary point from the point of reference with the same degree of accuracy required of the parcel

surveyed. The point of reference shall be an established, monumented position which can be identified or relocated from maps, plats or other documents on public record, including state plane coordinates when applicable. The point of reference may lie on or within the boundary of the survey.

(b) **Names of adjoining subdivisions and property owners and documents reviewed.** The names of adjoining subdivision and/or property owners on all lines, as can be determined at the time of commencement of the survey through public records such as the county tax assessor and/or clerk of court records, along with a notation as to what documents were reviewed for each adjacent property.

(c) **Roads.** Adjacent streets, roads, or other rights-of-way, and the width and the former widths, if pertinent, of rights-of-way adjacent to or crossing the property.

(d) **Water.** All water boundaries.

(e) **Easements.** The width and the former widths, if pertinent, of easements adjacent to or crossing the property. Where water and sewer utilities are located within rights of ways to be dedicated to the county, temporary easements shall be required for such utilities in favor of the service provider until the rights of ways are officially accepted by resolution of the Habersham County Board of Commissioners.

(f) **Encroachments and cemeteries.** Apparent encroachments and observed evidence of human burials or cemeteries.

(g) **North arrow.** An arrow to indicate the principal meridian and a notation as to the reference of bearings to magnetic north, astronomic north, record or grid north. A grid north reference shall indicate the zone. Record north shall reference the document or survey to which the meridian is oriented and the line of the survey to which the "record bearing" was applied to.

(h) **Metes and bounds bearings and distances and areas.** Bearings of all lines of the boundary or lot lines, and distances of all boundary or lot lines, and area of the parcels expressed in acres or square feet. The total acreage of the subdivision shall be shown. All bearings, distances, and areas shown on the survey shall be based upon the measurements of the surveyor, except that both the measured and the record measurements may be shown if the surveyor feels that such comparison is necessary or otherwise required, in which case a clear distinction shall be made as to which are measured and which are record. All angular directions shall be represented in degrees, minutes, and seconds. Distances that are shown for proximity purposes only and have not been measured shall be clearly labeled as “approximate”; A metes and bounds description shall describe all courses in logical sequence around a lot or tract in a clockwise direction such that the ending point is the beginning point. In the case of curved lines, the curve shall be defined by curve data to include the radius, arc length, chord bearing, and distance of regular curves. Chord distances and directions shall be given for irregular curves.

(i) **Equipment reference.** A statement to indicate the type of equipment used to obtain the linear and angular measurements used in the preparation of the plat, or the proper notations required by Rule 180-7-.09 when GPS equipment is used in performing the survey.

(j) **Closure precision.** The closure precision of the data shown on the plat. The closure may be stated as

follows: “This map or plat has been calculated for closure and is found to be accurate within one foot in ____ feet.”

(k) **Monuments.** Monuments shall be set at all boundary corners. All monuments found, placed or replaced shall be described on the survey plat. The land surveyor shall set monuments, unless monuments already exist or cannot be set due to physical obstructions. Those monuments that cannot be set due to physical obstructions shall have a reference monument set. Said reference monument shall be referenced on the plat by
bearing and distance from the true position of said monument. Also, said reference monument shall be set far enough away from the true corner so as not to be confused with the position of the true corner. Corner descriptions shall state the size, material and cap identification of the monument as well as whether the monument was set or found. In the case of badly disturbed or deteriorated monuments that are replaced for the purpose of position preservation, the survey shall indicate the size, type, and material of both the found monument and the monument with which it was replaced.

(l) **Monument specifications.** All monuments set shall be composed of a durable material and shall incorporate a ferrous material to aid in location by magnetic locators. Said monuments shall have a minimum length of 18 inches. Monuments placed at land lot corners, district corners or county corners shall if a rod have a minimum diameter of 5/8 inches, a pipe of 1 inch diameter or a concrete or stone monument of not less than 4 inches square. Every boundary monument set shall be identified with a durable marker or cap bearing the Georgia registration number of the land surveyor in responsible charge or the name of the business entity and/or Certification of Authorization number (COA #).

7.5.4 Additional plat data required locally.

In addition to the requirements of state law and state rules and regulations, all plats shall include the following information:

(a) **Street names.** Street names including both the name and the suffix, such as “street,” “avenue,” etc.

(b) **Location sketch or vicinity map.** A hand-drawn or map reproduction, whether or not to an engineering scale, showing the subject property in context of a larger area. Typical scale when a scale is used, is 1inch equals 2,000 feet.

(c) **Road centerlines, pavement widths and radii.** The right of way of all roads within or adjacent to the subdivision. For cul-de-sacs, the right of way radius shall be shown. In addition, the right of way of all street intersections shall be shown.

(d) **Lot and block identifiers.** Lots numbered in numerical order and blocks lettered alphabetically.

(e) **Addresses.** Prior to recording, the street address number may be shown on each lot as assigned by the Habersham County E-911 coordinator.

(f) **Building setbacks.** Front building setback lines with dimensions as to length across each lot and distance from the street right-of-way.

(g) **Flood hazard area note.** A note indicating whether or not the property is located within a 100-year flood plain, as designated on Federal Emergency Management Agency Flood Insurance Rate Maps, along with the community map panel number and effective date.

(h) **Dedications and common areas.** Any areas to be reserved, donated, or dedicated to public use and common use shall be shown along with their acreage. If streets are to be dedicated, the total linear distance of streets to be dedicated shall be indicated on the plat.

(i) **Private covenants.** Statement of and reference to private covenants, conditions and restrictions, if any.

(j) **Water setbacks, buffers and undisturbed areas.** Setbacks, buffers and undisturbed areas from streams, rivers, and other bodies of water required by this UDO.

(k) **Other data.** The Planning and Development Director may require that additional information be shown on the final plat, including but not limited to the existing zoning district and if applicable zoning conditions, zoning overlay and/or environmental overlay district, if applicable, variances if applicable, required stream buffers and zoning buffers, and wetlands.

7.5.5 Additional plat data required locally.

The following certifications shall be required for final plats, as applicable:

(a) **Owner's certification.** A certificate signed by the owner directly on the final plat, as follows:

> "The owner of the land shown on this plat and whose name is subscribed hereto, certifies that that he/she is the fee simple absolute owner of the land shown on this plat and that all state, county and county taxes or other assessments now due on this land have been paid.
>
> _____
> Owner
> Signed, sealed and delivered
> in the presence of:
>
> _____
> Witness
>
> _____
> Notary Public"

(b) **Certificate of approval and signature block.** The following certification of approval and signature block shall be provided on the plat:

> "Pursuant to the unified development ordinance of Habersham County and all requirements of approval having been fulfilled, this final plat was given final approval by the county and it is entitled to be recorded in the Clerk's Office, Habersham County Superior Court."
>
> _____ _____
> Signature, Planning and Development Director Date

(c) **Certificate of dedication.** If the subdivision involves the dedication of land or streets to the public, the

following certification shall be provided on the plat:

"The owner dedicates to the public for use forever the street right of way(s) and/or other public dedications shown on this plat, as follows:
Street right of way(s): __ linear feet and ___ acres.
Other: ___ acres.
A dedication is not final until acceptance of the warranty deed by resolution of the Habersham County Board of Commissioners.

_____
Owner
Signed, sealed and delivered
in the presence of:

_____
Witness

_____
Notary Public"

(d) **Health department certificate.** If the subdivision involves an on-site sewage management system or community water system, the following certification shall be provided on the plat:

"This final plat has been approved by the Habersham County Health Department as being consistent with applicable state and local environmental health requirements.

_____ _____
Signature, Director, Habersham County Health Department Date"

For a minor subdivision, the Planning and Development Director may waive the requirement to include a signed health department certificate on a final plat; provided, however, that if the lots included in the final plat of a minor subdivision are to be served by an on-site sewage management system (septic tank), in lieu of said certification the final plat shall contain the following note: "Each lot must be reviewed and approved by the Habersham County Environmental Health Department for on-site sewage management system placement prior to the issuance of a building permit."

7.5.5. Additional requirements for final plats involving private streets.

No final plat involving a private street shall be approved by the Planning and Development Director for recording unless and until it shall contain the following on the face of the plat:

(a) "Habersham 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."

7.5.6 Purchaser's acknowledgement for lot served by private street.

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 subdivider or seller shall ensure that the purchaser of said lot shall execute a notarized purchaser's acknowledgement of private street construction and drainage maintenance responsibilities as set forth below.

"Purchaser's Acknowledgement of Private Street and Drainage Maintenance Responsibility.
(I) (We) have read the Declaration of Covenant which pertains to the lot that is the subject of this real estate transaction _____ (insert address or attach legal description). (I) (We) understand that the Declaration of Covenant applies to the lot that (I am) (we are) purchasing and requires (me) (us) to provide a specified percentage or amount of the financing for the construction and maintenance of any private street and drainage facilities serving the lot which (I am) (we are) purchasing, and that owners of other lots in this plat may sue for and recover those costs which this covenant requires (me) (us) to pay, plus their damages resulting from (my) (our) refusal to contribute, plus reasonable attorney's fees. (I) (we) further understand that the County has no obligation to assist with the maintenance and improvement of the private street, drainage facilities, and other appurtenances within the general purpose public access and utility easement for the private road serving the lot in question. I (we) understand that a copy of this purchaser's acknowledgement shall be required as a condition of the issuance of a building permit for a principal building on the lot (I am) (we are) purchasing.

_____
Purchaser"

A reference to this requirement to execute a purchaser's acknowledgment prior to the sale of any lot served by a private street shall also appear in the recorded. covenants, conditions, and restrictions for the subdivision.

7.5.7 Combination plat.

(a) An existing lot line forming the boundary between two conforming platted lots located within the same subdivision or a lot line between lots or parcels that have merged to form one building lot may be removed or eliminated through a final plat process which conforms to the final plat requirements of this chapter.

(b) Where separate lots of land are proposed to be combined, they shall be submitted to the Planning and Development Director as a final plat for review and approval. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat depicting all lots involved in the lot combination shall be required to be approved by the Planning and Development Director as a final plat.

A. (c) Such combination plat shall be titled with the same name as that of the original subdivision, if applicable, and shall indicate thereon that the replat is for the purpose of removing the lot lines between specific lots.

7.5.8 Boundary line adjustment.

(a) One or more existing lot lines forming boundaries between conforming platted lots located within the same subdivision, or one or more lot lines between abutting lots or parcels may be adjusted through a final plat revision process that requires the approval of the Planning and Development Director and recording of a plat meeting the specifications of a final plat. In the case no final plat applies to the subject lots or parcels, a boundary survey and plat of the entire lots involved in the boundary line adjustment shall be required to be approved by the Planning and Development Director.

(b) Such plat showing said boundary line adjustment shall be titled with the same name as that of the original subdivision and shall include thereon that the replat is for the purpose of adjusting the lot lines between specific lots.

7.6 Final Plat Procedures

7.6.1 Application for a Final Plat.

Applications for final plat approval shall include the following:

(a) Application form. Completion of an application form with information specified by the Planning and Development Director, including but not limited to owner information. The owner, or agent if so authorized, shall sign the application attesting to the accuracy of the application and confirming authority and intent to submit the application for consideration.

(b) Copies of plat. Copies of the final subdivision plat in a number as established by the Planning and Development Director, showing the entire ownership and drawn to the specifications required by this chapter.

(c) Fee. Payment of the applicable application and review fees as established by the Habersham County Board of Commissioners from time to time for a final plat.

(d) Financial guarantee of improvements. For major subdivisions involving public improvements, a subdivision improvement guarantee as specified in this ordinance.

(e) Protective covenants and homeowner's association documents. If required by provisions of this development code, a homeowners' association shall be created and the instruments of such creation and financial endowment shall be recorded at the time of final plat recording. Similarly, if a property owners association is required by this development code or established by the developer, such association shall be created and instruments of creation and financial endowment shall be required at the time of final plat recording. Two copies of the recorded instruments or instruments to be recorded shall be filed with the Planning and Development Director.

7.6.2 Process for review and approval of a final plat.

Upon completion of all requirements, the subdivider or property owner can file an application for final plat approval. The procedures for final plat review and action shall be as specified in this section.

(a) Review for completeness and application acceptance. The Planning and Development Director shall review the final plat application for completeness within no more than 7 business days from the posted submission deadline. Incomplete applications will not be processed and will be returned to the applicant.

(b) Distribution and agency review of final plat. The Planning and Development Director may forward a copy of the final plat application to other county departments as may be appropriate, the Georgia Department of Transportation if the proposed subdivision has frontage on or proposes access to a state or federal road. The applicant shall be required to obtain approval from the Habersham County Environmental Health Department if septic tanks are proposed within a major subdivision, and public utility providers in cases where connection to public water and/or sewer is proposed or required.

(c) Time period for completion of review. Except for final plats that have frontage on or propose access to a state or federal road which require review by the Georgia Department of Transportation, within no more than 30 days following receipt of a complete final plat application, during which agency review shall be completed, the Planning and Development Director shall indicate on the final plat or in writing all comments related to compliance with this chapter and the development code. The Planning and Development Director shall provide all comments to the applicant for resolution, who shall work with each department as necessary to resolve all issues. If no comments are received from the Planning and Development Director after the 30 day review period, the final plat application shall be deemed approved.

(d) Action. When the Planning and Development Director has determined that the final subdivision plat is in compliance with the approved preliminary plat for the subdivision (if applicable) and the requirements of this development code and consistent with the comprehensive plan, it shall be approved by the Planning and Development Director. The owner shall be responsible for compliance with all codes, regulations, and zoning requirements and for the satisfaction of all the noted and written comments. If it is determined that the final plat is not in compliance with the requirements of this development ordinance, the final plat shall be disapproved. Action must be taken by the Planning and Development Director to approve, conditionally approve, or disapprove a minor final plat application within no more than 30 days from receipt of a completed application.

7.6.3 Recording of final plat.

(a) Once the final subdivision plat has received approval as evidenced by the certificate of final plat approval, the applicant shall record the plat electronically with the Habersham County Clerk of Superior Court.

(b) The applicant is responsible for paying any required recording fees.

(c) All plats must be in the Georgia Coordinate System West Zone NAD 83 before the plat is recorded. If the project is within 1,000 feet of a Habersham County geodetic monument the plat must use the monument as a control/tie point. The applicant for final plat approval shall be responsible for forwarding an electronic copy of the final plat as recorded, along with recording information, to the Planning and Development Director. In addition, the subdivision applicant shall submit electronic (DWG/DXF and PDF) file copies of lot boundaries of
subdivisions and related information as specified by the Planning and Development Director. Building permits may be withheld pending receipt of the electronic files and copy of the recorded final plat.

(d) Recordation of a final plat constitutes approval to begin the sale or transfer of subdivision lots.

7.6.4 Distribution of approved final plat.

The final plat is a source of essential information to tax officials, public safety officials, and utility officials, among others. Accordingly, the Planning and Development Director shall forward recorded final plats to appropriate departments and agencies, such as the Habersham County Emergency Services Department; the county building official; the county engineer; and The United States Postal Service (local postmaster). At the discretion of the Planning and Development Director, additional agencies or persons may be added to the distribution list.

7.6.5 Revision of final plat.

The application requirements and procedures for amending final plats shall be the same as for final plat applications.

7.7 Required Improvements

7.7.1 Applicability.

This article shall apply to major subdivisions and land developments, unless specifically indicated otherwise.

7.7.2 Required Improvements.

Each subdivider, and each developer of a lot that abuts a street, shall be required to submit plans and make the improvements required by this chapter in accordance with the established rules and procedures in this UDO. No subdivision plat shall be granted final approval, and no certificate of occupancy for any building shall be granted, until the improvements required of that subdivision or land development have been installed.

7.7.3 Improvements Mandatory.

Every subdivider/developer shall be required to make the improvements in accordance with the specifications herein and otherwise adopted by Habersham County.

7.7.4 Plans Required.

No person shall construct or install any public or private utilities or improvements required by this chapter without first obtaining County review and approval of engineering plans, profiles and specifications therefor.

7.7.5 Engineered Drawings.

Engineering drawings for streets, including cross sections and centerline profiles, certified by a professional engineer registered in the State of Georgia, or if authorized under state law, a registered land surveyor, or professional landscape architect, shall be required to be submitted for review and approval, and such plans must meet the requirements of the Habersham County, Georgia and applicable provisions of this Ordinance. Prior to approval and recording of a final plat, a registered land surveyor or professional engineer for the subdivider/developer shall submit one copy of all finished, as-built plans of improvements, demonstrating that said improvements, as installed, meet the requirements of this chapter and certifying that the plans accurately reflect actual construction and installation. The Public Works Director shall maintain all as-built plans for future use by the County.

7.7.6 Streets.

All streets required to be constructed as part of a major subdivision process, or as required to be improved as part of a minor subdivision or land development, shall be constructed and improved, including pavement, in accordance with the standards and specifications for street construction as required by this UDO.

7.7.7 Curbs and Gutters.

All streets within a major subdivision shall have curbs and gutters. Curbs and gutters are considered essential to adequately handle storm drainage and allow for the placement of underground utilities. Where required, curbs and gutters shall be installed in accordance with this UDO.

7.7.8 Street Signs.

Signs for street names, directions of travel, traffic control, and hazards shall be provided as necessary, that meet or exceed the *Manual on Uniform Traffic Control Devices for Streets and Highways* published by the Federal Highway Administration of the U.S. Department of Transportation, as may be amended from time to time, subject to the approval of the Public Works Director.

7.7.9 Dwellings.

Residences within major subdivisions shall be stick-built, detached single family dwellings. No manufactured homes shall be permitted.

The development of lots shall not include a monotonous appearance of identical homes. Commercially reasonable efforts shall be made to use different front elevations, architectural styles, building exteriors, setbacks and/or other similar techniques to provide variation of home appearances within the subdivision.

The house size shall be a minimum of fourteen hundred (1400) heated square feet, with heated square footage excluding porches, garages, unfinished basements, and unfinished upstairs bonus rooms, if applicable.

The exterior of all structures shall consist of brick, stone, wood shake siding, cementitious shake siding, wood lap siding, and/or cementitious lap siding. There shall be no vinyl, stucco, or aluminum siding.

Each home in the development shall have not less than a two-car garage. Garages shall compliment the house in regard to decorative details and shall be constructed of exterior building materials that are consistent with the home.

7.7.10 Yard Landscaping.

All yards within a disturbed area shall be grass covered by seeding or sod. At least one (1) tree shall be planted in each front yard, except on corner lots where at least two (2) trees shall be planted in the front yard. Each tree shall be at least a three (3) inch caliper at the time of planting. For corner lots, the landscaping along the side of the home facing the street shall be comparable to the front yard landscaping installed on other non-corner lots in the subdivision.

7.7.11 Common Area.

In residential major subdivisions, a common area must be provided in any subdivision planned for fifty (50) units or more. This area shall be provided at the rate of no less than five (5) percent of the total area of land within the proposed subdivision. Common area shall be located and designed to ensure it is capable of being used and enjoyed by the residents for active or passive recreation. This area shall be accessible via pedestrian connections and include some combination of walking trails, bikeways, neighborhood pocket parks, community gardens, civic gathering places, and passive and/or active recreation facilities.

7.7.12 Maintenance of Common, Non-Public Facilities.

The property owner's association for management shall hold the title of all common areas, drainage easements and amenities areas not accepted for dedication to the public and shall be conveyed to the association for management and maintenance upon the earlier of (1) when management of the subdivision is transitioned from the developer to a property owners' association or like entity, or (2) at the time of final build out of all residential units. This language shall not place an affirmative obligation on the county to monitor the transfer of title of common areas, drainage easements and amenity areas; but shall authorize county action and enforcement in the event of reported failures of compliance.

7.7.13 Utilities.

Electric power lines, telephone lines, cable telephone line, fiber optic cable, and similar utilities shall be underground.

7.7.14 Common Mailbox Facilities.

Common mailbox areas must include a roofed area to provide shelter to the patron from the elements. Such structures are exempt from setback requirements as noted in Article 3 except common mailbox areas must be setback a minimum of 100 hundred (100) feet from the exterior road serving the subdivision.

7.7.15 Improvements on Abutting Public Streets.

Where a major subdivision abuts and accesses a public street, the subdivider shall install curb and gutter, sidewalk, other road improvements, and a deceleration lane according to standards and specifications of the County as required by the Public Works Director.

7.7.16 Double Frontage Lots on Abutting Public Streets

Where a major subdivision abuts an existing public street, there a shall be a twenty-five (25) feet planted buffer in accordance with Section 10.2.6 where the major subdivision abuts the existing public street. There shall be a ten (10) feet no access easement on the final subdivision plat adjacent the existing public street. The setback for any building from the existing public street shall be fifty (50) feet.

7.7.17 Subdivision Sign.

A landscaped entrance and subdivision sign is required at each entrance for a major subdivision. The size of the subdivision sign shall not exceed 24 square feet and shall be a monument sign constructed of brick, rock, or other material approved by the Planning and Development Director. The subdivision sign shall be located within a landscaped area which is at a minimum at least three (3) times the area of the approved subdivision sign and shall be setback at least ten (10) feet from the right-of-way.

B.

7.7.18 Supplementary Provisions for Minor Subdivisions.

Lots within a minor subdivision may fail to abut a public road or street only in an instance where the subdivider provides access to said individual lots over and across a valid easement containing a minimum width of thirty (30) feet. The location and dimensions of such access shall be shown upon the minor subdivision plat and clearly identified as an easement and shall only be used for a maximum of three (3) parcels, whether previously platted or newly created under the terms of this chapter.

7.8 Cluster Subdivision Option.

7.8.1 Purpose and Intent.

This section is intended to allow for the development of cluster subdivisions that cluster development and provide for preservation of open space as an alternative to conventional subdivision development. This section is specifically intended:

L. To provide for the preservation of greenspace as a nonstructural storm water runoff and watershed protection measure.

M. To provide a residential development option that permits flexibility of design in order to promote environmentally sensitive and efficient uses of the land.

N. To preserve in perpetuity unique or sensitive natural resources such as groundwater, floodplains, wetlands, streams, steep slopes, woodlands and wildlife habitat.

O. To permit clustering of houses and structures on less environmentally sensitive soils which will reduce the amount of infrastructure including paved surfaces and utility easements necessary for residential development.

P. To reduce erosion and sedimentation by minimizing land disturbance and removal of vegetation in residential development.

Q. To promote interconnected greenways and corridors throughout the community.

R. To promote contiguous greenspace with adjacent jurisdiction.

S. To encourage interaction in the community by clustering houses and orienting them closer to the street, providing public gathering places, and encouraging use of parks and community facilities as focal points in the neighborhood.

T. To encourage street designs that reduce traffic speeds and reliance on main arteries.

U. To promote construction of convenient landscaped walking trails and bike paths both within the subdivision and connected to neighboring communities, businesses, and facilities to reduce reliance on automobiles.

V. To conserve scenic views and reduce perceived density by maximizing the number of houses with direct access to and views of open space.

W. To preserve important historic and archaeological sites.

7.8.2 General Regulations.

A. Applicability of regulations: This design option is available as an alternative for the development of subdivisions that are served by public sewer or an approved private sewer system as permitted by right in districts which permit residential subdivisions. The applicant shall comply with all other provisions of the and all other applicable laws.

B. Ownership of development site: The tract of land to be subdivided may be held in single and separate ownership or in multiple ownership. If held in multiple ownership, however, the site shall be developed according to a single plan with common authority and common responsibility.

C. Housing density determination: The maximum number of lots in the cluster subdivision shall be determined by development of a "Yield Plan." In a "Yield Plan," a conventional subdivision design plan is prepared by the applicant in which the tract of land is subdivided in a manner intended to yield the highest number of lots possible. The plan does not have to meet formal requirements for a site plan

but the design must be capable of being constructed given site features and this chapter and all other applicable laws.

D. Minimum lot size: Once the maximum number of lots is determined through development of the "Yield Plan," a cluster subdivision layout is developed by meeting the requirements of this section. The minimum lot size in a cluster subdivision shall be as follows:

Table 7.7.2.D

Zoning District	Minimum Lot Size	Min. Lot size in Cluster S/D
AG	3 acres	1 acre
RR	2 acres	1 acre
SR	1 acre	0.5 acres (with public sewer)

7.8.3 Application Requirements.

A. Site analysis map required: Concurrent with the submission of a preliminary plat, the applicant shall prepare and submit a site analysis map. The purpose of the site analysis map is to ensure that the important site features have been adequately identified prior to the creation of the site design and that the proposed open space will meet the requirements of this section. The site analysis map shall include the following features:

1. Property boundaries.
2. All streams, rivers, lakes, wetlands and other hydrologic features.
3. Topographic contours of no less than five-feet intervals for hilly terrain (slopes greater than ten percent), two-feet intervals for rolling terrain (two percent to ten percent) and one foot for flat terrain (slopes less than two percent) as referenced herein
4. All primary and secondary conservation areas labeled by type as described in this section.
5. General vegetation characteristics.
6. General soil types.
7. The planned location of protected open space.
8. Existing roads and structures.
9. Potential connections with existing greenspace and trails.

B. Open space management plan required: An open space management plan, as described in this section, shall be prepared and submitted prior to the issuance of a land disturbance permit.

C. Instrument of permanent protection required: An instrument of permanent protection, such as a conservation easement or permanent restrictive covenant as described in this section, shall be placed on the open space concurrent with the issuance of a land disturbance permit.

D. Other requirements: The applicant shall adhere to all other applicable requirements of the underlying zoning, the land development ordinance and all other applicable provisions of the Official Code of Habersham County, Georgia.

E. The configuration and location of the subdivision and the proposed open space are subject to approval

of the Planning and Development Director to ensure that the purposes and intent of this section are met by the application.

7.8.4 Open Space.

A. Definition: Open space is the portion of the cluster subdivision that has been set aside for permanent protection. Activities within the open space are restricted in perpetuity through the use of an approved legal instrument.

B. Standards to determine open space:

1. The minimum restricted open space shall comprise at least 40 percent of the gross tract area.
2. The following are considered primary conservation areas and are required to be included within the open space unless the applicant demonstrates that this provision would constitute an unusual hardship and be counter to the purposes of this section:
    a. The regulatory 100-year floodplain.
    b. Buffer zones of at least 75-foot width along all perennial and intermittent streams.
    c. Slopes above 25 percent of at least 5,000 square feet contiguous area.
    d. Wetlands that meet the definition used by the Army Corps of Engineers pursuant to the Clean Water Act.
    e. Populations of endangered or threatened species or habitat for such species.
    f. Archaeological sites, cemeteries and burial grounds.
3. The following are considered secondary conservation areas and should be included within the open space to the maximum extent feasible:
    a. Important historic sites.
    b. Existing healthy, native forests of at least one-acre contiguous area.
    c. Individual existing healthy trees greater than eight inches caliper as measured at DBH.
    d. Other significant natural features and scenic view sheds such as ridge lines, peaks, and rock outcroppings, particularly those that can be seen from public roads.
    e. Prime agricultural lands of at least five acres contiguous area.
    f. Existing trails that connect the tract to neighboring areas.
4. Above-ground utility rights-of-way and small areas of impervious surface may be included within the protected open space but cannot be counted towards the 40 percent minimum area requirement (exception: historic structures and existing trails may be counted). Large areas of impervious surface shall be excluded from the open space.
5. At least 75 percent of the open space shall be in a contiguous tract. The open space should adjoin any neighboring areas of open space, other protected areas and non-protected natural areas that would be candidates for inclusion as part of a future area of protected open space.
6. The open space shall be directly accessible to the largest practicable number of lots within the subdivision. Non-adjoining lots shall be provided with safe, convenient access to the open space.

C. Permitted uses of open space: Uses of open space may include the following:

1. Conservation of natural, archeological or historical resources.

2. Meadows, woodlands, wetlands, wildlife corridors, game preserves or similar conservation-oriented areas.
3. Walking or bicycle trails, provided they are constructed of porous paving materials.
4. Active recreation areas, provided that they are limited to no more than ten percent of the total open space and are not located within primary conservation areas. Active recreation areas may include impervious surfaces. Active recreation areas in excess of this limit must be located outside of the protected open space.
5. Agriculture, horticulture, silviculture or pasture uses, provided that all applicable best management practices are used to minimize environmental impacts and such activities are not conducted within primary conservation areas.
6. Nonstructural storm water management practice.
7. Easements for drainage, access and underground utility lines.
8. Other conservation-oriented uses compatible with the purposes of this chapter.

D. Prohibited uses of open space:
1. Golf courses
2. Roads, parking lots, and impervious surfaces, except as specifically authorized in this chapter
3. Agricultural and forestry activities not conducted according to accepted best management practices

7.8.5 Ownership and Management of Open Space

A. Ownership of open space: A homeowner's association (HOA) must own the open space and shall be responsible for maintaining the open space and facilities located thereon shall. The HOA must meet all requirements of 7.2.5.

B. Management plan: Applicant shall submit a plan for management of open space and common facilities ("plan") that:
1. Allocates responsibility and guidelines for the maintenance and operation of the open space and any facilities located thereon, including provisions for ongoing maintenance and for long-term capital improvements.
2. Estimates the costs and staffing requirements needed for maintenance and operation of and insurance for the open space and outlines the means by which such funding will be obtained or provided.
3. Provides that any changes to the plan be approved by the Planning and Development Director.
4. Provides for enforcement of the plan.

C. In the event the party responsible for maintenance of the open space fails to maintain all or any portion in reasonable order and condition, Habersham County, Georgia may but is not required to assume responsibility for its maintenance and may enter the premises and take corrective action, including the provision of extended maintenance. The costs of such maintenance may be charged to the homeowners' association or to the individual property owners that make up the homeowners' association and may include administrative costs and penalties.

7.8.6 Legal Instrument for Permanent Protection

A. The open space shall be protected in perpetuity by a binding legal instrument that is recorded with the deed. The instrument shall be one of the following:

1. A permanent conservation easement in favor of either:

1. A land trust or similar conservation-oriented non-profit organization with legal authority to accept such easements. The organization shall be bona fide and in perpetual existence, and the conveyance instruments shall contain an appropriate provision for re-transfer in the event the organization becomes unable to carry out its functions.

2. A governmental entity with an interest in pursuing goals compatible with the purposes of this section.

   If the entity accepting the easement is not Habersham County, Georgia then a right of enforcement favoring Habersham County, Georgia, shall be included in the easement.

2. A permanent restrictive covenant for conservation purposes in favor of a governmental entity.

3. An equivalent legal tool that provides permanent protection if approved by Habersham County, Georgia.

B. The instrument for permanent protection shall include clear restrictions on the use of the open space. These restrictions shall include all restrictions contained in this chapter as well as any further restrictions the applicant chooses to place on the use of the open space.

ARTICLE 8. LAND DEVELOPMENT AND PERMITTING

8.1 General Provisions.

8.1.1 Applicability.

A. Jurisdiction. These regulations govern all property within the corporate limits of the County.

B. General Provisions. All development within the jurisdiction of this UDO shall conform to the general provisions of this Article.

C. No construction or installation of improvements shall commence in a proposed development until the land disturbance permit has been approved and all applicable preliminary plats, construction plans, and specifications have been approved by the appropriate authorities.

D. No building or other permits shall be issued for erection of a structure on any lot not of record until all requirements of UDO have been met.

Section 8.2 Land Disturbing Activity.

8.2.1 Permit Required.

A. A land disturbing activity permit shall be required for any proposed use of land(s) or building(s) to indicate and ensure compliance with all provisions of this UDO before any building permit is issued or any improvement, grading, land disturbing activity, or alteration of land(s) or building(s) commences provided, however, that land disturbance permits shall not be required for single-family residences on individual lots.

B. All land-disturbing activity permits shall be issued by the administrative officer, who shall in no case approve a land disturbance permit for the use, construction, or alteration of any land or building if the land or building as proposed to be used, constructed, or altered would be in violation of any of the provisions of this UDO or any other codes and laws.

C. A land disturbance permit shall not be issued until an approved plat has been submitted with the application.

8.2.2 Permit Expiration.

A. Application Expiration. An application for a land development permit expires one (1) year after the issuance of the latest letter/comments of permit revisions or approval. The application will not expire within one (1) year if the inactivity is a result of a pending review from an external agency outside the applicant's control.

B. Permit Expiration. An issued development permit remains valid for the duration of the project subject to the following time restrictions:

1. Development Permits shall be determined issued if all fees have been paid and the appropriate permit documentation has been released to the applicant by the County.
2. Development Permits expire six (6) months from the date of issuance if no activity has been

initiated on the project; or

3. If six (6) months elapses between observed activity during proactive inspections.

8.3 Buildings.

8.3.1 Technical Codes.

A. Purpose. It is the desire of the board to adopt, in all respects, the various standard codes relating to amusement devices, building, fire prevention, electrical installations, gas, grading, mechanical, plumbing, and swimming pools. The adoption of these standard codes is done to facilitate proper inspection activities by the County relating to construction and maintenance of buildings within the unincorporated areas of the County and relating to public safety, health and general welfare. The standard codes listed in this article are hereby adopted by reference as though they were copied herein fully.

B. Any matters in said standard codes which are contrary to existing ordinances of the County shall prevail.

C. Any references in the standard codes made to the duties of certain officials named therein shall be the duty of the designated official of the County who has duties corresponding to those of the named official in said standard code and shall be deemed to be the responsible official insofar as enforcing the provisions of the standard code.

8.3.2 Minimum Standard Codes for Construction.

A. It is the intent of the County to enforce the latest edition of the following Georgia State Minimum Standard Codes, as adopted and amended by the state department of community affairs from time to time:

1. International Building Code, current edition.
2. International Residential Code, current edition.
3. International Fire Code, current edition.
4. International Plumbing Code, current edition.
5. International Mechanical Code, current edition.
6. International Fuel Gas Code, current edition.
7. National Electrical Code, current edition.
8. International Energy Conservation Code, current edition.
9. International Swimming Pool and Spa Code, current edition.
10. National Fire Protection Association Fire Codes.

8.3.3 Existing Buildings.

A. Generally. Alterations, repairs or rehabilitation work may be made to an existing structure, building, electrical, gas, mechanical or plumbing system without requiring the building, structure, plumbing, electrical, mechanical or gas system to comply with all the requirements of the technical codes,

provided that the alteration, repair or rehabilitation work conforms to the requirements of the technical codes for new construction. The administrative official shall determine the extent to which the existing system shall be made to conform to the requirements of the technical codes for new construction.

B. Change of Occupancy. If the occupancy classification of any existing building or structure is changed, the building, electrical, gas, mechanical and plumbing systems shall be made to conform to the intent of the technical codes, as required by the administrative official.

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

8.3.4 Permit Required.

A. Application. Any owner, authorized agent, or contractor who desires to construct, enlarge, alter, repair, move, demolish, or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical or plumbing system, the installation of which is regulated by the technical codes, or to cause any such work to be done, shall first make application to the administrative official and obtain the required permit for the work.

B. Exceptions. Permits shall not be required for the following mechanical work:

1. Any portable heating appliance;
2. Any portable ventilation equipment;
3. Any portable cooling unit;
4. Any steam, hot or chilled water piping within any heating or cooling equipment regulated by this chapter;
5. Replacements of any part which does not alter its approval or make it unsafe;
6. Any portable evaporative cooler; and
7. Any self-contained refrigeration system containing ten pounds (4.54 kg) or less of refrigerant and actuated by motors of one horsepower (746 W) or less.

C. Work authorized. A building, electrical, gas, mechanical, or plumbing permit shall carry with it the right to construct or install the work, provided the same are shown on the drawings and set forth in the specifications filed with the application for the permit. Where these are not shown on the drawings and covered by the specifications submitted with the application, separate permits shall be required.

D. Minor repairs. Ordinary minor repairs may be made with the approval of the administrative official without a permit, provided that such repairs shall not violate any of the provisions of the technical codes.

E. Information required. Each application for a permit, with the required fee, shall be filed with the administrative official on a form furnished for that purpose and shall contain a general description of the proposed work and its location. The application shall be signed by the owner or his authorized

agent. The application shall indicate the proposed the proposed occupancy of all parts of the building and of that portion of the site or lot, if any, not covered by the building or structure, and shall contain such other information as may be required by the administrative official.

8.3.5 Building Plans.

A. Requirements. When required by the administrative official, two or more copies of specifications and drawings drawn to scale with sufficient clarity and detail to indicate the nature and character of the work shall accompany the application for a permit. Such drawings and specifications shall contain information, in the form of notes or otherwise, as to the quality of materials, where quality is essential to conformity with the technical codes. Such information shall be specific, and the technical codes shall not be cited as a whole or in part, nor shall the term "legal" or its equivalent be used as a substitute for specific information.

B. Additional data. The administrative official may require details, computations, stress diagrams, and other data necessary to describe the construction or installation and the basis of calculations. All drawings, specifications and accompanying data required by the administrative official to be prepared by an architect or engineer shall be affixed with their official seal.

C. Design professional. The design professional shall be an architect or engineer, legally registered under the laws of this state regulating the practice of architecture or engineering, and shall affix his official seal to said drawings, specifications and accompanying data for the following building types:

   1. All commercial, Group A, E, and I occupancies;
   2. Buildings and structures three stories or more high; and
   3. Buildings and structures 5,000 square feet or more in area.

D. For all other buildings and structures, the submittal shall bear the certification of the applicant that some specific state law exception permits its preparation by a person not so registered.

E. Plan Exceptions. Single-family dwellings, regardless of size, shall require neither a registered architect nor engineer, nor a certification that an architect or engineer is not required.

F. Structural and Fire Resistance Integrity. Plans for all buildings shall indicate how required structural and fire resistance integrity will be maintained where a penetration of a required fire resistance wall, floor or partition will be made for electrical, gas, mechanical, plumbing, signal and communication conduits, pipes, and systems and also indicate, in sufficient detail, how the fire integrity will be maintained where required fire resistance floors intersect the exterior walls.

G. Site Drawings. Drawings shall show the location of the proposed building or structure and every existing building or structure on the site or lot. The administrative official may require a boundary line survey prepared by a qualified surveyor showing seal and signature on the survey.

H. Hazardous Occupancies. For buildings constituting hazardous occupancies, the administrative official may require the following:

   1. General site plan. A general site plan drawn at a legible scale which shall include, but not be limited to, the location of all buildings, exterior storage facilities, permanent access ways, evacuation routes, parking lots, internal roads, chemical loading areas, equipment cleaning areas, storm and sanitary sewer accesses, emergency equipment, and adjacent property uses. The exterior storage areas shall be identified with the hazard classes and the maximum quantities per hazard class of

hazardous materials stored.

2. Building floor plan. A building floor plan drawn to a legible scale, which shall include, but not be limited to, all hazardous materials storage facilities within the building, and shall indicate rooms, doorways, corridors, exits, fire rated assemblies with their hourly rating, location of liquid tight rooms, and evacuation routes. Each hazardous materials storage facility shall be identified on the plan with the hazard classes and quantity range per hazard class or the hazardous materials stored.

8.3.6 Permit Conditions.

A. Permit intent. A building permit issued shall be construed to be a license to proceed with the work, and not as authority to violate, cancel, alter, or set aside any of the provisions of the technical codes, nor shall issuance of a permit prevent the administrative official from thereafter requiring a correction of errors in plans, construction, or violations of this chapter.

B. Permit issued on basis of an affidavit. Whenever a permit is issued in reliance upon an affidavit, or whenever the work to be covered by a permit involves installation under conditions which, in the opinion of the administrative official, are hazardous or complex, the administrative official shall require that the architect or engineer who signed the affidavit or prepared the drawings or computations supervise such work.

1. Responsibility. In addition, the architect or engineer who signed the affidavit shall be responsible for conformity with the permit, provide copies of inspection reports as inspections are performed, and upon completion make and file with the administrative official a written affidavit that the work has been completed in conformity with the reviewed plans and with the structural provisions of the technical codes.

2. In the event such architect or engineer is not available, the owner shall employ in his stead a competent person or agency whose qualifications are reviewed by the administrative official.

C. Plans. When the administrative official issues a permit, he shall endorse, in writing or by stamp, both sets of plans "Reviewed for Code Compliance." One set of drawings so reviewed shall be retained by the Building Official and the other set shall be returned to the applicant. The permitted drawings shall be kept at the site of work and shall be open to inspection by the administrative official or his authorized representative.

8.3.7 Inspections.

A. Existing Building Inspections. Before issuing a permit, the Building Official may examine or cause to be examined any building, electrical, gas, mechanical or plumbing systems for which an application has been received for a permit to enlarge, alter, repair, move, demolish, install or change the occupancy. He shall inspect all buildings, structures, electrical, gas, mechanical and plumbing systems from time to time during and upon completion of the work for which a permit was issued. He shall make a record of every such examination and inspection and all violations of the technical codes, if any.

B. Manufacturers and fabricators. When deemed necessary by the Building Official, he shall make or cause to be made an inspection of materials or assemblies at the point of manufacture or fabrication. A record shall be made of every such examination and inspection and all violations of the technical codes, if any.

C. Inspection service. The Building Official may make or cause to be made the inspections as required. He may accept reports of inspectors of recognized inspection services, provided that after investigation

he is satisfied as to their qualifications and reliability. A certificate called for by any provision of the technical codes shall not be based on such reports unless the same are in writing and certified by a responsible officer of such service.

D. Inspections prior to issuance of certificate of occupancy or completion. The Building Official shall inspect or cause to be inspected at various intervals, all construction or work for which a permit is required, and a final inspection shall be made of every building, structure, electrical, gas, mechanical or plumbing system upon completion, prior to the issuance of the certificate of occupancy or completion.

E. Posting of permit. Work requiring a permit shall not commence until the permit holder or his agent posts the permit card in a conspicuous place on the premises. The permit shall be protected from the weather and located in such a position as to permit the Building Official or representative to conveniently make the required entries thereon. This permit card shall be maintained in such a position by the permit holder until the certificate of occupancy or completion is issued by the Building Official.

F. Required inspections. The Building Official, upon notification from the permit holder or his agent, shall make the following inspections and such other inspections as necessary, and shall either release that portion of the construction or notify the permit holder or his agent of any violations which must be corrected in order to comply with the technical code:

1. Building.
    a. Foundation: To be made after trenches are excavated, forms erected, a minimum of two #4 reinforcement bars properly tied and set on chairs continuous in footing. Poured walls are to be inspected when steel is placed and tied and forms are set prior to placing concrete. Block walls are to be inspected when erected and prior to placing concrete fill, if required. Pier footings will be not less than eight inches in thickness. All grade stakes shall be metal.
    b. Frame: All temporary services will be permitted separately and inspected upon completion. Any overhead service will be installed on not less than a six-inch pole allowing a minimum of ten feet of clearance. GFI protection to personnel must be maintained.
    c. Rough-in inspection: To be made after the roof, framing, fire blocking, and bracing is in place and prior to the installation of wall or ceiling membranes.
    d. Final: To be made after the building is complete, all required electrical fixtures are in place and properly connected and protected, and the structure is ready for occupancy.
2. Electrical.
    a. Underground: To be made after trenches or ditches are excavated, conduit or cable installed, and before any backfill is put in place.
    b. Rough-in: To be made after the roof, framing, fire blocking, and bracing is in place and prior to the installation of wall or ceiling membranes. All rough-in boxes and fixture back boxes are to be made up.
    c. Final: To be made after the building is complete, all required electrical fixtures are in place and properly connected or protected, and the structure is ready for occupancy.
3. Plumbing.
    a. Underground: To be made after trenches or ditches are excavated, piping is installed, and before any backfill is put in place.

b. Rough-in: To be made after the roof, framing, fire blocking, and bracing is in place and all soil, waste and vent piping is complete, and prior to the installation of wall or ceiling membranes.

c. Final: To be made after the building is complete, all plumbing fixtures are in place and properly connected, and the structure is ready for occupancy.

d. Required tests: All plumbing systems shall be tested as required in section 312 of the International Plumbing Code.

4. Mechanical.

a. Underground: To be made after the trenches or ditches are excavated, underground duct and fuel piping is installed, and before any backfill is put in place.

b. Rough-in: To be made after the roof, framing, fire blocking, and bracing is in place and all ducting, and other concealed components are complete, and prior to the installation of wall or ceiling membranes.

c. Final: To be made after the building is complete, the mechanical system is in place and properly connected, and the structure is ready for occupancy.

5. Gas.

a. Rough piping: To be made after all new piping authorized by the permit has been installed, and before any such piping has been covered or concealed or any fixtures or gas appliances have been connected.

d. Final piping: To be made after all piping authorized by the permit has been installed and after all portions which are to be concealed by plastering or otherwise have been so concealed, and before any fixtures or gas appliances have been connected. This inspection shall include a pressure test.

e. Final: To be made on all new gas work authorized by the permit and such portions of existing systems as may be affected by new work or any changes in order to insure compliance with all of the requirements of this chapter and to ensure that the installation and construction of the gas system is in accordance with the reviewed plans.

6. Energy.

a. Foundation: To be made before slab concrete is poured in place. To be made to verify that perimeter insulation has been installed correctly on any slab on grade foundations, if required.

b. Frame: To be made before exterior wall insulation is concealed by wall board to check installation of exterior walls insulation and to inspect that all holes and cracks through the structure envelope have been sealed in an appropriate manner as to restrict air passage.

c. Final: To be made after the building is completed and ready for occupancy. To be made to verify installation and R-value of ceiling and floor insulation and correct SEER ratings on appliances.

G. Written release. Work shall not be done on any part of a building, structure, electrical, gas, mechanical or plumbing system beyond the point indicated in each successive inspection without first obtaining a written release from the Building Official. Such written release shall be given only after an inspection has been made of each successive step in the construction or installation as indicated by each of the foregoing inspections.

H. Reinforcing steel, structural frames, insulation, plumbing, mechanical, or electrical systems.

Reinforcing steel, structural frame, insulation, or plumbing, mechanical and electrical work of any building or structure shall not be covered or concealed without first obtaining a release from the Building Official.

I. Plaster fire protection. In all buildings where plaster is used for fire protection purposes, the permit holder or his agent shall notify the Building Official after all lathing and backing is in place. Plaster shall not be applied until the release from the Building Official has been received.

8.3.8 Permit Expiration.

A. Application Expiration. An application for a building permit expires six (6) months after the issuance of the latest letter/comments of application revisions/approval. The application may not expire six (6) months after the issuance if the inactivity is a result of a pending review from an external agency outside the applicant's control.

B. Permit Expiration. An issued building permit remains valid for the duration of the project, subject to the following time restrictions:

1. Permits shall be determined issued if all fees have been paid and the appropriate permit documentation has been released to the applicant by the County.
2. Permits expire six (6) months from the date of issuance if no inspection has been requested.
3. Permits expire if six (6) months elapses between inspection requests.
4. Permits expire if construction is abandoned or not pursued in good faith for six (6) months as determined by the Building Official. Repeatedly calling inspections on incomplete or unchanged work is considered abandonment or lack of good faith effort.

Section 8.4 Completion of Construction.

8.4.1 Certificates of Occupancy.

A. Certificate of Occupancy. Certificate of Occupancy indicating that a building, lot, and occupancy comply with the building code and this UDO is required under provisions of this UDO.

1. Building occupancy. A new building shall not be occupied, or a change made in the occupancy, nature or use of a building or part of a building, until after the administrative official has issued a certificate of occupancy. Said certificate shall not be issued until all required electrical, gas, mechanical, plumbing, and fire protection systems have been inspected for compliance with the technical codes and other applicable laws and ordinances and released by the Building Official.
2. Issuing certificate of occupancy. Upon satisfactory completion of construction of a building or structure and installation of all systems per the codes, plans and specifications, and after final inspection, the administrative inspector shall issue a certificate of occupancy stating occupancy permitted, number of persons for each floor when limited by law, and allowable load per square foot for each floor.
    a. Visibility. The certificate of occupancy shall be kept on the premises but at any location of the owner's choosing.
    b. Changes of ownership or use require new occupancy permit. Any owner, authorized agent, or contractor who desires to change the owner or occupancy of a building or structure shall apply

to the administrative official to obtain the required permits and obtain a certificate of occupancy prior to occupying the structure.

3. Temporary/partial occupancy. A temporary/partial certificate of occupancy may be issued for a portion of a building which may safely be occupied prior to final completion of the building.
4. Existing building certificate of occupancy. A certificate of occupancy for any existing building may be obtained by applying to the administrative official and supplying the information and data necessary to determine compliance with the technical codes for the occupancy intended. When necessary, in the opinion of the administrative official, two sets of detailed drawings or a general inspection, or both, may be required. When, upon examination and inspection, it is found that the building conforms to the provisions of the technical codes and other applicable laws and ordinances for such occupancy, a certificate of occupancy shall be issued.
5. Certificate of Completion. On satisfactory completion of a building or system, a certificate of completion may be issued, as proof that a structure or system is complete and for certain types of permits is released for use and may be connected to a utility system. This does not grant authority to occupy or connect a building, such as a shell building, prior a certificate of occupancy.

8.4.2 Service Utilities.

A. Connection of service utilities. No person shall connect from a utility, source of energy, fuel or power to any building or system regulated by the codes for which a permit is required, until approved by the administrative official and a certificate of occupancy or completion.

B. Temporary connection. The administrative official may authorize a temporary connection of a building or system to the utility source of energy, fuel or power for the purpose of testing building service systems or for use under a temporary certificate of occupancy.

C. Authority to disconnect service utilities. The administrative official shall have the power to authorize disconnection of utility service to the building, structure, or system regulated by the technical codes in case of emergency, where necessary to eliminate an immediate hazard to life or property to the full extent of the law. The administrative official shall notify the serving utility, and whenever possible the owner and occupant of the building, structure or service system, of the decision to disconnect prior to taking such action. If not notified prior to disconnecting, the owner or occupant of the building, structure or service system shall be notified in writing as soon as practical thereafter.

8.4.3 Posting of Floor Loads.

A. Occupancy. An existing or new building shall not be occupied for any purpose which will cause the floors thereof to be loaded beyond their safe capacity.

B. Storage and factory-industrial occupancies. It shall be the responsibility of the owner, agent, proprietor or occupant of Group S and Group F occupancies, or any occupancy where excessive floor loading is likely to occur, to employ a competent architect or engineer in computing the safe load capacity. All such computations shall be accompanied by an affidavit from the architect or engineer stating the safe allowable floor load on each floor in pounds per square foot uniformly distributed. The computations and affidavit shall be filed as a permanent record in the planning and development department.

C. Signs required. In every building or part of a building used for storage, industrial or hazardous purposes,

the safe floor loads, as reviewed by the administrative official on the plan, shall be marked on plates of approved design, which shall be supplied and securely affixed by the owner of the building, in a conspicuous place in each story to which they relate. Such plates shall not be removed or defaced, and if lost, shall be replaced by the owner of the building.

Section 8.5 Development Impact Study

8.5.1 Purpose and Intent

The purpose of this ordinance is to ensure that new development within Habersham County occurs in a manner that protects public safety, preserves community character, maintains adequate infrastructure capacity, and prevents the shifting of development-related costs onto the taxpayers of Habersham County.

This ordinance establishes requirements for a comprehensive Development Impact Study (DIS) to evaluate the effects of proposed developments on transportation systems, public utilities, schools, public safety, and surrounding communities. The intent is to ensure that growth is fiscally responsible, coordinated with county and municipal infrastructure planning, and consistent with the long-term vision for Habersham County.

8.5.2 Applicability

A Development Impact Study shall be required for:

A. Any development that proposes:

1. Residential developments of 50 units or more;
2. Commercial or industrial developments exceeding 2,000 square feet;
3. Any development generating projected traffic volumes exceeding 100 peak hourly trips; or
4. Any development determined by the Planning and Development Director or County Engineer to have potential significant impacts.

8.5.3 Required Components of the Development Impact Study

The Development Impact Study shall be prepared by qualified professionals licensed in the State of Georgia and shall include, at minimum, the following components:

A. Traffic Impact Analysis (TIA)

1. Methodology
   The TIA shall follow principles consistent with methodology as outline by the Institute of Traffic Engineers as approved by the Habersham County Engineer.
2. Study Area
   a. The analysis shall include all intersections and roadway segments within a minimum ½-mile radius of the site.
   b. The radius shall extend outward until the development's traffic no longer produces a measurable impact on Level of Service (LOS).
3. Required Analysis
   a. Existing traffic volumes and LOS

b. Projected traffic volumes generated by the development
c. Future LOS with and without the development
d. Turn-lane warrants, signal warrants, and queue analysis
e. Safety and crash history review

4. Performance Standard
   a. All county roads and intersections affected by the development must maintain Level of Service C or better.
   b. If LOS falls below C, the developer shall propose and fund improvements necessary to restore LOS to C or better.
5. Required Improvements
   a. Improvements may include turn lanes, signalization, roadway widening, intersection upgrades, or other measures identified by the County Engineer.

B. Water Capacity Analysis

1. Evaluation of the municipality's current water system capacity, including:
   a. Treatment capacity
   b. Storage capacity
   c. Distribution system adequacy
   d. Fire flow availability
2. Projection of additional water demand generated by the development.
3. Identification of any required upgrades to maintain adequate service.
4. Letter of Capacity from the municipality confirming:
   a. Current capacity exists OR
   b. Improvements are required and will be funded by the developer.

C. Sewer Capacity Analysis

1. Evaluation of the municipality's wastewater system, including:
   a. Treatment plant capacity
   b. Collection system capacity
   c. Pump station capacity
   d. Inflow and infiltration considerations
2. Projection of additional wastewater flows generated by the development.
3. Identification of required upgrades.
4. Letter of Capacity from the municipality confirming:
   a. Current capacity exists OR
   b. Improvements are required and will be funded by the developer.

D. School Impact Analysis

1. Projected student generation by grade level.

2. Identification of the school district(s) serving the development.
3. Current enrollment and capacity of affected schools.
4. Projected impact on school capacity and transportation routes.
5. Identification of mitigation measures if capacity is exceeded.

E. Public Safety Impact Analysis
1. Impacts on fire protection, EMS response times, and law enforcement coverage.
2. Identification of additional equipment, personnel, or facilities required.
3. Coordination with the Habersham County Sheriff's Office, Fire Department, and EMS.

F. Community Character and Compatibility Analysis
1. Evaluation of impacts on:
   a. Rural character
   b. Scenic viewsheds
   c. Agricultural lands
   d. Historic or cultural resources
2. Assessment of compatibility with surrounding land uses and zoning.

G. Impacts to Neighboring Parcels

The study shall evaluate potential impacts to adjacent and nearby properties, including:

1. Light pollution
2. Noise levels
3. Stormwater runoff and drainage patterns
4. Property values (supported by market data or planning literature)
5. Crime potential, based on comparable developments and law enforcement input

Mitigation measures shall be proposed where impacts are identified.

8.5.4 Developer Responsibility for Mitigation

A. The developer shall be responsible for funding, constructing, or otherwise ensuring completion of all improvements identified in the Development Impact Study as necessary to mitigate impacts.

B. No development approval shall be granted until:
1. Required improvements are bonded,
2. A development agreement is executed, or
3. Improvements are completed to county standards.

8.5.5 Review and Approval

A. The Development Impact Study shall be submitted with the preliminary plat for major subdivisions or with site plans for non-single family developments.

B. The County Engineer, Planning and Development Director, and other relevant departments shall review the study for completeness and accuracy.

C. The Planning and Development Director shall consider the study's findings when making decisions on development approvals.

ARTICLE 9. ENVIRONMENTAL PROTECTION

9.1 Purpose and Intent.

A. The purpose and intent of these regulations are intended to protect the natural features and natural resources within Habersham County, including but not limited to water supply watersheds, groundwater recharge areas, river corridors, wetlands, mountains, and floodplains, to control erosion and sediment, and to implement policies in the Habersham County Comprehensive Plan.

9.2 Establishment of Sensitive Environments Maps.

A. The location and boundaries of the sensitive environments regulated in this article are hereby established as shown on a set of maps entitled "Sensitive Environment Maps of Habersham County, Georgia." Said set of maps, together will all explanatory matter thereon, is hereby adopted by reference and declared to be a part of this article. Said maps shall be located in the office of the planning department and shall be public records available for public inspection during normal business hours. The governing body is hereby authorized to amend said maps in accordance with the procedures as provided in this ordinance.

9.3 Land Development within Significant Groundwater Recharge Areas.

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

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

7. Each space within a recreational vehicle park shall be a minimum area of 3,500 square feet.

9.4 Wetlands Protection Regulations.

9.4.1 Determination of Applicability.

A. Prior to the issuance of any land-disturbing activity permit or building permit, the administrative officer shall review the sensitive environments map to determine whether or not the land involved in an application for land- disturbing activity permit or building permit contains wetlands. The administrative officer shall not issue any land-disturbing activity or building permit involving properties identified as containing wetlands until and unless one of the following conditions has been met by the applicant for said permit:

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

9.4.2 Water Supply Watershed Protection Regulations.

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

1. All properties and development thereof within the corridor of a perennial stream located within the Hazel Creek, Camp Creek and Soque River water supply watersheds, within a seven-mile radius upstream of a governmentally-owned public drinking water intake or water supply reservoir, shall conform to the following:
   a. A stream natural buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.
   b. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks and septic tanks and septic tank drain fields shall be prohibited within the impervious surface setback area.
2. All properties and development thereof within the corridor of a perennial stream located within

the Hazel Creek, Camp Creek and Soque River water supply watersheds, outside a seven-mile radius upstream of a governmentally-owned public drinking water supply intake or water supply reservoir, shall conform to the following:

a. A stream natural buffer shall be maintained for a distance of 50 feet on both sides of the stream as measured from the stream banks.

b. No impervious surface shall be constructed within a 75-foot setback area on both sides of the stream as measured from the stream banks and septic tanks and septic tank drain fields shall be prohibited within the impervious surface setback area.

3. All properties and development thereof within the Hazel Creek, Camp Creek and Soque River water supply watersheds, regardless of distance from a governmentally-owned public drinking water supply intake or water supply reservoir, shall conform to the following:

a. New sanitary landfills are permitted only if they have synthetic liners and leachate collection systems.

b. New hazardous waste treatment or disposal facilities are prohibited.

c. New facilities which handle hazardous materials of the types and amounts determined by the Georgia Department of Natural Resources shall perform their operations on impermeable surfaces having spill and leak collection systems as prescribed by the Georgia Department of Natural Resources.

d. The impervious surface area of any given property shall not exceed 25 percent of the total land area within such property.

4. All properties and development thereof within the corridor of a perennial stream located within the Chattahoochee River water supply watershed, within a seven-mile radius upstream of a governmentally- owned public drinking water supply intake or water supply reservoir, shall conform to the following:

a. A stream natural buffer shall be maintained for a distance of 100 feet on both sides of the stream as measured from the stream banks.

b. No impervious surface shall be constructed within a 150-foot setback area on both sides of the stream as measured from the stream banks and septic tanks and septic tank drain fields shall be prohibited within the impervious surface setback area.

c. New facilities which handle hazardous materials of the types and amounts determined by the Georgia Department of Natural Resources shall perform their operations on impermeable surfaces having spill and leak collections systems as prescribed by the Georgia Department of Natural Resources.

9.4.3 Exceptions to Water Supply Watershed Protection Regulations.

A. The administrative officer is authorized to exempt water lines, telephone, electric power, cable television and other utilities from the provisions of Section 9.4.2, Water Supply Watershed Protection Regulations above provided said activities and/or utilities cannot be feasibly located outside the buffer and/or impervious surface setback area, that said activities and/or utilities are located as far from the stream bank as possible and that said activities and/or installation and maintenance of utilities is performed in a manner acceptable to the administrative officer which preserves the integrity of the

affected stream corridor.

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

9.5 Chattahoochee River Corridor Protection.

A. Applicability.
    1. The Chattahoochee River Corridor Protection District is hereby designated and shall comprise all land, inclusive of islands, in the area in the eastern half of the Chattahoochee River within the County of Habersham and being within 100 feet horizontally on the eastern side of the river as measured from the eastern river bank.
    2. The area between the top of the eastern bank and the eastern edge of the river shall be included within the Chattahoochee River Corridor Protection District and regulated in the same manner as the remainder of the river corridor; however, this area shall not be counted towards the required 100-foot buffer width.
    3. The 100-foot buffer shall be measured horizontally from the uppermost part of the river banks, usually marked by a break in slope.
    4. Because river channels may shift over time due to natural processes, the River Corridor Protection District boundaries shall be based on the mapped location of the river at the time of the most recent Habersham County Comprehensive Plan update. Boundary adjustments resulting from changes in the river's location may be incorporated as part of future comprehensive plan updates.
    5. These minimum planning standards and procedures shall apply to all state-owned or administered land that contains a protected river within its boundaries. All state agencies shall comply with these minimum standards. Failure by a state agency to comply with such standards shall be considered an indicium of a governmental action which may significantly adversely affect the quality of the environment under the Environmental Policy Act (O.C.G.A. § 12-6-1 et seq.).
    6. Standards and requirements established in the Metropolitan Rivers Protection Act and the Erosion and Sedimentation Act are not superseded by River Corridor Standards.
B. Prohibited uses.
    1. Hazardous waste disposal and handling facilities;
    2. Solid waste landfills;
    3. Septic tanks and septic tank drain fields, except that septic tanks only are permitted within the river

corridor for single-family dwellings on two acre or larger lots.

C. Uses exempt from natural buffer maintenance requirements. The following uses are permitted subject to certain conditions within the 100-foot river corridor without having to maintain a 100-foot natural vegetative buffer:

1. Agriculture. Agricultural production and management is permitted within the river corridor, subject to the following conditions:
    a. Agricultural activity shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission.
    b. Agricultural activity shall not impair the drinking quality of the river water as defined by the federal Clean Water Act, as amended.
    c. Agricultural activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.
2. Forestry. Timber production and harvesting are permitted within the river corridor, subject to the following conditions:
    a. Forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission.
    b. Forestry activity shall not impair the drinking quality of the river water as designed by the federal Clean Water Act, as amended.
3. Single-family dwellings. The river corridor protection plan shall not prohibit the building of single-family dwellings including the usual appurtenances within the buffer area, subject to the following conditions:
    a. The dwelling shall be in compliance with all local zoning regulations.
    b. The dwelling shall be located on a tract of land containing at least two acres.
    c. For the purpose of these standards, the size of the tract of the land shall not include any area that lies within the protected river (that is, for tracts of the lands that include portions of a protected river, the area between the river banks cannot be counted towards the two acre area minimum size).
    d. There shall be only one such dwelling on each two acre or larger tract of land.
    e. A septic tank or tanks serving such a dwelling may be located within the buffer area.
    f. Septic tank drain fields shall not be located within the buffer area.
4. Existing land uses. Any commercial, industrial, institutional, residential or other land uses existing within the river corridor prior to the adoption of regulations by Habersham County implementing this river corridor protection plan, provided that:
    a. They shall not impair the drinking quality of the river water.
    b. They shall meet all applicable state and federal environmental rules and regulations.
5. Mining. Mining activities are allowed if permitted by the Georgia Department of Natural Resources pursuant to the Georgia Surface Mining Act of 1968, as amended.
6. Wildlife and fisheries management. These activities are allowed if consistent with the purposes of O.C.G.A. § 12-2-8, Wastewater Treatment and Natural Water Quality Treatment or Purification.

7. Recreational uses. Paths, walkways, boat ramps and other recreational uses consistent with maintenance of a natural vegetative buffer or with river dependent recreation but specifically excluding parking lots and hard-surface tennis courts.
8. Road crossings and utilities. Roads and utilities must meet all requirements of the Erosion and Sedimentation Control Act of 1975, as amended, and any local ordinances on soil erosion and sedimentation control. If utilities cannot feasibly be located outside the river corridor/buffer area as decided reasonably determined by Habersham County, then utilities are allowed subject to the following:
    a. The utilities shall be located as far from the river bank as reasonably possible.
    b. Installation and maintenance of the utilities shall be such as to protect the integrity of the buffer area as well as is reasonably possible.
    c. Utilities shall not impair the drinking quality of the river water.
9. Other uses. Other uses permitted by the Department of Natural Resources or under Section 404 of the Clean Water Act shall be permitted within the river corridor.

D. Establishment and maintenance of natural buffer. Except for land uses specifically exempted by this section, all construction of buildings or structures is prohibited within the river corridor and the existing natural vegetative buffer within 100 feet of the stream bank shall remain undisturbed.

E. Assessment of potential development on protected river corridor. Land development, if consistent with this plan, is not expected to adversely affect:
1. Unique/significant flora and fauna (non-identified in the corridor);
2. The uses, activities, and quality of Chattahoochee River water;
3. Fishing or recreational uses (this segment is not a trout stream);
4. Historical and archeological sites (not identified in the corridor);
5. Adjacent sensitive natural areas (none identified except flood plains). Since flood plains are protected by Habersham County's flood damage prevention code, no adverse effects on flood plains are anticipated either.

9.6 Mountain Protection Plan.

A. Applicability. The Habersham County Mountain Protection Plan shall apply to any “protected mountain” areas in Habersham County which is defined as:
1. All land area 2,200 feet or more above mean sea level that has a percentage slope of 25 percent or greater for at least 500 feet horizontally and shall include the crests, summits and ridge tops which lie at elevations higher than any such area.
2. The crests, summits and ridge tops of mountains whose flanks meet the criteria for a protected mountain shall also be included within the protected area, even though the slopes of such crests, summits and ridge tops have slopes of less than 25 percent.
3. On an otherwise protected mountain, areas that are at an elevation of 2,200 feet or more and have a slope of less than 25 percent, exclusive of valley floors, shall be included within the protected mountain area. For the purposes of this section, a valley floor is defined as a depression of the

earth's surface where the slopes of mountains meet at a lower limit to become nearly level and including such associated areas at the base or toe of a mountain with a 10:1 (ten percent) slope or less.

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

C. References to existing state and local regulations; soil erosion and sedimentation control.

1. Proposed land-disturbing activity shall meet all applicable requirements of the "Erosion and Sedimentation Act of 1975," as amended, and of any applicable local ordinances on soil erosion and sedimentation control.

2. Standards and requirements established in the Erosion and Sedimentation Act are not superseded by mountain protection standards.

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

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

F. Standards for specific land uses.

1. Hazardous waste disposal and handling: Hazardous waste or solid waste disposal facilities are prohibited from protected mountains. Disposal facilities permitted by the Environmental Protection Division of the Georgia Department of Natural Resources prior to the adoption of implementing regulations by Habersham County shall be exempt from this criterion. Handling areas for the receiving and storage of hazardous waste are prohibited from protected mountains.

2. Agriculture and forestry: Agriculture and forestry are permitted on protected mountains, provided that such agriculture and forestry must be consistent with the best management practices established by the Georgia Forestry Commission or the Georgia Soil and Water Conservation Commission and agricultural and forestry activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.

3. Mining: Mining activity on protected mountains is allowed if such activity is permitted by the Georgia Department of Natural Resources.

4. Single-family dwellings: Single-family dwellings shall not be constructed on protected mountains at a density of more than one per acre; however, no such lot shall be less than the width prescribed in Article 9 at the building site. This density restriction shall not apply to:

a. Any lot of less than one acre if such a lot was, as of the date of adoption of this chapter, owned and described as a discrete parcel of real property according to the instrument of title if the person or persons owning the lot on the date of adoption of this chapter; or such a lot was, as of the date of adoption of this chapter, shown as a discrete parcel or real property on a plat of survey properly recorded in the real property records of the clerk of superior court by the person or persons owning the lot on the date of adoption of this chapter.

b. Any land or part of any land which was contained in or subject to any master plan, planned unit development, special approved development plan or any other development plan if such plan was filed with and approved by the local governing authority prior to the effective date of implementing regulations, pursuant to a duly enacted planning and zoning ordinance, provided further that any such planning and zoning ordinance must have provided for rules and procedures and governed lot sizes, density, types of building, and other limitations usually associated with the implementation of local zoning ordinances.

5. Multi-family dwellings: Multi-family dwellings shall not be constructed on protected mountains at a gross density of more than four dwelling units per acre.

6. Commercial structures: Any proposal to construct a commercial structure on a protected mountain shall submit an application to the administrative officer, which shall include:

   a. A detailed landscaping plan which shall identify all trees which are to be removed that exceed eight inches in diameter as measured at a point on the tree four and one-half feet above the surface of the ground; shall contain a plan for replacement of any such trees that are removed.

   b. Such application shall also include a topographical survey of the projected site and an assessment of the effect that the project will have on the environment of the protected mountain after the project has been completed and is in operation. Nothing in this paragraph shall be construed to require commercial structures to comply with the density limitations for single- or multiple-family dwellings as contained in this Article.

7. General development standards.

   a. Tree removal limit without reforestation plan: No person engaging in land-disturbing activity on a protected mountains shall remove more than 50 percent of the existing trees four and one-half feet above the surface of the ground unless such person has filed with the application a plan of reforestation developed by a registered forester.

   b. Heights limitations: Structures on protected mountains shall not extend more than 40 feet as measured from the highest point at which the foundation of such structure intersects the ground, above the uppermost point of the crest, summit or ridge top of the protected mountain on which the structure is constructed. This height limitation shall apply to water, radio and television towers and electric transmission towers and lines. This height restriction shall not apply to minor vertical projections of a parent building, including chimneys, flagpoles, flues, spires, steeples, belfries, cupolas, antennas, poles, wires or to windmills.

   c. Road construction: All roads on protected mountains shall be designed and constructed to minimize the potential for landslides, erosion and run-off.

8. Assessment of impact of potential development on protected mountains.

   a. Conservation of unique/significant flora and fauna: The most significant areas of unique flora

and fauna are located on lands owned and managed by the U.S. Forest Service. Rare and endangered species may be located within areas of protected mountains, although specific sites are not known. Land development and the commencement of other activities, if they are consistent with this mountain protection plan, should not have a negative impact on wildlife and plant and animal habitats.

b. Groundwater and surface water quality: To a significant extent, ground and surface waters are protected by existing state and federal regulations. Furthermore, most of Habersham County's ground and surface water is protected through ownership and management by the U.S. Forest Service through implementation of its land and resource management plan. Therefore, development and other activities consistent with this mountain protection plan must not have an adverse impact on protected mountains.

c. Aesthetics: The visual impact of development and activities consistent with this mountain protection plan must not be significant.

d. Historical and archeological resources: Historic and archaeological resources in Habersham County are inventoried and assessed in the Habersham County Comprehensive Plan. An analysis of the location of such resources indicates that historic and archaeological resources are predominantly located outside of protected mountain areas. Those resources located within protected mountain areas are largely located on land owned and managed by the U.S. Forest Service in accordance with its land and resources management plan. Therefore, development consistent with this mountain protection plan is not expected to have any adverse impacts on existing historic and archaeological resources.

e. Adjacent sensitive natural areas: Sensitive natural areas include wildlife habitats, rare natural communities, significant land forms and geological features, flood plains, wetlands and other such areas sensitive or vulnerable to physical and biological alteration. Habersham County's goals, policies and objectives relative to protection of such sensitive natural areas are provided in the Habersham County Comprehensive Plan. Development on protected mountains should be consistent with applicable policies of Habersham County to minimize any negative impacts on adjacent sensitive natural areas. Regardless, however, development consistent with this mountain protection plan is not expected to have adverse effects on protected mountains.

f. Duration of impacts: No significant impacts of an adverse nature are anticipated if development conforms to the mountain protection plan. Any minimal impacts that might occur on protected mountains would be temporary.

9.7 Appeals and Variances.

A. The Planning Commission is hereby authorized to hear appeals and to grant variances to the provisions of this article in accordance with the procedures established in Article 14, Public Hearing Application and Review Procedures.

9.8 Flood Hazard Protection.

A. Purpose and intent. The purpose of this section is to promote the public health, safety, and general welfare and to minimize public and private losses due to flood conditions in specific areas by the

application of regulations designed to restrict or prohibit uses which are dangerous due to water or erosion hazards or which will result in damaging increases in erosion or in flood heights or velocities; require that uses vulnerable to floods be protected against flood damage at the time of initial construction; control the alteration of natural flood plains, stream channels and natural protective barriers which are involved in the accommodation of flood waters; control filling, grading, dredging and other development which may increase erosion or flood damage and to prevent or regulate the construction of flood barriers which will unnaturally divert flood waters or which may increase flood hazards for other lands.

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

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

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

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

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

G. Permitted uses within special flood hazard areas. Notwithstanding the uses permitted by the Zoning District applying to the property, only the following uses shall be permitted within a special flood hazard area:

    1. Agriculture, including forestry and livestock raising, requiring no structure.

    2. Dams, provided they are constructed in accordance with the requirements of this chapter and with all applicable state and federal regulations.

3. Fences having sufficient open area to permit the free flow of water and/or debris.
4. Grading and other construction necessary to raise a building site above the flood plain, provided that said activities are accomplished in conformance with the development standards of this chapter and all applicable state and federal regulations.
5. Identification, regulatory and warning signs.
6. Public, private, and commercial parks and recreational areas including boat ramps and docks but not including any temporary or permanent buildings, provided such use is approved by the County engineer and the U.S. Army Corps of Engineers.
7. Parking lots.
8. Public utility poles, towers, pipelines, sewers, streets, and similar facilities, provided they are constructed in such a manner as to permit the free flow of flood waters.
9. Other uses may be permitted upon approval of a conditional use permit in accordance with the procedures and provisions established in this chapter.

H. Permit requirements and procedures. In all developments that involve change, modification or alteration of land within a special flood hazard area, except such agricultural activities as plowing, tilling, seeding, planting and forestry management practices, such development shall require a land disturbing activity permit from the administrative officer prior to the commencement of activities.
   1. Where necessary to determine that a proposed use conforms to the requirements of this section, the administrative officer may require the applicant to furnish sufficient plans, specifications, hydrologic and engineering studies, or data including, but not limited to, the following:
      a. Elevation in relation to mean sea level of the lowest floor (including basement) of all structures;
      b. Elevation in relation to mean sea level to which any non-residential structure has been flood-proofed;
      c. Certificate from a registered professional engineer or architect that the non-residential flood-proofed building will meet the flood-proofing criteria established in this section;
      d. Description of the extent to which any watercourse will be altered or relocated as a result of the proposed development;(5)Floor elevation or flood-proofing certification after the lowest floor is completed. Said certification shall be prepared and provided by a registered land surveyor or professional engineer and certified by same. Any work undertaken prior to submission of the certification shall be at the permit holder’s risk. Failure to make such submission, or failure to make any corrections required, shall be cause to issue a stop-work order for the project.

I. General development provisions. Development within special flood hazard areas shall conform to the following regulations:
   1. Relocation or realignment of river or stream channels shall be prohibited if such action would reduce the floodway capacity with respect to the base flood elevation or significantly alter water flow characteristics so as to create a hazard.
   2. Existing nonconforming uses and structures shall not be expanded in any way but may be repaired or modified to incorporate flood-proofing measures or to comply with state or local code requirements.

3. Any new dwelling or substantial improvement of any dwelling located within a special flood hazard area shall have its lowest floor, including basement, elevated at least three feet above the base flood elevation. Should solid foundation perimeter walls be used to elevate a structure, openings sufficient to facilitate the unimpeded movement of flood waters shall be provided.
4. Lands may be removed from a special flood hazard area by raising the elevation of such land above the base flood elevation, provided the raising of such land is accomplished in accordance with the requirements of this section and any state and federal regulations.
5. In districts which permit residential use, at least 50 percent of the required minimum lot area established by the district shall be above the base flood elevation. Base elevation data shall be provided for all subdivision proposals and other developments which are greater than the lesser of 50 lots/ spaces or five acres.
6. No construction, including grading and filling, shall be permitted which would raise the base flood elevation beyond the boundaries of the property being developed, reduce the flood storage capacity of the floodway, impede the movement of flood waters, or increase the velocity of flood waters.
7. New construction and substantial improvements shall be anchored to prevent flotation, collapse or lateral movement of the structure. Manufactured homes shall be anchored to prevent flotation, collapse or lateral movement. Methods of anchoring may include, but are not limited to, use of over- the-top or frame ties to ground anchors. This standard shall be in addition to and consistent with applicable state requirements for resisting wind forces.
8. New construction and substantial improvements shall be constructed with materials and utility equipment resistant to flood damage.
9. New construction or substantial improvements shall be constructed by methods and practices that minimize flood damage.
10. Electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
11. New and replacement water supply systems shall be designed to minimize or eliminate infiltration of flood waters into the system.
12. New and replacement sanitary sewage systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters.
13. On-site waste disposal systems shall be located and constructed to avoid impairment to them or contamination from them during flooding.
14. Any alteration, repair, reconstruction, or improvements to a building which is in compliance with the provisions of this chapter shall meet the requirements of this article.
15. Any alteration, repair, reconstruction, or improvements to a building which is not in compliance with the provisions of this chapter shall be undertaken only if said nonconformity is not furthered, extended or replaced.
16. New construction or substantial improvement of any commercial, industrial, or non-residential building or mobile/manufactured home shall have the lowest floor, including basement, elevated no lower than one foot above the level of the base flood elevation. Buildings located in all A-zones

may be flood- proofed in lieu of being elevated, provided that all areas of the building below the required elevation are water tight with walls substantially impermeable to the passage of water and use structural components having the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy. A registered professional engineer or architect shall certify that these standards are satisfied.

17. New construction or substantial improvements of elevated buildings that include fully enclosed areas formed by foundation and other exterior walls below the base flood elevation shall be designed to preclude finished living space and designed to allow for the entry and exit of floodwaters to automatically equalize hydrostatic flood forces on exterior walls.
    a. Designs for complying with this requirement must either be certified by a professional engineer or architect or meet the following minimum criteria:
        i. Provide a minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding.
        ii. The bottom of all openings shall be no higher than one foot above grade.
        iii. Openings may be equipped with screens, louvers, valves or other coverings or devices provided they permit the automatic flow of floodwaters in both directions.
    b. Access to the enclosed area shall be the minimum necessary to allow for parking of vehicles (garage door) or limited storage of maintenance equipment used in connection with the premises (standard exterior door) or entry to the living area (stairway or elevator).
    c. The interior portion of such enclosed area shall not be partitioned or finished into separate rooms.

J. Regulations for mobile/manufactured homes and recreational vehicles.
    1. All mobile/manufactured homes and recreational vehicles placed or substantially improved on individual lots or parcels in expansions to existing manufactured home parks or subdivisions or in substantially improved manufactured home parks or subdivisions must meet all the requirements of section 4.2.5, including elevation and anchoring.
    2. All mobile/manufactured homes and recreational vehicles placed or substantially improved in an existing park or subdivision must be elevated so that:
        a. The lowest floor of the mobile/manufactured home is elevated no lower than three feet above the level of the base flood elevation.
        b. The mobile/manufactured home chassis is supported by reinforced piers or other foundation elements of at least an equivalent strength, of no less than 36 inches in height above grade.
        c. The mobile/manufactured home must be securely anchored to the adequately anchored foundation system to resist flotation, collapse, and lateral movement.
        d. In an existing manufactured home park or subdivision on which a mobile/manufactured home has incurred “substantial damage” as the result of a flood, any manufactured home placed or substantially improved must meet the standards of this Article.
    3. All recreational vehicles placed on sites must either:
        a. Be fully licensed and ready for highway use; or
        b. The recreational vehicle must meet all the requirements for new construction, including

anchoring and elevation requirements of this Article. A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities and security devices, and has no permanently attached structures.

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

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

L. Regulations for streams without established base flood elevation and/or floodways. Within the areas of special flood hazard established in this article, where streams exist but where no base flood data has been provided or water base flood data has been provided without floodways, the following provisions apply:

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

M. Regulations for areas of shallow flooding (A-O Zones). Within the areas of special flood hazard established in this chapter are areas designated as shallow flooding areas, which areas have special flood hazards associated with base flood depths of one to three feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate, the following provisions apply:

1. All new construction and substantial improvements of residential buildings shall have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest adjacent grade.
2. All new construction and substantial improvements of non-residential buildings shall meet the following:
    a. Have the lowest floor, including basement, elevated to the depth number specified on the flood insurance rate map, in feet, above the highest adjacent grade. If no depth number is specified, the lowest floor, including basement, shall be elevated at least two feet above the highest

adjacent grade; or

b. Together with attendant utility and sanitary facilities, be completely flood-proofed to or above that level so that any space below that level is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

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

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

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

Q. Variances. All variances to the provisions of this article shall be filed and decided in accordance with all applicable provisions of this UDO. The administrative officer shall report any variances to the Federal Emergency Management Agency upon request.

R. Criteria to consider for variances. In passing upon applications for a variance from the provisions of this article, the Planning Commission shall consider all technical evaluations, all relevant factors and the following:

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

the base flood discharge would result.

S. Conditions for variances.

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

ARTICLE 10: SITE STANDARDS

Section 10.1 Design Standards.

10.1.1 Purpose and Applicability.

A. This chapter shall apply to all land and water areas within the unincorporated areas of Habersham County, Georgia.

B. No building, structure, land, open space or water shall hereafter be used or occupied and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, structurally altered or maintained and no new use or change shall be made or maintained of any building, structure, land, open space or water unless in conformity with all the regulations of this chapter.

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

D. Within the districts established by this chapter, there exist certain incompatible lots, buildings, structures, signs and uses of land which were lawful before this chapter was adopted but which would be prohibited, regulated or restricted under the terms of this chapter or future amendments. It is the intention of this chapter to permit these nonconformities to continue in accordance with this chapter. It is further the intent of this chapter that nonconformities shall not be enlarged upon, expanded or extended, nor be used as grounds for variances or for adding other structures or uses prohibited elsewhere in the same district.

10.1.2 Buildings Under Construction.

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

10.1.3 Standard for Building Locations.

A. Measures of setbacks.

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

B. Encroachments into required setbacks.

1. Building features, such as steps, fire escapes, cornices, eaves, gutters, sills, and chimneys may project not more than 2.5 feet beyond a required setback line, except where such projections would obstruct driveways which are used or may be used for access of service and/or emergency vehicles. An unenclosed front or side porch, portico or stoop in a residential Zoning District shall be allowed not more than three feet beyond the required front yard setback.
2. In the case of automobile service stations and similar uses which serve the motoring public, canopies shall be allowed over a driveway or walkway within the front yard not to extend from the principal building to a point any closer than 15 feet from the street right-of-way line. Such canopies shall provide a minimum 12 feet vertical clearance.

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

D. Maintenance of setbacks.

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

Section 10.2 Buffer, Landscape, Screening, and Open Space Requirements.

10.2.1 Purpose.

A. The regulations of this section are designed to:

1. Preserve and enhance Habersham County's natural and built environment through the preservation, protection, and planting of trees and other landscape materials;
2. Establish an orderly process for the removal of protected trees and landscape materials;
3. Establish uniform standards related to tree coverage, planting species, and site design;
4. Provide for safe and efficient pedestrian and bicyclist mobility via streetscapes or paths internal to developments across the County;
5. Establish context sensitive standards which enhance the unique character of Habersham County's various neighborhoods and areas;
6. Reduce noise, night lighting, glare, odor, loss of privacy, and other adverse impacts and nuisances;
7. Purposefully conserve and protect sensitive ecological areas and wetlands;
8. Provide for shade and cooling, prevent soil erosion, foster air quality through carbon dioxide absorption, provide wildlife habitat, and contribute to the economic value of property.

10.2.2 Applicability.

A. Compliance Required. Compliance with this article shall be required in the following development circumstances:

1. Subdivision, construction, or reconstruction of all residential and non-residential developments.
2. Expansion or alteration of the gross floor area of an existing multi-family dwelling, mixed-use, or non-residential building by 50 percent or more.

B. Compliance Exemptions. Compliance with this article shall not be required in the following circumstances:

1. Individual lot, infill single-family development.
2. Master-planned or cluster developments, subject to review and approval by the Planning and

Development Director.

3. Where land disturbance on a site is minimal and the existing tree canopy/natural vegetation is sufficient to achieve the objectives of this article, subject to review and approval by the Planning and Development Director.

10.2.3 General Requirements.

A. It shall be the responsibility of the subdivider of any property hereafter divided to designate required landscape areas and buffers on preliminary and final subdivision plats.

B. Plans Required. All buffers and landscaped areas required by this article shall conform to the following provisions:

1. Plan Submittal. Submitted landscape and/or buffer plans, whether separate or as part of a site plan, house location plan, or other development application, shall be prepared by a landscape architect, arborist, surveyor, or engineer, licensed in the State of Georgia.

2. Existing Vegetation. Utilization will be made of existing vegetation where it has been determined by the Planning and Development Director that existing vegetation is appropriate for inclusion within the buffer/landscaped area or, when found not appropriate, shall be supplemented with approved, additional plantings.

3. Encroachments and Disturbance. Encroachment into, disturbance, or modification of the natural topography of the land for property improvements or during construction and maintenance activities is to be minimized, except in the following instances to be approved by the Planning and Development Director:

   a. Where the land must be cleared and graded as required by the application of laws to prevent soil erosion or sedimentation;

   b. Where regulations for storm drainage improvements require alteration of the topography;

   c. Where necessary to prevent a nuisance to thin natural growth that has become so dense as to prohibit normal growth or to remove diseased, misshapen, or dangerous or decayed growth; or

   d. Where fences, walls, earthen berms, or frontage streetscape elements are constructed, in compliance with this section;

   e. Where signs are otherwise permitted by this ordinance.

4. Permitted Interruptions of Screening. Screening may be interrupted where access and/or utility crossings have been approved, to be approved by the Planning and Development Director. Such breaks or interruptions shall not exceed 20 percent of the length of the required screened area.

5. Erosion Control. Vegetation planted for erosion control shall meet the minimum requirements of this article and Chapter 26, Environment of the Code of Habersham County. Required buffers and/or landscaped areas shall be well established and maintained to control erosion until completion of the entire project.

   a. Any lot having a slope of 15 percent or greater shall have a natural buffer of undisturbed soil and vegetation maintained or created along all property lines down slope starting from the rear and/or side property line and moving toward the house and/or installed septic system. The buffer shall be no less than 25 feet wide at any point. The purpose of the buffer is to minimize

erosion onto adjacent properties or into streams, rivers, and other waterways.

b. Lots utilizing a private septic system and having areas of undisturbed soil and vegetation at the time of Final Plat approval are subject to the percent of the lot down slope on the building site that is required to be buffered for erosion control. However, no lot shall be less than one acre.

c. For lots that require a private septic system and have been cleared of vegetation prior to the preliminary plat application or during development, a 25-foot-wide buffer for erosion control must be re-established along all property lines down slope from the building site.

10.2.4 Landscape and Screening Standards for Non-Residential Development.

A. Applicability. The provisions of this Section apply to all street frontage of non-residential commercial, office, and/or mixed-use development sites.

B. Disturbance. Required landscaped areas, including general landscaping, perimeter landscaping, and buffer areas shall not be disturbed, except where specified in Section 10.2.3, General Requirements.

C. Frontage Strip Width. Frontage strip widths shall be based on the required setbacks of the underlying zoning district or a minimum width of 10 feet, whichever is greater, to accommodate the required plantings at full maturity.

D. Landscaping and Screening Requirements.

1. Plantings and Other Required Elements.

a. Landscape materials shall comply with Section 10.2.7, Acceptable Plantings, Section 9.2.8, Other Acceptable Plant Materials, and Section 10.2.9, Acceptable Non-Vegetative Landscaping Materials.

b. Trees. One (1) tree shall be provided within the landscape area for every 40 linear feet of length of the frontage yard length.

c. Earthen Berms. An earthen berm shall be constructed within the landscape area to span the entirety of the front setback line of the development.

10.2.5 Landscape Standards for Industrial Development.

A. Prior to the issuance of a certificate of occupancy, any parcel of land for which a building permit has been requested, shall have preserved or planted trees, meeting the following standards:

1. Preserved or Planted Trees.

a. Amount. All recorded lots within a subdivision shall have planted or preserved at least four (4) trees per parcel.

b. Location. Qualifying planted or preserved trees shall not be located within drainage easements/ fields, septic easements, or other utility easements. To prevent shared boundary trees, qualifying planted or preserved trees shall not be located within any required rear or side setbacks.

10.2.6 Buffers.

A. Transitional Buffers.

1. A transitional buffer shall be required to provide separation and visual screening between

dissimilar zoning districts or land uses, including where a non-residential use abuts or is proposed adjacent to a residential use. The buffer may consist of existing natural vegetation preserved in place, supplemental plantings, or a combination thereof, and is intended to mitigate visual, noise, lighting, and other land use impacts.

B. Transitional Buffer Widths.

Table 10.2.6.B – Transitional Buffer Widths	
Development Site Use	**Required Transitional Buffer Width**
Agricultural	25 ft minimum
Single-Family Attached and Multi-Family	25 ft minimum
Commercial, Public Institutional, or Mixed-Use	50 ft minimum
Industrial	50 ft minimum

C. General Buffer Requirements.

1. Undisturbed Buffers. Existing deciduous trees may be credited towards minimum required buffer width, but where necessary, the Planning and Development Director may require the owner to install additional supplemental evergreen shrubs and trees, as provided in Table 10.2.7.B, Tree List and Table 10.2.8.B, Pre-Approved Shrub Species List, that will provide an opaque visual screen during all seasons of the year.
2. Planted Buffer. Planted buffers shall meet the following criteria, in addition to other requirements of this article.
    a. Supplemental flowers and shrubbery may be planted on that internal side of the transitional buffer closest to the principal building for decorative effect but shall not be credited towards the satisfaction of the minimum buffer width. Where provided, decorative shrubbery shall comply with this section.
    b. Fences and walls shall be permitted to be located up to the property line and shall comply with this section. Shrubs, ground covers, or other vegetation shall be provided between the fence or wall and the property line so as to provide a decorative effect, following the planting selection and spacing standards of this section.

10.2.7 Acceptable Plantings.

A. Minimum Sizes. In those instances where the natural vegetation and topography are insufficient to achieve the desired level of screening required by this chapter, plantings shall be provided to achieve acoustical and visual screening and/or erosion control barriers. Planted materials shall conform to the following specifications:

Table 1 0 .2.7.A – Minimum Plant Sizes		
TYPE OF PLANTING	**SIZE REQUIRED (AT TIME OF PLANTING)**	**PLANTING SPACING**
Overstory Trees	2-inch caliper (deciduous); 6-feet (evergreen)	Average 40 feet, on center
Understory Trees	2-inch caliper (deciduous); 6-feet (evergreen)	Average 40 feet, on center
Shrubs	3 gallons	Average 24 inches, on center (or one-half the ultimate spread)
Flowers / Other Perennials	1 gallon	Average one-half the ultimate spread

B. Tree Plantings. Trees may be selected from the overstory and understory tree list below. Trees determined to be native per the Georgia Forestry Commission databases or publications may also be proposed as alternative tree plantings.

Table 10.2.7.B – Tree List	
OVERSTORY TREES	**UNDERSTORY TREES**
Gren Ash or White Ash	Flatwoods Plum
American Beech	Pond Cypress
American Chestnut	Sweetbay Magnolia
American Sycamore	Georgia Oak
Black Oak or Shumard Oak	Sassafras Albidum
Southern Red Oak	Kousa Dogwood
Willow Oak	Striped Maple
Gingko (President, Autum Gold; male gender)	
American Elm	
Slippery Elm	
Winged Elm	
Bald Cypress (Shawnee Brave)	
Eastern Redbud	
Eastern White Pine	
Flowering Dogwood	
Georgia Hackberry	
Eastern Hemlock	
Northern Red Oak	
Red Maple or Chalk Maple	
Red Mulberry	
Red or White Cedar	
Sassafras	
Southern Catalpa	
Sweetgum	
Black or Swamp Tupelo	
Other species, as approved by the Planning and Development Director.	

1. Tree Height. At normal growth, all trees selected for planting shall attain a minimum height of six (6) feet within three (3) years of planting.
2. Tree Diversity. No more than 25 (or 25 percent of the total number, whichever is greater) of the new trees installed on a development site may be of any one genus.
3. Staggered Spacing. Where both overstory and understory trees are planted, they shall be planted in a double staggard row, alternating overstory and understory trees.

10.2.8 Other Acceptable Plant Materials.

A. Flowers / Other Perennials. To improve pollinator habitat, at least 25 percent of planted areas shall include native flowering and nectar producing plant species.

B. Shrub Plantings. Shrub species, where used, shall be at least 3 gallons in size at the time of planting and selected from the shrub list below.

Table 1 0 .2.8.B – Pre-Approved Shrub Species List	
American Beautyberry	Littlehip Hawthorne
American Bladdernut	Maple-leaf Viburnum
American Devilwood	Mayhaw
American Holly	Mugo Pine
American Snowbell	Nandina
American Strawberry Bush	Nellie R. Stevens Holly
Arborvitae	NineBark
Arrowwood	Northern Bayberry
Azalea	Oakleaf Hydrangea
Blackhaw Viburnum	Oregonholly Grape
Buckeye	Osmanthus
Buckwheat Tree	Pittosporum
Burford Holly	Possumhaw
Buttonbush	Red Chokeberry
Chickasaw and Hog Plum	Red Tip
Chinese Witchhazel	Savannah Holly
Cleyera	Silky Dogwood
Devil's Walkingstick	Smooth or Winged Sumac
Drooping Leucothoe	Sparkleberry
Dwarf Burford Holly	Spice Bush
Dwarf Chinese Holly	Spirea (all varieties)
Dwarf Nandina	Strawberry Bush
Dwarf Yaupon Holly	Swamphaw Viburnum
Eastern Red Cedar	Sweet Pepperbush
Elderberry	Tag Alder
Euonymus	Thorny Eleagnus
Flowering Jasmine	Viburnum
Forsythia	Warty Barberry
Hazelnut	Wax Myrtle
Hetz Juniper	Weigela
Hoptree\Wafer-Ash	Wild Hydrangea
Virginia Sweetspire	Winter Honeysuckle
Japan Yew	Winter Jasmine
Japanese Flowering Quince	Winterberry
Japanese Holly	Witch-hazel
Juniper	Yellow-Root

C. Earthen Berms.

1. All earthen berms shall have a maximum side slope of three horizontal to one vertical (3:1) and shall be a minimum of three (3) feet in height and two (2) feet in width at the crown.
2. Earthen berms shall not be constructed within the irrigation line of any existing trees that will remain on the property.
3. Earthen berms shall be planted in grass or other suitable ground cover.

10.2.9 Non-Vegetative Landscaping Materials.

A. Ground Materials.

1. Non-vegetative materials, such as decorative rock, artificial grass, bark, and perma- bark, shall not count towards the minimum landscape requirements.
2. The use of bark or other loose materials shall be designed and located to prevent being displaced or washed out of the planting area.
3. Non-vegetative material may only be used to augment the landscape or be used around the base of trees, shrub groupings, flower beds, etc.; landscaped and/or buffer areas shall have at least 50 percent of the ground surface covered by vegetation at plant maturity.
4. When utilized, organic mulch, such as bark or soil aid, shall be applied and maintained in all planting areas at a minimum two-inch depth.

B. Fences or Walls.

1. Fences shall have a maximum height of six (6) feet in residential areas and eight (8) feet in commercial/industrial areas.
2. Fences or walls shall be constructed with materials compatible with the principal building.
3. Wire fencing and unfinished cinder block walls shall not be permitted to meet screening requirements.
4. Fences used in buffers must be made of rot-resistant material or protected from deterioration with water-proofing material.
5. The finished side of all fences and walls utilized to meet the requirements of this article shall face the street or adjoining properties.

Section 10.3 Tree Protection.

10.3.1 Tree protection required.

Tree protection requirements of this article shall be applied to every activity that requires the issuance of a building or development permit under this development code, except for activities otherwise exempted from development permitting by this development code.

10.3.2 Designation of tree protection areas.

The following areas shall be designated as tree protection areas, within which it shall be unlawful to remove trees unless specifically provided otherwise by this development code:

A. Stream buffers. Stream buffers required by state law and this development code shall be designated and delineated as tree protection areas on site plans, grading plans, landscaping plans, preliminary plats, and final plats.

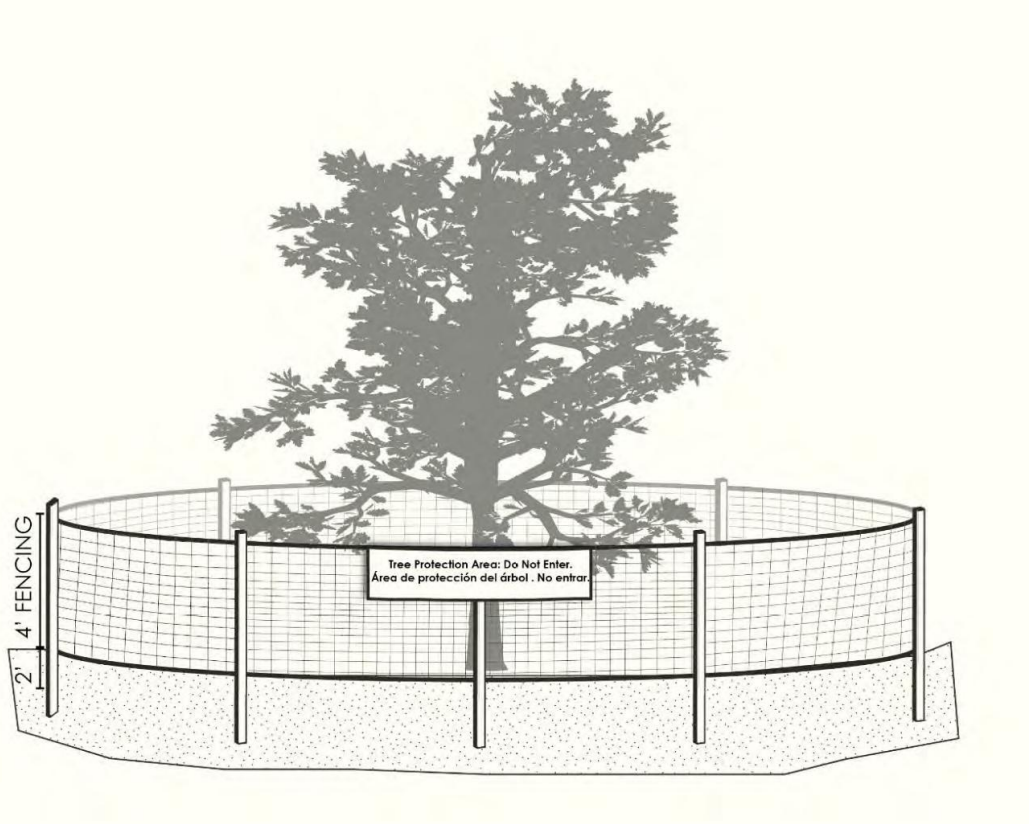
B. Zoning buffers. Natural buffers when required by the Habersham County zoning regulations shall be designated and delineated as tree protection areas on site plans, grading plans, landscaping plans, preliminary plats, and final plats.

C. Existing trees to be retained. Land developers and subdividers will be required to consider designing land developments and subdivisions in a way that protects existing trees to the maximum extent possible, while allowing for reasonable development of the site. At least fifty percent (50%) of existing trees, as of the date of this ordinance adoption, must be preserved within all major and minor subdivisions. Where a development site or subdivision has existing trees outside of required stream buffers and zoning buffers, and such trees are to be retained, the critical root zones around all such trees to be retained shall be designated and delineated as tree protection areas on site plans, grading plans, landscaping plans, preliminary plats, and final plats as tree protection areas.

10.3.3 Tree protection fencing required.

A. Protection. Trees protection areas shall be actively protected during land disturbance and land development with tree protection fencing, installed at the boundaries of all tree protection areas prior to any land development or land disturbance activity.

B. Barrier required. Tree fencing shall be a minimum of 4 foot in height and comprised of chain-link fencing, orange laminated plastic fencing supported by posts, wooden post and rail fencing, or other equivalent barrier (see figure below).



Tree Protection Detail

C. Duration. Tree protection fencing required by this section shall remain in place until land development and construction activities are complete, or a certificate of development completion is issued, or until authorization is given by the zoning administrator to remove the tree protection fencing.

10.3.4 Prohibitions within tree protection areas.

Except as specifically authorized in this article, tree protection areas shall remain in a natural, undisturbed condition; activities related to development within a tree protection area shall be prohibited. This specifically includes prohibition of the following within a tree protection area:

(a) vehicle or equipment parking, storage or traffic;

(b) materials or supplies storage;

(c) placement of temporary or permanent structures;

(d) equipment maintenance or washout;

(e) wounding of tree trunks; wounding or breakage of limbs or branches greater than four inches in diameter; topping or other improper pruning, such as stub cuts or flush cuts;

(f) fires or excessive heat from equipment exhausts;

(g) site or lot clearing or grubbing;

(h) soil excavation or soil cuts or fills;

(i) grading; trenching; tilling; soil compaction;

(j) top dressing with fill or soil greater than two inches in depth; and

(k) paving.

The Planning and Development Director may require that this section of the development code appear verbatim on tree protection and landscaping plans.

10.3.5 Tree damage.

When trees are required to be designated as lying within tree protection areas, any tree within a tree protection area that is damaged during land disturbance, land development, or building or site construction shall be treated according to ANSI 300 standards. If damage necessitates removal of a tree, it shall be replaced with a tree or trees of similar species and value.

10.3.6 Exemptions.

Timber harvesting operations as described in O.C.G.A. § 12-6-24 are exempt from the requirements of this article. However, no other land disturbing activities, development, or permits shall be issued on the entire property upon which the forestry practices were conducted for a period of three years after the completion of such forestry practices.

10.4 Parking.

10.4.1 Required Parking Spaces.

A. Parking Ratio Calculation. The total number of off-street parking spaces provided in any base zoning

district shall not be more than allowed in Table 10.3.1.D.2, Required Parking Spaces below. ADA spaces shall not be credited towards maximums.

B. Calculation Rounding. For all parking spaces calculations resulting in a fraction, the fraction will be:

1. Rounded to the next higher whole number when the fraction is 0.5 or higher.
2. Rounded to the next lower whole number when the fraction is less than 0.5.

C. Unlisted Uses. Where a use is not listed on Table 10.3.1.D.2, Required Parking Spaces, the parking maximum shall be as required for the most similar use listed as determined by the Planning and Development Director. In instances where an equivalent may not be clearly determined, the Planning and Development Director may require the applicant to submit a parking study or transportation management plan or other evidence that will help determine the appropriate requirements.

D. Waiver of Maximum Limitations. Parking in excess of the maximum parking limitations of this section may be waived by the Planning and Development Director pursuant to the following requirements:

1. The applicant requesting the waiver shall provide a peak demand parking study for two similar uses in the area; and,
2. The following additional review criteria shall be addressed:
   a. The need for additional parking cannot be reasonably met through the provision of on-street parking or shared parking with adjacent or nearby uses;
   b. The proposed development demonstrates that in its design and intended uses will continue to support pedestrian and bicycling mobility through the property.
   c. The proposed development integrates bio-swales, additional electric vehicle charging stations, or other sustainability measure.

Table 1 0 .4.1.D.2 – Required Parking Spaces	
Use	**Maximum Parking Spaces**
Agricultural and Related Uses	
Agricultural Uses	3 spaces per 1000 sq. ft. of gross floor area
Agricultural Sales (good produced onsite)	3 spaces per 1000 sq. ft. of gross floor area
Agritainment Services	In accordance with special use permit.
Riding Stable	2 spaces per horse stall
Farm Winery as defined in O.C.G.A 3621.1	3 spaces per 1000 sq. ft. of gross floor area
Farmer's Market	3 spaces per authorized vendor.
Livestock Pavilion	In accordance with special use permit.
Residential Uses	
Multi-Unit Dwelling	2.5 spaces per dwelling unit
Bed and Breakfast	1.5 spaces per rooming unit, plus maximum 1.5 spaces per dwelling unit of owner or manager.
Boarding Houses	1.5 spaces per room plus 1.5 spaces per dwelling unit of owner or manager
Dormitory	1 space per bed
Emergency Shelter	1 space per bed

Group Home, Foster / Children's Home	1.5 spaces per adult resident for group homes, or 2 spaces per 4 child residents for foster homes.
Senior Assisted Living	1.5 spaces per room
Non-Residential Uses	
Adult Day Care	1 space per employee
Amusement Arcade	3 spaces per 1000 sq. ft. of gross floor area.
Animal Boarding/Kennel/Shelter	3 spaces per 1000 sq. ft. of gross floor area.
Animal Grooming	1 space per grooming station
Animal Hospital/Veterinarian Office	4 spaces per 1000 sq. ft. of gross floor area.
Appliance and Furniture Sales	3 spaces per 1000 sq. ft. of gross floor area.
Aquarium	In accordance with special use permit.
Art Gallery/Studio	3 spaces per 1000 sq. ft. of gross floor area.
Auction Houses	In accordance with special use permit.
Automobile and Marine Parts Sales	3 spaces per 1000 sq. ft. of gross floor area
Automobile Repair/Service - Minor	3 spaces per 1000 sq. ft. of gross floor area plus 1 additional space per bay
Automobile Repair/Service – Major	3 spaces per 1000 sq. ft. of gross floor area plus 2 additional spaces per bay
Automobile Sales – New and Used Office	3 spaces per 1000 sq. ft. of gross floor area
Bakery	3 spaces per 1000 sq. ft. of gross floor area
Bank, Credit Union	3 spaces per 1000 sq. ft. of gross floor area
Bar/Tavern	4 spaces per 1000 sq. ft. of gross floor area
Beauty/Barber Shop	1.5 spaces per station/chair
Bicycle Sales/Repair	2 spaces per 1000 sq. ft. of gross floor area
Billiard Parlor	2 spaces per game table
Boat Repair/Service	3 spaces per 1000 sq. ft. of gross floor area
Boat Sales/Rental	3 spaces per 1000 sq. ft. of gross floor area
Boat Storage	4 spaces per 1000 sq. ft. of gross floor area
Bowling Alley	4 spaces per lane
Building Material Sales	4 spaces per 1000 sq. ft. of gross floor area
Café	1 space per two people based on maximum capacity
Campground	1 space per camping space
Car Wash	5 stacking spaces per wash bay
Cemetery	5 spaces plus 1 per fulltime employee
Cinema	1 space per two seats based on maximum capacity
Club, membership	4 spaces per 1000 sq. ft. of gross floor area
Community Garden	1 per 10 plots
Conference Center	4 spaces per 1000 sq. ft. of gross floor area
Contractor Yard	3 spaces per 1000 sq. ft. of gross floor area of office
Convenience Store	4 spaces per 1000 sq. f.t. of gross floor area
Convention Center	In accordance with special use permit

Courthouse	Governmental Use, exempt
Crematory	1 space per two seats
Crisis Counseling Center	5 spaces per 1000 sq. ft. of gross floor area
Daycare – Home (6 children or less)	In accordance with dwelling type.
Daycare – Large (20 children or more)	1 per fulltime employee plus 1 reserved drop off spot per 5 children.
Daycare – Small (20 children or fewer)	1 per fulltime employee plus 1 reserved drop off spot per 5 children.
Dental Lab	3 spaces per 1000 sq. ft. of gross floor area
Distribution Center	1 space per 3000 sq. ft. of gross floor area
Dry Cleaning Plant	2 spaces per 1000 sq. ft. of gross floor area
Film Studio	4 spaces per 1000 sq. ft. of gross floor area
Fire Station	Exempt
Food and Beverage Processing	4 spaces per 1000 sq. ft. of gross floor area
Fuel Service Station	3 spaces for air fill areas, plus 1 space per gas pump
Funeral Home	1 space per 2 seats
Garden Supply Store	3 spaces per 1000 sq. ft. gross floor area of retail area
General Merchandise/Retail	3 spaces per 1000 sq. ft. of gross floor area
Grocery Store	4 spaces per 1000 sq. ft. of gross floor area
Hazardous Waste Collection/Disposal	In accordance with special use permit
Health Club/Gymnasium	4 spaces per 1000 sq. ft. of gross floor area
Health Studio	2 spaces per 1000 sq. ft. of gross floor area
Hospital	2 spaces per patient bed (excluding bassinets)
Laundromats	1 space per washing or drying machine
Library	Exempt
Lumber Yard	4 spaces per 1000 sq. ft. gross floor area
Manufacturing Light	4 spaces per 1000 sq. ft. of gross floor area
Manufacturing	4 spaces per 1000 sq. ft. of gross floor area
Marina	1 space per berth
Medical Lab	2 spaces per 1000 sq. ft. of gross floor area
Museum	1 space per 1000 sq. ft. of gross floor area
Office	3 spaces per 1000 sq. ft. of gross floor area
Operations Center – Taxi	1 space per 3 employees
Operations Center – Truck/Bus	1 space per 3 employees and 1 space per 1000 sq. ft. of gross floor area for waiting spaces.
Outdoor Sales Lot for Vehicles or Boats**	1 space for each unregistered vehicle or boat permitted to be sold.
Park – Private	5 spaces per play area
Parking Garage – Standalone Pay to Park Facility	Exempt
Parking Lot – Standalone Pay to Park Facility	Exempt

Performing Arts Center	1 space per two people based on maximum capacity
Performing Arts Studio	1 space per 1000 sq. ft. of gross floor area
Pet Store	3 spaces per 1000 sq. ft. of gross floor area
Pharmacy	3 spaces per 1000 sq. ft. of gross floor area
Photo Studio	2 spaces per 1000 sq. ft. of gross floor area
Place of Worship	1 space per two people based on maximum capacity
Police Station	Exempt
Printing Plant	2 spaces per 1000 sq. ft. of gross floor area
Printing Shop	3 spaces per 1000 sq. ft. of gross floor area
Radio and TV Studio	2 spaces per 1000 sq. ft. of gross floor area
Recording Studio	2 spaces per 1000 sq. ft. of gross floor area
Recreational Facility – Private Indoor	1 space per two seats
Recreational Facility – Private Outdoor	1 space per two seats or 19 spaces per playing field, whichever is larger
Recreational Vehicle Sales Office – New and Used	3 spaces per 1000 sq. ft. of gross floor area
Recycling Center – Large, above 2,000 SF gross floor area	1 space per 1000 sq. ft. of gross floor area
Recycling Center – Small, 2000 SF or less	1 space per 1000 sq. ft. of gross floor area
Research Lab	3 spaces per 1000 sq. ft. of gross floor area
Restaurant	1 space per two seats

10.4.2 Parking Construction Standards.

A. Access to Streets. Required parking areas and loading spaces shall be provided with vehicular access to a public street or alley unless such access is prohibited by this UDO.

B. Car Stops. Parking spaces shall be provided with wheel guards or curb stops so that no part of the parked vehicle will extend into or over planting strips, property lines, sidewalks, or street right-of-way.

C. Condition. All parking and drainage structures shall be maintained in good condition free of obstruction.

D. Dimensions. All parking and loading areas shall be included in the maximum lot coverage calculation.

E. Paved Surfaces Required. Parking and loading areas shall be paved using durable and dust free materials such as concrete, asphalt, masonry pavers, pea gravel, or crushed stone. This provision shall not apply to single family or manufactured homes.

F. Slopes.

1. Parking and vehicle maneuvering areas shall have grades not to exceed five percent slope.
2. Ramps between parking areas of different elevations shall not exceed 12 percent slope, with a maximum 5 percent transition slope for a minimum length of 20 feet at the upper and lower end of the ramp.

G. Striping and Markings.

1. Individual parking stalls shall be painted, marked, or otherwise delineated in a manner sufficient to visually identify said spaces.
2. Directional arrows shall be provided at the entrance of interior circulation aisles and directional arrows shall be provided at the entrance of aisles and entry drives.
3. Striping and marking shall be in accordance with the Manual on Uniform Traffic Devices (MUTD) and shall be properly maintained so as to remain easily and clearly visible on-site.

H. Setbacks. Parking lot surfaces shall be setback a minimum distance of 10 feet behind any public or private street right-of-way line and shall be setback a minimum distance of 5 feet from any exterior property line, except where access points and interconnections to other parcels have been approved.

I. Tree Islands. Not less than 10 percent of the total land area for off-street parking lots shall consist of parking lot tree islands measuring at least 150 square feet in area and containing at least 1 overstory canopy tree that measures 3-inch caliper at planting. The selected tree shall be from the table below and no more than 25 percent of planted trees shall be of the same species:

Table 10.4.2.I – Required Tree Island Plantings	
Overstory Trees: Required Separation – 40 feet, on center	
Nuttall Oak	Princeton Elm
American Beech	Red Leaf Maple
American Yellowwood	Red Maple
Bald Cypress (Shawnee Brave)	Scarlet Oak
Basswood	Short Leaf Pine
Black Gum	Shumard Oak
Chinese Elm (Allee, Athena, Drake, Bosque)	Slippery Elm
Eastern Red Cedar	Southern Magnolia
Gingko (President, Autumn Gold)	Southern Red Oak
Hickories	Sugar Maple
Laurel Oak	Sugarberry
Longleaf Pine	Sycamore
Northern Red Oak	Tulip Poplar
Nuttall Oak	Virginia Pine
Overcup Oak	Water Oak
Persimmon	Willow Oak
Post Oak	Zelkova (Green Vase or Village Green)

J. Parking Lot Lighting.

1. Internal site lighting fixtures, including security lighting, shall be full cut off, dark skies compliant, and mounted in such a manner that the cone of light is directed downward, resulting in lighting levels that do not exceed 1.2-foot candles at the recorded property lines.
2. All illumination shall be of a white light, such as produced by incandescent, fluorescent, light-emitting diode (LED), metal halide, or a combination of lamps having a color rendering index

greater than 70.

3. The maximum mounting height of any fixture (except streetlight fixtures) shall be 25 feet.
4. The maximum illumination level shall not exceed 4-foot candles (fc) at any point.
5. The maximum to minimum uniformity ratio presented on lighting plans shall not exceed 20:4.
6. Luminaires under canopy ceilings at gas stations, pre-existing drive throughs, or similar structures shall be recessed into the canopy ceiling so that the bottom of the luminaire does not extend below the ceiling.

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

10.4.3. Parking Dimension Requirements.

A. The dimensional standards of the following table are required to ensure safe and efficient access and circulation.

Table 10.4.3.A – Parking and Aisle Dimensional Standards

Parking Space Type	Space Width	Space Length	Vertical Clearance
Standard Stalls			
Parallel	8.0 feet	18 feet	8 feet
45-degree angle	9.0 feet	18 feet	8 feet
60-degree angle	9.0 feet	18 feet	8 feet
90-degree angle	9.0 feet	18 feet	8 feet
Compact Stalls (authorized in mixed-use developments only)			
Parallel	7.5 feet	15 feet	8 feet
45-degree angle	8 feet	16 feet	8 feet
60-degree angle	8 feet	16 feet	8 feet
90-degree angle	8 feet	16 feet	8 feet
Scooter/Motorcycle	4 feet	8 feet	8 feet
Aisle Width			
One-way	12 to 14 feet 90degree spaces not permitted off one way aisles		8 feet
Two-way	20 to 24 feet 90degree spaces require min. width of 24 feet		8 feet

B. The overall portion of compact spaces cannot exceed 50% of parking provided.

C. Driveways for single family detached, duplex, triplex, and mobile homes shall accommodate at least two vehicles upon the property.

10.4.4. ADA parking spaces required.

A. ADA Compliance Required. Except for single family detached homes, duplexes, triplexes, or mobile homes, all principal land uses shall provide the minimum number of ADA parking spaces listed in the table below. Spaces must be located within 100 feet of the front entrance of a primary use on the parcel.

B. ADA Design Book Reference. All parking spaces and building approaches shall be designed consistent with ADA Accessibility Guidelines (ADA AG) found in Appendix A to 28 Code of Federal Regulations (CFR), Part 36, or most current federal standard.

C. ADA Parking Space Signage. Accessible parking spaces shall be indicated posted signs in each parking stall.

D. Required ADA Parking:

Table 10.4.4.D – Required ADA Parking Spaces	
Base Parking Spaces Required	**ADA Spaces Required**
1—25	1
26—50	2
51—75	3
76—100	4
101—150	5
151—200	6
201—300	7
301—400	8
401—500	9
501—1,000	2 percent of total required
1,001 and over	20 plus one for each 100 over 1,000

10.4.5 ADA Accessible Paths of Travel Required.

A. Accessible Path of Travel Throughout Parking Lots Required.

1. Developments intended to be occupied by commercial, industrial, medical, educational or governmental function shall provide people with disabilities access to the area of the facility that contains the primary function, to the maximum extent feasible, by providing a paved, continuous, and unobstructed path of travel from streets, sidewalks, parking spaces, passenger loading zones, or rideshare stations.

2. The path of travel shall be designed to comfortably accommodate pedestrian and wheelchair chair passage. It may consist of sidewalks at least 6 feet wide, curb ramps and other interior to exterior pedestrian ramps; marked access aisles adjacent ADA parking spaces; elevators or lifts; or a combination of these elements.

B. Accessible Path of Travel Maximum Costs. The path of travel shall be made accessible to the extent that it can be made accessible without incurring disproportionate costs. Alterations to provide an accessible path of travel will be deemed disproportionate when costs exceed 20% of the total cost to construct the new development or complete the proposed alterations to the primary building or site. Improvements made beyond this 20% threshold shall be optional and at the discretion of the applicant.

C. Primary Function Areas Clarified. Areas containing 'primary function' include, but are not limited to, the customer service(s) lobby of commercial buildings, dining areas of restaurants, meeting rooms in a conference center, as well as offices or other work areas in which the activities of the building are carried out. Non-habitable spaces used as mechanical rooms, boiler rooms, supply storage, or closets are not areas containing primary function(s).

10.4.6 Screening for Surface Parking Lots and Loading Areas.

A. Parking lots shall be screened through the use of berms or shrubberies, as follows:

1. The berm or shrub is the streetscape component closest to the surface parking lot or loading area, behind any sidewalks constructed in public right of way along property frontages.
2. Berm or shrubs shall be planted within 10 feet from the edge of the right of way, that is, within the parking area front setback, for the continuous length of the parcel frontage.
3. The berm of shrubs shall be constructed/planted to a height of 4 feet above the elevation of the parking or loading area or the adjacent public street, whichever is highest. A berm shall have a crown of at least 2 feet.
4. The berm shall be planted with sufficient shrubbery, ground cover, and other decorative plant materials to achieve a decorative effect to the satisfaction of the Planning Director.
5. Shrub species, where used, shall be at least 3 gallons in size at time of planting and selected from Table 10.3.6.A.6, Pre-Approved Shrub Species List.

Table 10.4.6.A.6 – Pre-Approved Shrub Species List	
American Beautyberry	Littlehip Hawthorne
American Bladdernut	Mapleleaf Viburnum
American Devilwood	Mayhaw
American Holly	Mugo Pine
American Snowbell	Nandina
American Strawberry Bush	Nellie R. Stevens Holly
Arborvitae	NineBark
Arrowwood	Northern Bayberry
Azalea	Oakleaf Hydrangea
Blackhaw Viburnum	Oregonholly Grape
Buckeye	Osmanthus
Buckwheat Tree	Pittosporum
Burford Holly	Possumhaw
Buttonbush	Red Chokeberry
Chickasaw and Hog Plum	Red Tip
Chinese Witchhazel	Savannah Holly
Cleyera	Silky Dogwood
Devil's Walkingstick	Smooth or Winged Sumac
Drooping Leucothoe	Sparkleberry
Dwarf Burford Holly	Spice Bush
Dwarf Chinese Holly	Spirea (all varieties)
Dwarf Nandina	Strawberry Bush
Dwarf Yaupon Holly	Swamphaw Viburnum
Eastern Red Cedar	Sweet Pepperbush
Elderberry	Tag Alder
Euonymus	Thorny Eleagnus
Flowering Jasmine	Viburnum
Forsythia	Warty Barberry
Hazelnut	Wax Myrtle
Hetz Juniper	Weigela
Hoptree\Wafer Ash	Wild Hydrangea
Itea, Virginia Sweetspire	Winter Honeysuckle
Japan Yew	Winter Jasmine
Japanese Flowering Quince	Winterberry
Japanese Holly	Witchhazel
Juniper	Yellow Root

10.4.7 Loading Requirements.

A. Minimum number of off-street loading spaces required.

1. On the same lot with every building, structure or part thereof erected or occupied for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning, retail business or other uses similarly involving the receipt or distribution of vehicles, materials or merchandise, there shall be provided and maintained on the lot adequate space for the standing, loading and unloading services to avoid undue interference with public use of streets and alleys. Loading and unloading areas shall not be located closer than fifty (50) feet from the right-of-way of a public street.
2. Such loading and unloading space, unless otherwise adequately provided for, shall be an area at least 12 feet by 60 feet with 14-foot height clearance and shall be provided according to Table 10.4.7.A.3 – Required Loading Spaces.
3. For the above-described uses, one loading space shall be provided for the first 25,000 square feet of gross floor area or fractional part thereof. Uses in excess of 25,000 square feet shall provide loading spaces according to the following schedule:

Table 10.4.7.A.3 – Required Loading Spaces	
Gross Floor Area (square feet)	**Number of Loading Spaces**
25,001—99,999	2
100,000—159,999	3
160,000—239,999	4
240,000—349,999	5
For each additional 100,000 or fraction there-of	1 additional

Section 10.5 Driveway Construction.

10.5.1 Intent.

A. The safe operating of motor vehicles, and the need to minimize potential nuisance factors resulting from conflicts between commercial or industrial traffic utilizing streets designed for residential traffic, are issues which directly relate to the public health, safety, and welfare of residents in the County. The appropriate design and location of driveways can significantly lessen the adverse effects related to these issues. The establishment of reasonable design standards and administrative procedures included herein shall aid in protecting the health, safety, and welfare of the residents of the County.

10.5.2 Purpose.

A. The purpose of this section is:
   1. To ensure that vehicles leave or join the roadway traffic at a proper angle and in conformity with the rules of the road.
   2. To reduce hazard to vehicles by reducing areas of conflict and points of conflict between vehicles.
   3. To increase the capacity of roads and intersections by reducing areas of conflict between vehicles.
   4. To provide sufficient space for the installation of traffic control devices, utilities and crosswalks.
   5. To reduce hazard to pedestrians by reducing areas of possible conflict between pedestrians and

vehicles, and to define such areas.

6. To provide reasonable assurance against the hazardous and indiscriminate use of highway right-of-way through encroachment.
7. To provide a maximum practical sight distance, especially at intersections.
8. To provide uniform and impartial consideration in all cases where access is required by abutting property owners.
9. To reduce the possibility of conflicts between commercial/industrial traffic generators and residential areas.

10.5.3 Permit Required.

A. Application. Application for a permit to construct or alter a driveway or curb cut occurring on or abutting a County road right-of-way shall be made to the Planning and Development Director and/or their designee under the following circumstances:

1. When such driveway(s) or curb cut(s) are incidental to the development of a new structure or the development of previously undeveloped property, the driveway permit shall constitute a part of the building permit.
2. When such driveway or curb cut construction constitutes a separate action apart from any other construction on the same site, a driveway permit shall be secured from the Planning and Development Director and/or their designee.
3. When property abutting a County road right-of-way changes from one use to another and driveways and/or curb cuts have previously been extended across or to a County road right-of-way, or when the type of use or the volume of use of an existing and/or previously approved driveway is substantially changed, application for review shall be submitted and a driveway permit secured from the Building Official. The occupancy permit may be withheld until such driveway improvements have been approved.

10.5.4 Review and Decision.

A. Upon review of an application for a driveway permit in any of the aforementioned circumstances, the Planning and Development Director and/or their designee shall take one of the following courses of action:

1. Issue the permit if the standards correspond with the requirements as outlined in the regulations.
2. Submit the application to the public works director for their review. The Public Works Director shall:
    a. Recommend approval of the permit;
    b. Recommend disapproval of the permit unless certain modifications are made which they shall delineate in writing to the Planning and Development Director and/or their designee.
3. Issue the permit if the applicant agrees to follow the recommendations of the Public Works Director.
4. Deny the permit application.
5. Appeal. If the driveway permit is denied by the Public Works Director and/or their designee, the applicant can appeal the decision to the Planning Commission, who shall hear testimony from the

applicant. The Planning Commission may either approve or deny the application.

10.5.5 General Design Standards.

A. The location, design and construction of the driveway shall be in accordance with the following standards. These standards are in no case to be modified unless specifically authorized by the Planning and Development Director and/or their designee:

1. A driveway shall be located and restricted as to width as necessary driveway and its appurtenances are contained within the frontage along the highway of the property served. At public highway intersections a driveway shall not provide direct ingress or egress to or from the public highway intersection area and shall not encroach on or occupy areas of the roadway or right-of-way deemed necessary for effective traffic control or for highway signs or signals. A driveway shall be so located and constructed that vehicles approaching or using it will have adequate sight distance in both directions along the highway.
2. The number of driveways permitted serving a single property frontage shall be a maximum of two unless more are deemed necessary by the Public Works Director for reasonable service to the property without undue impairment of safety, convenience, and utility of the highway.
3. If the property has frontage on more than one street, and a driveway permit is requested, the Planning and Development Director may request a recommendation from the Public Works Director as to the potential adverse effects which may result. If it is determined that it would cause a nuisance to the surrounding area, or a traffic hazard, or unduly congest traffic, then the permit may be denied.
4. The island area on the right-of-way between successive driveways or adjoining a driveway and between the highway shoulder and right-of-way line shall remain unimproved for vehicular travel or parking. Such areas shall be considered as restricted and may be filled in or graded down only as hereinafter provided in subsection (8) of this section.
5. The surface of the driveway connecting with rural type highway sections shall slope down and away from the highway shoulder a sufficient amount and distance to preclude ordinary surface water drainage from the driveway area flooding onto the highway roadbed.
6. The driveway shall not obstruct or impair drainage in side ditches or roadside areas. Driveway culverts, where necessary, shall be adequate for surface water drainage along the roadway and in no case less than the equivalent of 15-inch diameter pipe. The distance between culverts under successive driveways shall be not less than ten feet except as such restricted area is permitted to be filled in under the provisions of subsection (8) of this section. All driveway culverts shall be constructed of the following materials and meet Georgia Department of Transportation (D.O.T.) specifications:
    a. Reinforced concrete pipe (RCP), D.O.T. approved Class III or better.
    b. Corrugated metal pipe, D.O.T. approved, type II aluminized steel. This material is prohibited in live stream applications.
    c. High density polyethylene (HDPE) pipe, D.O.T. approved, dual walled.
7. Driveways connecting to "L" back curb and gutter must be constructed by removing the curb and gutter and pouring a valley gutter. When curb and gutter is removed for constructing a driveway, the new connections shall be of equivalent acceptable material and curb returns shall be provided

or restored in a neat, workmanlike manner. The driveway or valley gutter surface shall connect with the highway pavement and sidewalks, if any, in a neat workmanlike manner. In no case shall the driveway construction impair the flow of water in the gutter.

8. Driveways connecting to rolled curb and gutter may be constructed by either pouring the driveway directly up to the back of the curb or by removing the curb and gutter and pouring a valley gutter. When curb and gutter is removed for constructing a driveway, the new connections shall be of equivalent acceptable material and curb returns shall be provided or restored in a neat, workmanlike manner. The driveway or valley gutter surface shall connect with the highway pavement and sidewalks, if any, in a neat workmanlike manner. In no case shall the driveway construction impair the flow of water in the gutter.
9. Any activities that impair the flow of water in a curb and gutter are prohibited. These prohibited activities include, but are not limited to: The filling in of curb and gutter with concrete or asphalt, or the removal of curb and gutter without providing an acceptable valley gutter as described in subsections (7) and (8) above.
10. The restricted area between successive driveways may be filled in or graded down only when the following requirements are fully complied with:
    a. The filling or grading down shall be to grades approved by the public works director; and, except where drainage is by means of curb and gutter, water drainage of the area shall be directed away from the highway roadbed in a suitable manner.
    b. Culvert extension under the restricted area shall be of like size and equivalent acceptable material of the driveway culvert, and intermediate manholes adequate for clean-out purposes may be required where the total culvert length exceeds 100 feet.
    c. Where no side ditch separates the restricted area from the roadbed, permanent provision may be required to separate the areas from the highway roadbed, to prevent its use for driveway or parking purposes, by construction of a border, curb, rail or posts deemed adequate by the public works director.

10.5.6 Driveway Widths.

A. Driveway widths shall be as follows, measured parallel to the road.

Table 10.5.6.A – Required Driveway Widths		
	Minimum	**Maximum**
Residential	8 feet	15 feet
Residential-duplex	8 feet	22 feet
Apartments	10 feet	30 feet
Commercial:		
One-way	15 feet	25 feet
Two-way	20 feet	30 feet
Industrial	20 feet	40 feet

10.5.7 Angle of Entry and Exit.

A. Driveway angles shall be as follows:

1. Residential, 60 to 90 degrees, or perpendicular to property line;
2. Apartments, 70 to 90 degrees for two-way driveways or 45 to 90 degrees for one-way streets;
3. Commercial, 70 to 90 degrees for two-way driveways or 45 to 90 degrees for one-way on divided roadway or 60 to 90 degrees for one-way ramp on non-divided roadway;
4. Industrial, 90 degrees, or as close as practicable, for two-way, or 45 degrees, one-way access on one-way street;
5. Rural, land access only, 60 to 90 degrees.

10.5.8 Return Radius of Curb.

A. Return radius of curbs shall be as follows:

Table 10.5.8.A – Return Radius of Curb		
	Minimum	**Maximum**
Residential	3½ feet	15 feet
Apartment	5 feet	20 feet
Commercial:		
Urban	10 feet	20 feet
Suburban	15 feet	25 feet
Rural	15 feet	35 feet
Industrial:		
Urban	15 feet	25 feet
Rural	25 feet	40 feet

10.5.9 Relation to Lot.

A. Maximum percentage of frontage for driveway use.

1. Each single driveway shall have a maximum width of 30 percent of the property frontage. Where two or more driveways are permitted, no more than 60 percent of property frontage shall be used as driveways.
2. No approval for a curb cut will be given where it is apparent that the intent is not to provide access but to provide parking only. A driveway approach must provide access to something definite on private property such as a parking area considerably greater in extent than the width of the driveway, or provide access to a driveway, or to a door at least eight feet wide intended for the entrance of vehicles, etc. (not applicable for residential driveways).

B. Distance to side property lines.

1. The area within five feet of a frontage boundary line shall be a restricted area on which no driveway may be developed on public right-of-way.
2. A minimum of 1½ feet of pavement edge or curb shall be left undisturbed adjacent to each frontage boundary line to serve as an island area. This distance shall be measured between the frontage boundary line and the point of tangency of the driveway radius and the edge of the pavement measured along the edge of the pavement.
3. Subsection (A) or (B) of this section shall apply, whichever is more restrictive.
4. These requirements may be waived when a single driveway is approved to serve two adjacent lots.

10.5.10 Island Areas.

A. Minimum island dimensions.

1. The distance between double driveways, ten feet minimum at narrowest point;
2. The minimum island depth shall be four feet where parking abuts street right-of-way line.

B. Treatment of island or buffer area. In the development of private property and the construction of driveways thereto, it may be necessary to regrade the buffer area by cutting or filling. Such work shall be done in a manner to ensure adequate sight distance for traffic operations, proper drainage, suitable slopes for maintenance operations, and good appearance. The buffer area outside the driveways shall be treated to prevent use by vehicles. This may be accomplished by grading, or use of curbs, rails, guide posts, low walls, low shrubs, etc., in a manner which will not impair clear sight across the area.

C. Visibility clearance. No landscaping, fences, terraces, or other natural or artificial features adjacent to any street shall be of a nature impairing visibility from or of approaching vehicular traffic where such visibility is important to safety, nor shall such features in any way create potential hazards to pedestrians. In particular, at vehicular entrances and exits, no off-street parking, landscaping, or other material impediment to visibility between the height of three feet and ten feet, measured from the roadway level, shall be permitted within triangular areas defined by lines connecting points described as follows:

1. Non-residential use. Beginning at a point where the midline of the entrance or exit intersects the public right-of-way, thence to a point of 35 feet along the right-of-way in the direction of approaching traffic, thence to a point of 25 feet toward the interior of the lot along the midline of the entrance or exit, and thence to a point of beginning.

2. Multifamily Residential Use. Beginning at a point where the midline of the entrance or exit intersects the public right-of-way, thence to a point of ten feet along the right-of-way in the direction of approaching traffic, thence to a point of ten feet toward the interior of the lot along the midline of the entrance or exit, and thence to the point of beginning.

10.5.11 Intersection Clearance.

A. The length, width and shape of corner island areas will vary for different locations. The angle of intersection, angle of driveways, width of the right-of-way on both approaches, channelization radii, and other conditions will influence the location of driveways at intersections. The location and angle of an approach in relation to the highway intersection shall be such that a vehicle leaving the service facility may be merged in the lane of traffic moving in the desired direction before crossing the intersection, and that a vehicle entering the facility from the intersection may do so in an orderly and safe manner with a minimum of interference to through traffic.

B. The following conditions shall be applicable:

1. No driveway shall be allowed to encroach upon pavement edge radii.
2. The following minimum distances from the intersection right-of-way line shall apply where there is no conflict with the foregoing conditions:
    a. Traffic volume A.D.T. of 1,500 or less, 20 feet;
    b. Traffic volume A.D.T. over 1,500 but less than 10,000, 35 feet;
    c. Traffic volume A.D.T. over 10,000 but less than 15,000, 50 feet;
    d. Traffic volume A.D.T. over 15,000, 65 feet.

C. The Public Works Director shall have the authority to increase these distances if in his opinion such action is necessary for the protection of traffic. The Public Works Director may also modify these requirements if justifiable on the basis of site conditions.

10.5.12 Driveway Grade.

A. For residential driveways, the maximum grade which shall be permitted is 17 percent.

B. For apartment, commercial and industrial driveways, the maximum grade which shall be permitted is eight percent.

C. Grades within the right-of-way shall be controlled by existing shoulder slope or existing and future sidewalk elevations.

D. When driveways are intended for special use vehicles, the underside clearance and/or break over angle of the subject vehicle shall dictate the maximum driveway.

10.5.13 Common Access Driveways.

A. Any applicant seeking the following development shall submit all necessary plans as required by the Planning and Development Director and/or their designee, which indicate the proposed location and construction specifications for the proposed common access driveway:

1. A building permit or occupancy permit requested for lots of record; or
2. A proposed subdivision of land, whereby not more than three (3) parcels or lots are intended to be served by a common access driveway.

B. New common access driveways shall be constructed prior to the issuance of an occupancy permit for lots of record or prior to the approval and recording of a Final Plat for the proposed subdivision of land.

C. Plats and Required Statements. Plats indicating the location of common access driveway easements and lots to be served shall be recorded with the Clerk of Superior Court of the County. The plats shall include:

1. A statement to the effect that the driveway easement shown on the plat is not to be dedicated as a public road and not to be maintained by the County, but shall be privately maintained; and
2. A statement signed by the surveyor, a registered engineer or a registered landscape architect that the driveway has been constructed in accordance with the minimum standards of the County.

D. Previously Existing Driveways. Any existing easements or common driveways which have been recorded prior to the effective date of this chapter may continue to serve existing lots which were also recorded prior to the effective date of the resolution codified in this chapter. Any new driveways which would propose access to three or more undeveloped lots of record must conform with the standards for a common access driveway in accordance with this amendment.

E. Minimum Design Standards. Construction of common access driveways shall conform to the following minimum standards:

1. Easement width, 30 feet, 30 feet radius easement in cul-de-sac;
2. Roadbed width 20 feet;
3. Shoulder width, two feet;
4. Base width, 18 feet;
5. Surface width, 16 feet;
6. Minimum radius at cul-de-sac transition and intersections, 20 feet;
7. Surface type:
    a. Plant mix, one inch thick over graded aggregate four inches thick (except within the public right-of-way, which shall be six inches thick);
    b. Concrete, four inches thick (except within the public right-of-way, which shall be six inches thick); or
    c. Gravel, ¼ inch min. diameter; 4 inch min. thickness.
8. If a common access driveway terminates in a dead end, the termination shall be either a cul-de-sac with a surfaced radius of 25 feet, or another termination method that allows for vehicles to turn around safely and is acceptable to the Public Works Director;
9. If a common access driveway is a cul-de-sac, the maximum length of the cul-de-sac shall be 1,000 feet;
10. Individual driveways joining the common driveway must be placed entirely on the property that they serve;
11. Individual driveways joining the common driveway may only serve one lot;
12. Ditches: Front slope, maximum 2:1 ratio; rear slope, maximum 2:1 ratio; 1½ foot minimum depth;
13. Maximum finished driveway grade, 17 percent; driveway grades up to 20 percent may be approved by the Planning and Development Director and/or their designee in extreme conditions;

14. Pavement crown, ¼-inch per foot;
15. All slopes and shoulders to be grassed;
16. Minimum cross drain pipe size, 18 inches;
17. The driveway must intersect the public road at an angle of 65 degrees or greater;
18. The driveway must enter the public road at least 65 feet from any intersection of another common access driveway as measured from centerline to centerline. The driveway must enter the public road at least 65 feet from another public road intersection as measured from the centerline of the common access driveway to the closest point of right-of-way intersection.

10.5.14 Examples Figures.

FIGURE 1. SINGLE DRIVEWAY—DIAGRAMMATIC FOR ILLUSTRATING DEFINITIONS

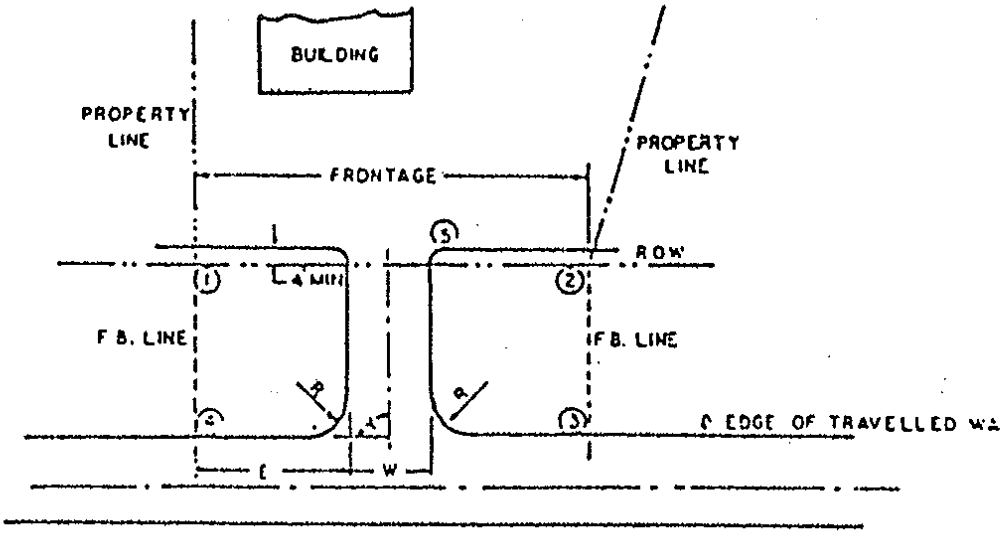


FIGURE 2. DOUBLE DRIVEWAY—DIAGRAMMATIC

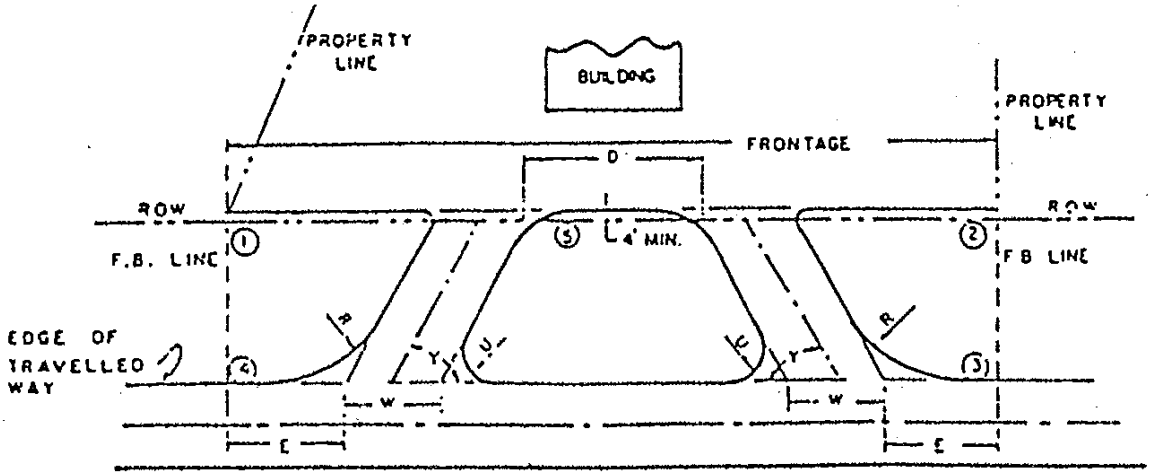


FIGURE 4. DRIVEWAYS TO A CORNER COMMERCIAL ESTABLISHMENT

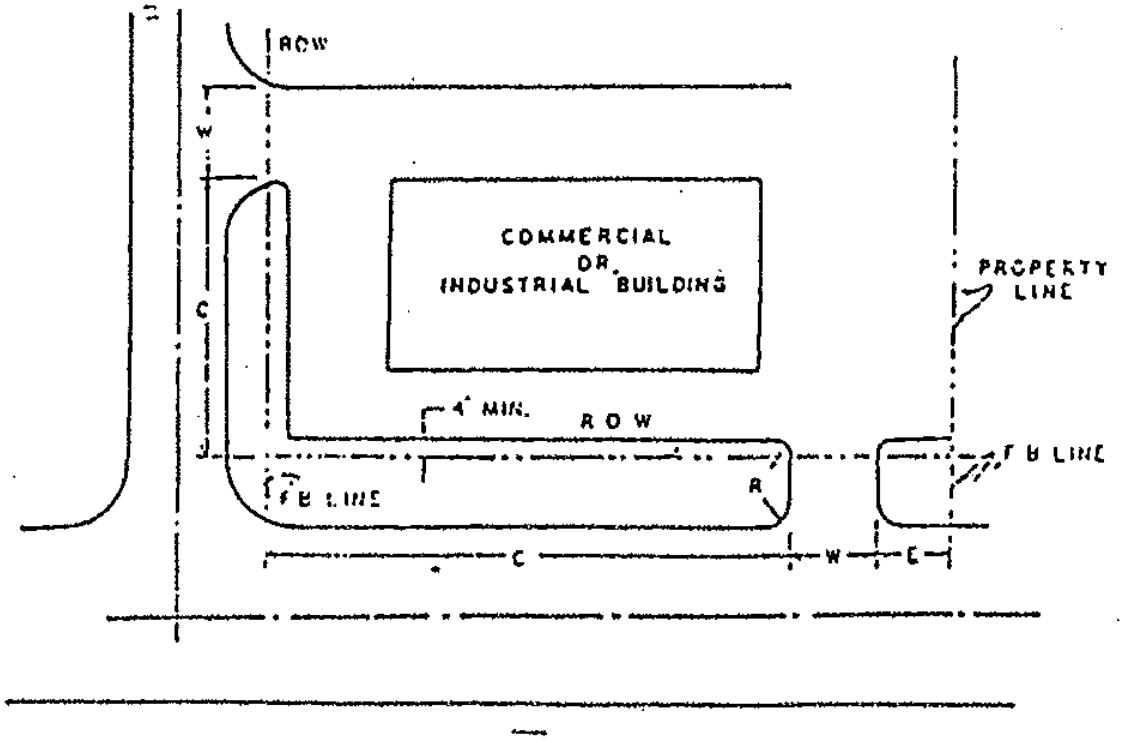


FIGURE 3. DRIVEWAYS FOR CORNER INSTALLATIONS—DIAGRAMMATIC

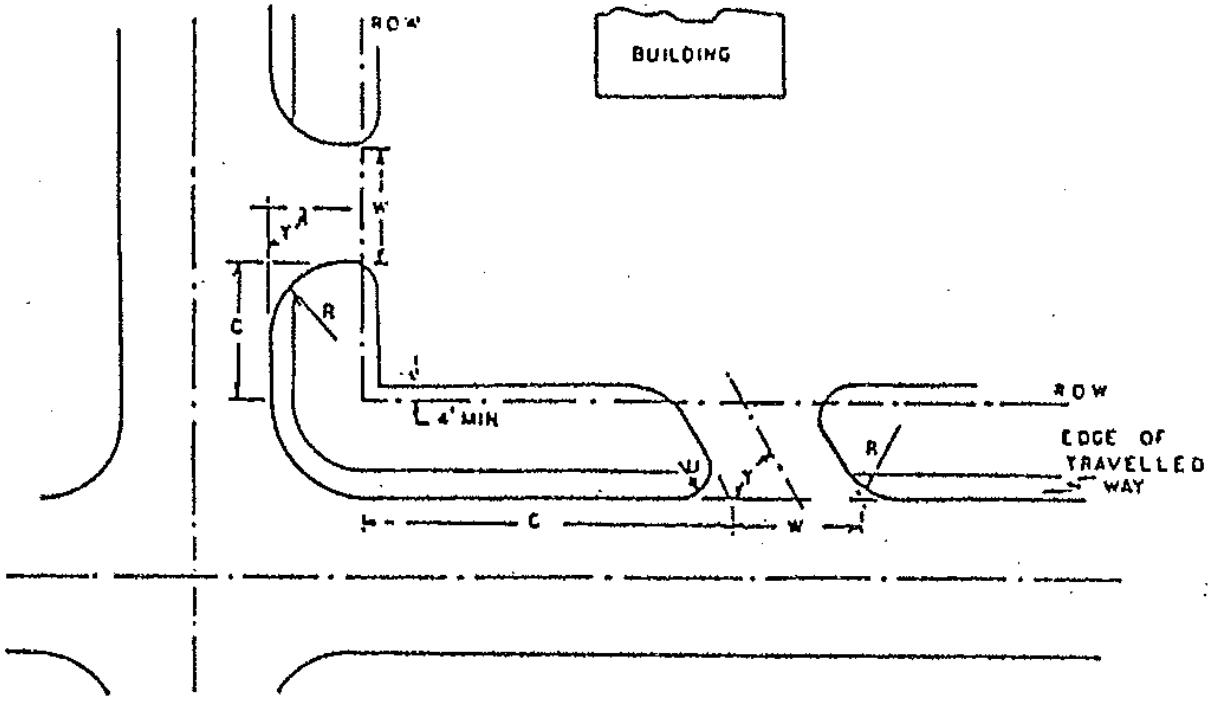


FIGURE 5A. VISIBILITY CLEARANCE (NON-RESIDENTIAL)

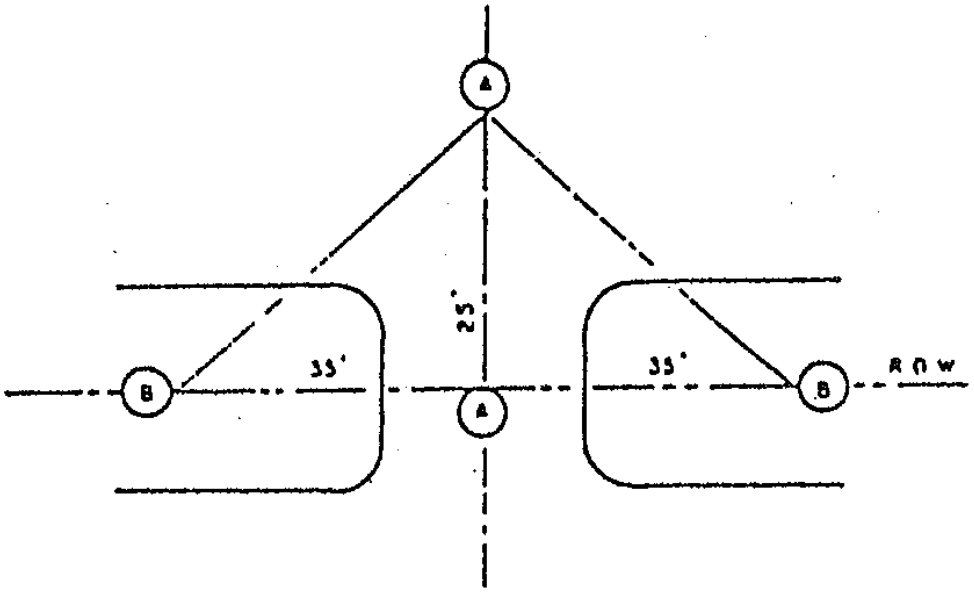


FIGURE 5B. VISIBILITY CLEARANCE (RESIDENTIAL)

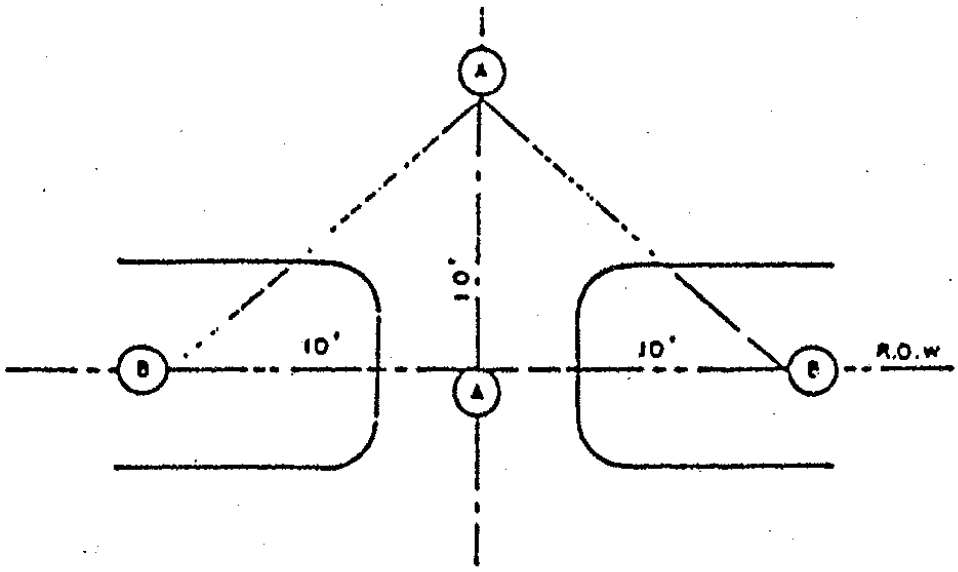
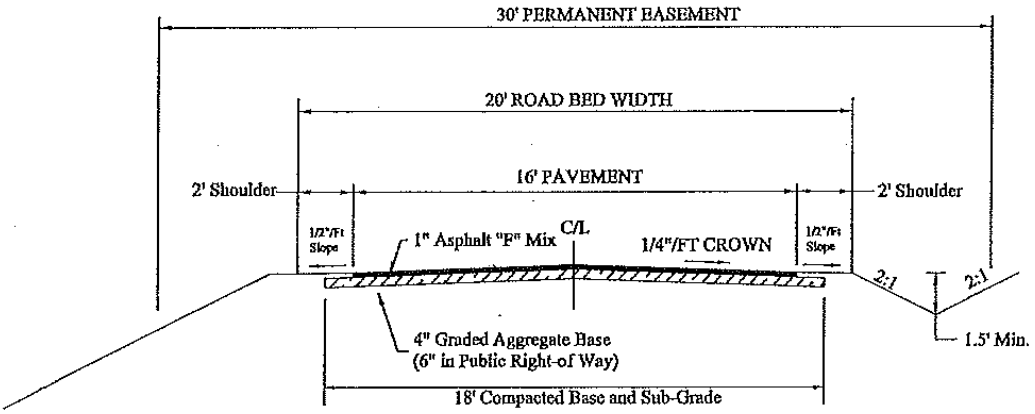


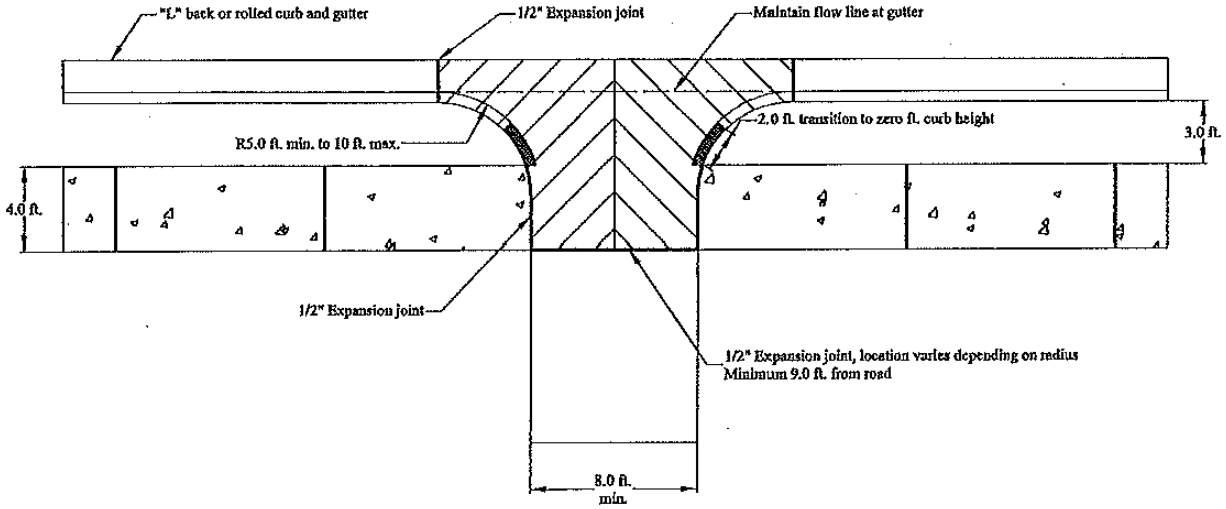
EXHIBIT "C", FIGURE 6: CONSTRUCTION REQUIREMENT COMMON ACCESS DRIVEWAY



NOTES:
1. Maximum Cut or Fill Slope is 2H:1V
2. Clearing Required to Top or Toe of Slope Trees within one foot of fill or less may remain. See Section 16.70.170 for details
3. Alternate Pavement - 4" Concrete (In public right-of-way concrete shall be 6")

NOT TO SCALE

EXHIBIT "D", FIGURE 7: CONSTRUCTION REQUIREMENT VALLEY GUTTER, RESIDENTIAL DRIVEWAY



NOTES:
1. Sidewalk to be flush with top of valley gutter
2. Concrete in valley gutter to be 6" in depth
3. Expansion joint between valley gutter and driveway may not be in the path of the sidewalk

NOT TO SCALE

Section 10.6 Outdoor Lighting.

10.6.1 Outdoor Lighting Standards.

A. Outdoor lighting within any zoning district shall comply with the following general provisions, unless otherwise specified by this UDO:

1. Outdoor lighting fixtures must be full cutoff and placed so as to allow no light above the horizontal as measured at the luminaire and except as allowed in Article 12 (Sign Regulations). Exterior illumination of any particular site shall not exceed 1.0 foot-candles of illumination at any property line and shall not shine directly into yards associated with any residential use nor shall light shine into the windows of a residential structure.
2. Outdoor lighting associated with outdoor recreation shall not shine directly into yards associated with a residential use or into the windows of a residential structure.

Section 10.7 Non-Single Family Residential Design Standards

10.7.1. Applicability.

This section shall apply to non-single family developments, unless specifically indicated otherwise.

10.7.2. Screening of Outside Storage Yards.

All areas devoted to the outside storage of vehicles, merchandise, and/or equipment shall be screened from view from the right-of-way of the highway or major street along the entire property frontage, except in areas where access crossings have been approved. Screening may be accomplished by a natural vegetative buffer, by a building that meets architectural standards of this Chapter, by an earthen berm, by a 100 percent opaque, solid wooden fence or wall, or combination of these screening methods. The use of low-lying landscaping that does not screen the storage areas from view from the public right-of-way shall not be deemed to comply with this requirement.

10.7.3. Screening of Dumpsters.

All garbage dumpsters and other similar areas devoted to the storage of waste materials shall be screened on three (3) sides of said dumpster or area with a minimum six (6) foot high solid wooden fence, or a wall constructed of materials substantially similar in appearance to the building on site that complies with the architectural requirements of these regulations. In addition, said dumpster areas shall be gated on the fourth side.

10.7.4. Building Materials.

Building exteriors not screened from view from the right-of-way or any property line shall be of masonry or decorative type metal construction with a twenty (20) year finish, its equivalent, or superior construction. Uncolored or exposed galvanized iron or aluminum or fiberglass shall not be utilized as an exterior finish. Prohibited construction materials shall include, without limitation, exposed concrete block, weeping mortar joints, unnatural brick tones, uncolored or exposed galvanized iron or aluminum or fiberglass.

10.7.5. Building and Utility Appurtenances.

All water towers, cooling towers, storage tanks, and other structures or equipment incidental to the primary use of a building or site shall be architecturally compatible with the principal building or effectively screened from view from the public rights-of-way. All rooftop mechanical equipment shall be screened from the view from the public right-of-way and adjacent streets by material compatible with the building architecture, by the use of a parapet wall, or by specially designed rooftop penthouse enclosures. Ground mounted equipment such as power transformers and air conditioning units shall be screened from view from public rights-of-way by fencing or landscaping.

Section 10.8 Lots.

10.8.1 Minimum Lot Standards.

A. All lots shall hereafter comply with the standards of this section:

1. Zoning. No individual lot of record shall carry more than one zoning district designation.
2. Minimum lot elevation. The entire lot shall be properly drained. Special emphasis will be placed on requirements as given in the County's Flood Damage Prevention ordinance.
3. County limits and lot lines. Lots shall not be divided by corporate boundary lines except where unavoidable.
4. Common lots. Substandard lots may be created for the purposes of siting common amenities like pools, clubhouses, greenspaces, detention ponds, etc., provided appropriate access easements are properly recorded to facilitate ongoing maintenance and operations of the facilities. In no case shall a common amenity share a lot with an individual single-family residential lot.
5. Lot minimums and lot area requirements.
   a. Lots hereafter established within subdivisions shall conform to the lot area and lot width requirements set forth in this UDO; see Article 3, Base Zoning Districts for district dimensional standards.
   b. For lots requiring a septic system, the minimum lot area will be based upon Table 10.8.1.A.6, Required Buffers for Sloped Lots, which shall determine the minimum lot size permitted, regardless of the underlying zoning district. Installation of septic systems shall be subject to approval by Habersham Environmental Health.
6. Sloped lots shall maintain the following required buffers:

Table 10.8.1.A.6 – Required Buffers for Sloped Lots

	Undisturbed Land	Disturbed Land	
Average Slope	**% of Lot Buffered**	**Minimum Area (square feet)**	**Minimum Area (acres)**
0—14%	None	43,560	1.0
15—19%	15%	54,450	1.25
20—24%	20%	65,340	1.5
25—39%	25%	87,120	2.0
40—49%	40%	108,900	2.5
50—69%	50%	130,680	3.0
Over 70%	60%	217,800	5.0

ARTICLE 11: STREETS AND IMPROVEMENTS

Section 11.1 Access Management.

11.1.1 Purpose.

A. The purpose of this Section is to set standards for the provision of access to development in a manner that preserves the safety and efficiency of the transportation system. The management of access is a means by which substantial public investment in the transportation system can be protected and the need for remedial measures eliminated or reduced.

11.1.2 Access Management.

A. All off-street parking lots shall have access to a paved public or private street and be served by a paved access drive or apron, at a minimum.

B. Interparcel access is required between all abutting parking lots and sites based on site conditions and as determined by the Planning and Development Director to provide a cross-access drive and pedestrian access to allow circulation between sites.

1. Interparcel access is not required between non-residential uses and single-family residential uses.
2. If full access between or among lots is implemented after initial site development, any deficiencies created to formalize the connection are permitted without need for any formal relief through the variance process (e.g.: removing a required parking space to accommodate the connection will render it nonconforming but is permitted to prioritize the connectivity).
3. Joint driveways between properties shall be established wherever feasible along a major thoroughfare, arterial, or collector street.

C. All developments shall have access to a public right-of-way. The number of access points shall be in accordance with Table 11.1.2.C, Minimum Number of Access Points Required.

Table 11.1.2.C – Minimum Number of Access Points Required

Type of Development	Minimum Number of Access Points
Residential, 100 or fewer units	1
Residential, 101—300 units	2
Residential, 301—500 units	3
Residential over 500 units	4
Non-residential, 50,000 sf or less gross floor area	1
Non-residential, 50,001-200,000 sf gross floor area	2
Non-residential, 200,001 sf or more gross floor area	2 or more, as determined by the Director of Planning and Development

D. The separation of access points on a thoroughfare, arterial, or collector street shall be determined by the speed limit of the road with the following minimum spacing requirements in accordance with Table 11.1.2.D.5, Driveway Separation.

1. The distance between access points shall be measured from the centerline of the proposed

driveway or street to the centerline of the nearest existing adjacent driveway or street.

2. Driveway spacing at intersections and corners shall provide adequate sight distance, response time, and permit adequate queuing space.
3. No driveway, except driveways providing residential access, shall be allowed within 100 feet of the centerline of an intersecting thoroughfare or arterial or collector street.
4. No non-residential access except right in/right out channelized access shall be allowed within 100 feet of the centerline of any other thoroughfare or arterial.
5. The requirements of this Section are not intended to eliminate all access to a parcel of land that was legally subdivided prior to the enactment of this Section.

Table 11.1.2.D.5 – Driveway Separation

Posted Speed Limit of Road	Minimum Driveway Spacing
Less than 35 mph	125 feet
36 to 45 mph	245 feet
Greater than 45 mph	440 feet

E. All street design and other development activities, including landscaping, shall be arranged on site so as to provide safe and convenient access for emergency vehicles.

F. Along thoroughfares, arterials, or collector streets, a deceleration lane, a turn lane, larger or reduced turning radius, traffic islands or other devices or designs, including traffic calming devices and designs, may be required to avoid specific traffic hazards which would otherwise be created by the proposed driveway location. The Planning and Development Director may require the submission of a traffic analysis based on the scale and scope of the project to determine required improvements.

G. Deceleration lanes are required for access to residential uses containing 20 or more units.

1. The minimum deceleration lengths shall be as specified in GDOT's "Regulations for Driveway and Encroachment Control". The Planning and Development Director may vary length requirements based upon a consideration of available sight distances and other contextual features as determined by an engineering study to verify traffic safety.
2. Deceleration lanes located within 75 feet of an intersection radius may be extended to the intersection.
3. Pavement width shall be 12 feet (exclusive of curb and gutter) if curb and gutter is required. The design thickness of the base and pavement structure shall be constructed in accordance with 11.3.5. Additional right-of-way, if required, to accommodate the right turn deceleration lane and shoulder width to match the existing county road (in no case less than a four-foot wide shoulder) shall be acquired and dedicated by the developer to Habersham County at no cost. Associated drainage improvements as deemed necessary by the construction of the right turn deceleration lane shall be required.

H. Commercial, industrial, mixed use, and other projects with a driveway and/or street intersecting with a public road shall provide a right turn deceleration lane in accordance with Georgia Department of

Transportation standards.

11.1.3 Driveway Connections.

A. Quantity.

1. One (1) driveway connection per lot frontage shall be permitted to streets classified as an arterial or collector, unless otherwise prohibited in this Ordinance.
2. A shared driveway, if developed at the same time, shall be required to be constructed to serve adjacent properties. This provision does not apply to residential single-family lots. A recorded access easement shall be required for all shared driveways on separate lots, prior to the issuance of a building permit.

B. Type. Because each site is unique, the type of driveway access (e.g., full access movement or right-in, right-out) to be allowed shall be determined by the Planning and Development Director or the Georgia Department of Transportation (GDOT), where applicable.

C. Location.

1. Driveways shall be located outside the functional limit of an intersection, as determined by the Planning and Development Director or GDOT, where applicable.
2. Driveways shall be contained wholly within the lot frontage or as part of a shared access easement with an adjacent property.
3. New single-family detached and attached construction shall not be accessed from arterial and collector roadways if access is available from a lower street classification.
4. Where access is only available from an arterial, the driveway shall be designed to allow vehicles to enter “headfirst” instead of reverse in the roadway.

11.1.4 Development with Outparcels.

A. The following standards shall apply only to developments consisting of outparcels.

1. Access to the public street shall be made only by an internal access driveway.
2. Internal drives shall be located between outparcels and primary developments.
3. Internal drives shall connect to all access driveways.
4. Driveway connections to internal driveways and access driveways shall be at least 200 feet from all intersections. State roads may require a greater separation.
5. Parking areas shall be designed in such a way that will not require the backing of vehicles into or parallel parking along internal drives.

11.1.5 Controlled Access.

A. Access to any development that is controlled through any means such as gates and guardhouses, shall comply with the following standards.

1. Gate Width. The clear opening through gates shall be at least two (2) feet wider than the roadway it controls.
2. Queuing Distance.

a. Residential uses up to 75 units shall have at least 20 feet of vehicle stacking distance. An additional 20 feet of stacking distance shall be provided for every additional 100 units.

b. Vehicle stacking distance for mixed-use and non-residential uses shall be no less than 70 feet.

c. Vehicle stacking distance is measured from the back of the sidewalk, or five (5) feet from the back of curb or edge of street, whichever is closest to the gate.

d. For any controlled access device that opens on a horizontal plane, such as a gate, a minimum of 20 feet of clear width shall be provided unless additional width is required by the Fire Marshal. Such device shall open away from the street right-of-way.

e. For residential developments, adequate maneuvering room between the gate and the street shall be provided for a turnaround area for vehicles to exit in a forward motion. The turnaround area shall have a minimum radius of 60 feet to the outside of the turn. The turnaround area is subject to approval as determined by the Fire Marshal.

3. Emergency and "exit only" access points are exempt from these requirements.

11.1.6 Change of Driveway Location.

A. If the property owner initiates a change of driveway location and receives permission to construct a new driveway, the property owner shall be required to close the existing driveway and install a sidewalk and/or curb to match the existing sidewalk and/or curb, if a sidewalk and/or curb exists.

B. The property owner shall landscape the area where the driveway was removed in accordance with the screening and buffering requirements of this Ordinance.

11.1.7 Blocking of Fire Lanes or Required Parking Areas.

A. No vehicles, waste receptacles, storage, displays, or other obstacles shall be allowed to block driveways (including cross access easements), fire lanes, or required parking, unloading, and/or loading areas unless a valid temporary use permit has been issued.

11.1.8 Pedestrian Circulation.

A. To improve inter-parcel connectivity and pedestrian access, designated pedestrian paths shall be provided to non-residential principal uses from the street right-of-way and to adjacent properties.

11.1.9 Connections to Bike Trails.

A. Where a new development or redevelopment adjoins a public bikeway or pedestrian facility, the development shall provide a bikeway or pedestrian connection to such facilities. Where public facilities are incomplete but part of an adopted plan, stub-outs for future linkages shall be provided by the development. A pedestrian connection, or stub-out for future linkages, shall be provided where a new development lies within 0.5 miles of a school or existing or planned transit route.

11.1.10 Easements.

A. Access easements for ingress/egress purposes are only allowed in conjunction with subdivision of land as defined by this UDO as follows:

1. Access easements, as defined by this UDO, shall be a minimum width of 30 feet.

2. Must be cleared, graded, and graveled an adequate width with shoulders to allow passing and provide easy access for emergency vehicles. Provisions for vehicle turn-around must be placed at intervals not to exceed 1,000 feet.
3. Any structure off an easement shall be set back a minimum of 35 feet from the edge of the easement
4. The access easement shall be inspected by the appropriate County department to determine if the access easement is adequately designed for drainage and suitable for travel by emergency vehicles prior to the issuance of a building permit.
5. All deeds and plats of surveys created with an access easement shall include the following language: "The grantee and grantor herein acknowledges and agrees that any and all means of ingress/egress to the property conveyed hereby that is provided by the grantor or their successors or assigns are considered by the governing body of Habersham County to be an easement and is not transferable to and/or maintainable by said governing body. The grantee and the grantor and their assigns, heirs and successors hereby agree to be responsible for their proportionate share of the upkeep and maintenance of this easement and completely hold the governing body of Habersham County harmless from any necessity for such use, upkeep, and maintenance."

B. An easement in existence prior to the adoption of this chapter which does not meet the requirements of this section shall be considered a nonconforming easement and may remain as a nonconforming easement provided such easement shall not be extended or additional lots granted use of the easement.

C. A shared driveway as defined by this UDO may be used for convenience as access to no more than three dwelling units or lots which have met all requirements for lot size, dimensions and frontage as prescribed by this UDO of the Habersham County Code of Ordinances.
1. When a shared driveway is used to access existing or new lots, the following statement shall be placed on the recordable plat: "SHARED DRIVEWAYS WITHIN THIS SUBDIVISION ARE CONSIDERED PRIVATE PAVED OR GRAVEL ROADS, SERVING NO MORE THAN THREE (3) LOTS, DO NOT CONNECT THOROUGHFARES, AND SHALL NOT BE MAINTAINED BY HABERSHAM COUNTY."

11.1.11 Visibility at Intersections.

A. No object such as a fence, wall, sign, hedge or plantings which obstructs the sight lines at elevations between 2 and 12 feet above any roadway shall be placed or permitted to remain on any corner lot within the triangular area formed by the street right-of-way lines or such lines extended, and a line connecting such right-of-way lines at points 25 feet from the intersection of the right-of-way line.

11.1.12 Street or Road Frontage Requirements.

A. No lot shall be subdivided, platted, or established unless each resulting lot has a minimum of 60 feet of frontage on a public street or a private road which is constructed to meet the applicable County standards for private streets.

B. A 15 percent reduction in minimum lot frontage may be allowed on a cul-de-sac.

C. Each lot created shall have frontage which affords a permanent and principal means of vehicular access to and from the lot.

D. Furthermore, any lot created and described by plat and filed in the Habersham County Clerk of Court's

Office prior to the adoption of this chapter shall be deemed a lot of record and exempt from Article 10.

Section 11.2 Road Maintenance and Improvement Policy.

A. New roads and streets constructed as prescribed herein and any other applicable ordinances, resolutions and specifications, and located within properly dedicated public rights-of-way, shall be accepted and maintained by the County; however, the County assumes no obligation to improve the quality or character of the roadway or street above that which was accepted for maintenance.

B. Existing County roads and streets located within dedicated rights-of-way accepted by the County shall be maintained at a reasonable level of service so as to provide egress and ingress to abutting property owners; however, the County shall not be obligated to widen, pave or make other improvements to such roads and streets which increase the value of the abutting property.

C. Existing roads and streets which have become public through the operation of prescriptive rights of the public users, and on which maintenance work has been historically performed by the County, shall continue to be maintained by the County to a level of service that will provide reasonable egress and ingress to abutting properties; however, at the sole discretion of the Habersham County Board of Commissioners the County shall not make substantial improvements on such roads and streets until appropriate rights-of-way have been granted, accepted and properly filed for record.

D. Existing private roads, streets and driveways shall not be maintained by the County, nor shall new private roads and streets be constructed by the County. However, safety of the traveling public is a high priority, therefore, from time to time it may be desirable in the interest of safety to perform a limited amount of maintenance to provide positive drainage and sight distance at private road, street, and driveway approaches. This act shall not obligate the County to perform future maintenance at these locations.

E. With respect to road and street improvements, the County recognizes its responsibility to expend public funds for road and street improvement on roads which are primarily intracounty traffic conductors. With respect to the improvement of residential streets and other roads primarily residential in nature, it shall be the policy of the County to assign priority to those roads and streets where the benefiting property owners substantially contribute to the payment of the cost of improvements.

11.2.1 Use of Right-of-way by Utility Companies.

A. Permit required. All utility companies wishing to use County rights-of-way for the construction, maintenance or repair of utility lines, poles, stations and other equipment must first make application for and be granted a permit for such use of County rights-of-way. Such applications are available in the office of the Planning and Development Department.

B. Standards for use. All utilities granted a permit for use of County rights-of-way must conform to the current edition of utility accommodation policy and standards, as published by the state department of transportation, office of utilities, a copy of which is on file in the office of the Planning and Development Department, which is adopted by reference as part of this section. Amendments of the utility accommodation policy and

C. standards are hereby declared to be amendments to this section.

D. Issuance of permit. Approval of applications and granting of permits under this section shall be the

administrative responsibility of the development coordinator, office of the Planning and Development Director.

E. Violations; penalty. Violation of this section in any manner is hereby declared to be a misdemeanor, and shall be punished in accordance with Article 16, Violations, Penalties, and Enforcement. Each day such violation continues shall be a separate offense.

11.2.2 Provisions Saved from Appeal.

A. The resolution adopted March 3, 1985, which identifies as public roads all the roads shown on the 1982 map of the County prepared by the state department of transportation, as modified by the County highway department, is not repealed and shall continue in full force and effect.

11.3 Street Construction Standards

11.3.1Requirements for Streets and Other Rights-of-Way.

A. Continuation of existing streets: Existing streets shall be continued at the same or greater width but in no case less than the required width.

B. Street names: Proposed streets that are obviously in alignment with others already existing and named shall bear the names of existing streets. In no case shall the name for proposed streets duplicate existing street names regardless of the use of the suffix: street, avenue, boulevard, drive, place, road, trace, circle, way or court. Through its index list of street names on file, the Planning Commission can assist the subdivider in avoiding duplication.

C. Street jogs: Street jogs with centerline offsets of less than 185 feet shall not be permitted.

D. Cul-de-sacs or dead-end streets:
   1. Minor streets or courts designed to have one end permanently closed shall serve no more than 25 lots per block and have a turn-around or cross street every 1,000 feet unless necessitated by topography. They shall be provided with a turnaround at the closed end.
   2. Where in the opinion of the Planning and Development Department it is desirable to provide street access to adjoining property, streets shall be extended to the boundary of such property and provided with a temporary turnaround.

E. Single entry road restriction: In no case shall more than 50 lots in any subdivision be dependent on a single road or interval of road for entry/exit to/from the subdivision.

11.3.2 - Development Along Major Thoroughfares, Limited Access Highway or Railroad Right-of-Way.

Conditions and standards for land development within Habersham County shall be assigned in accordance with the type of road or street access provided to the properties. All roadways within the county shall be classified based according to Georgia Department of Transportation and Federal Highway Administration guidelines.

A. Lots shall have no access to an arterial road, expressway or other limited access highway. Where a subdivision abuts or contains an arterial, a limited access highway or a railroad right-of-way, the platting authorities shall require 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 of the intervening

land with a ten-foot, non-access reservation suitably planted. Due regard should be given to requirements for approach grades and future grade separations in determining distances.

B. Alleys: Alleys may be required at the rear of all lots used for multi-family, commercial or industrial developments but shall not be provided in one- and two-family residential developments unless the subdivider provides evidence satisfactory to the platting authorities of the need for alleys.

C. Street right-of-way and roadway pavement widths: The right-of-way width shall be the distance across a street from property line to property line. All subdivision streets, public or private, shall be platted as right-of-way streets. Lots shall not include any portion of the right-of-way. All streets shall be evaluated according to performance within specific site requirements or limitations. No street shall be platted on the basis of a private easement.

D. Minimum street right-of-way widths shall be as follows:

1. *Rural minor and urban residential.*

Right-of-way	Minimum of 60 feet
Turnarounds (Cul-de-sacs)	100 feet in diameter (50-foot radius)
Roadbed	Minimum of 28 feet (pavement width plus shoulder width)
Turnarounds (Cul-de-sacs)	88 feet in diameter (Pavement width plus shoulder width)
Pavement	Minimum of 20 feet
Turnarounds (Cul-de-sacs)	80 feet in diameter (40-foot radius)

2. *Within curb and gutter subdivisions.*

Right-of-way	Minimum of 40 feet
Turnarounds (Cul-de-sacs)	100 feet in diameter (50-foot radius)
Roadbed	Minimum of 24 feet (pavement width plus shoulder width)
Turnarounds (Cul-de-sacs)	84 feet in diameter (Pavement width plus shoulder width)
Pavement	Minimum of 20 feet

Turnarounds (Cul-de-sacs)	80 feet in diameter (40-foot radius)

3. *Collectors and rural major.*

Right-of-way	Minimum of 80 feet
Roadbed	Minimum of 30 feet (Pavement plus shoulder width)
Pavement	Minimum of 22 feet

4. *Rural arterial system.*

Right-of-way	Minimum of 80-150 feet, depending on traffic conditions to be reviewed at time of development application
Roadbed	Minimum of 38 feet (Pavement plus shoulder width)
Pavement	Minimum of 28 feet

5. *Alleys, 16 feet right-of-way.*

6. *One-way streets.*

Right-of-way	30 feet
Roadbed	22 feet
Pavement	Width 14 feet

E. Additional width on existing streets: Subdivisions that adjoin existing streets shall dedicate or reserve right-of-way to meet the above minimum street width requirements.

1. The entire right-of-way shall be provided where any part of the subdivision is on both sides of the street.
2. When the subdivision is located on one side of an existing street, one-half of the required right-of-way measured from the centerline of the existing roadway, shall be provided.

F. Street grades: Maximum and minimum street grades shall be as follows:

1. Rural arterial, not in excess of ten percent
2. Rural major and collector streets, not in excess of 18 percent
3. Rural minor routes, residential streets and alleys, not in excess of 16 percent

4. No more than 25 percent of the total square feet of pavement within a subdivision may be applied to a grade of 18 to 16 percent.
5. No street grade shall be less than one-half of one percent in cases where streets are curbed and guttered.

G. Horizontal curvature: The minimum radii of centerline curvature shall be as follows:
1. Arterial streets as indicated on the road classification map, but in no case less than 800 feet.
2. Collector and rural major streets, 300 feet.
3. Rural minor and residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, resource recovery), 100 feet.
4. Exceptions may be granted based on proven performance for special site requirements.

H. Tangents: Between reverse curves, there shall be tangent having a length not less than the following:
1. Minor arterial streets, not less than 200 feet
2. Collector and rural major streets, 100 feet
3. Rural minor, residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, and resource recovery), 25 feet

I. Vertical alignment: Vertical alignment shall be such that the following requirements are met:
1. Rural arterial streets shall have a sight distance of at least 500 feet at four feet above ground level. (10 × the speed limit or 10 × the algebraic distance, per DOT/AASHTO.)
2. Rural major and collector streets shall have a sight distance of at least 200 feet at four feet above ground level.
3. Rural minor, residential streets and alleys and other lower classification rural roads (industrial/commercial access, agricultural access, recreation and scenic, and resource recovery) shall have a sight distance of at least 100 feet at four feet above ground level.
4. Rural arterial streets shall have a sight distance of at least 500 feet at four feet above ground level.
5. Local rural routes, 75 feet at four feet above ground level.

J. Street intersections: Street intersections shall be as nearly at right angles as possible. No street intersection shall be at an angle of less than 75 degrees, unless required by unusual circumstances.

K. Curb-line radii: Property lines at street intersections shall be rounded with a curb radius of 20 feet. Where the angle of intersection is less than 75 degrees, the platting authorities may require a greater radius. The platting authorities also may permit comparable cut-offs or chords in place of rounded corners.

L. Steep slope development: Driveways and roads coming into a County road shall observe at a minimum a 25-foot deep area with a slope of no more than two percent at the intersection with the County right-of-way. No storm water shall run out onto the county road from a subdivision or individual lot or parcel. Storm water runoff coming from driveways shall be diverted into ditches and away from the County road.

11.3.3. Development/Project Access Improvements.

Major subdivisions, multi-family and non-residential development: When property that abuts upon an existing or proposed County road is to be developed or redeveloped as a major subdivision, multi-family and non-residential development and the County road will provide access to the property, access improvements to the County road (turn lanes, etc.) shall be provided by the developer as provided herein:

A. Design criteria shall be in accordance with the requirements of this document or the latest edition of the Georgia Department of Transportation's "Regulations for Driveway and Encroachment Control."

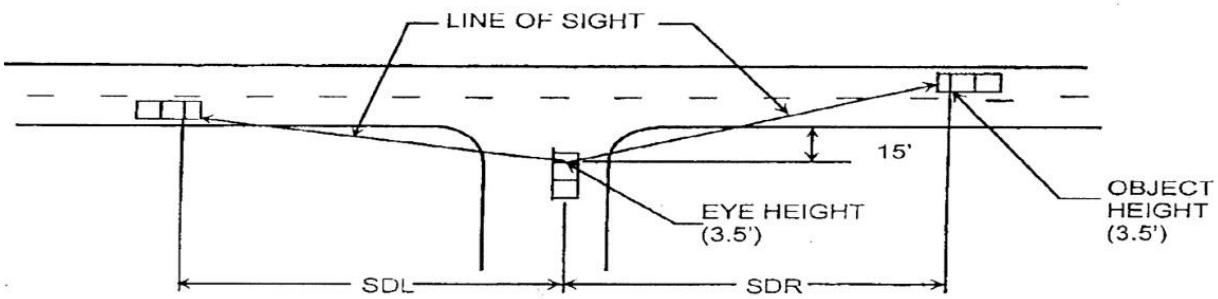
B. Where a subdivision abuts a county-maintained road, access to the county-maintained road via an internal subdivision road in accordance with these regulations is required.

C. In the event a developer desires to construct a median break to serve the subdivision, a left turn lane leading to the median break shall be required to be provided by the developer and shall meet the standards contained in the GDOT “Standards Specifications Manual" and "Regulations for Driveway and Encroachment Control,” current editions.

D. Other access improvements may be required by the county upon the recommendation of either GDOT or the county engineer in order to ensure adequate site access, pedestrian access, convenience and safety to the motoring public.

E. The developer shall be responsible for the relocation of public or private utilities and drainage structures as may be occasioned by the required access improvements.

F. Subdivision street intersections with county maintained roads shall be located to provide adequate sight distance. Minimum intersection sight distances are criteria provided in Table (A) of this subsection. The line of sight establishes the boundary of a sight triangle within which there should be no sight obstruction between the heights of 30 inches and 108 inches. No plants or shrubs shall be planted in this area that grows to a height greater than 30 inches. The sight distance criteria are based on the average time required for a vehicle to make a left or right turn from a stop controlled approach to the public road (AASHTO Case B1 and B2). The time to execute the maneuver is based on recommendations contained in NCHPR Report 383, Intersection Sight Distance. The sight distances for a two-lane road are the distance traveled at the posted speed limit during the average of 6.5 and 7.5 seconds. See ASSHTO Green Book, chapter 9 Intersections, for adjustments due to grades greater than three percent and design vehicle other than passenger cars. The developer's engineer shall certify that sight distance requirements are in accordance with table (A) and so state on the preliminary plans at the time of submittal.



COUNTY RD. SPEED, MPH	SIGHT DISTANCE, Ft. 2 Lane (SDL=SDR)
25	260
30	310
35	360
40	415
45	465
50	515
55	570

TABLE (A)
INTERSECTION SITE DISTANCE REQUIREMENTS

G. A traffic impact study by the developer's engineer at plan review stage for all non-single family developments when any new road or street is created that abuts/adjoins a public road/street for all developments creating more than 100 trips per day.

11.3.4 Structures on Right-of-Way.

Right-of-way encroachment--mailboxes and other structures: This section applies to all arterial, collector and minor roads as defined herein.

A. Mailboxes, County Right-of-Way:

1. A mailbox that does not conform to the following provisions is an encroachment and shall be removed within 60 days of notification of the violation:
   a. For noncompliance mailbox structures not moved within the 60-day notification period, such removal shall be performed by Habersham County at the expense of the structure owner.
   b. Habersham County will assume no liability for damage that may occur in normal maintenance operations for any mailbox not conforming to the standards stated in subsections 1) through 3).
2. No mailbox support shall be allowed to exist on Habersham County's right-of-way that interferes with the safety of the traveling public on the County road system. The mailbox shall be located in accordance with the rules and regulations set forth by the Highway Safety Administration.
   a. The support or post shall not be made of a masonry nature or by any other material that will not readily yield upon impact.
   b. No construction which could be classified as a hazardous fixed object shall be allowed, either as a support or as an encasement or housing for the box itself.
   c. When using wood, the size shall be a maximum nominal four inch by four inch or, if round, the

size will be a maximum of four inches in diameter.

d. If a metal post is to be used, no larger than three inches in diameter or equivalent shall be allowed and such posts shall be hollow.

e. When using other materials, the maximum size and configuration shall be determined and approved by the Administrative Officer prior to installation.

f. The face of the mailbox shall be no closer than three feet to the edge of the pavement on high-speed (establish threshold speed) routes.

3. Multiple mailbox installations shall meet the same criteria as single mailbox installations. Multiple support installations should have their supports separated a minimum distance equal to three-fourths of their heights above ground. This will reduce interaction between adjacent mailboxes and supports.

B. Mailboxes--Subdivision Roads With Low Traffic Volume and Speed: A mailbox that does not conform to the following provisions is an encroachment and shall be removed within 60 days of notification of the violation.

1. Subdivision roads with low traffic volume and speed, shall comply with the following standard:

a. The supporting structure shall be as described in subsection 11.3.4(A)(2) above.

b. The face of the mailbox shall be no closer than two feet to the edge of the pavement or one foot from the back of the curb.

2. In the event that a request is made to place a subdivision road in the County maintenance system, all existing structures on right-of-way shall be brought into compliance with 11.3.4 of this chapter.

C. Mailboxes--Existing Structures on County-maintained Roads: Single-entrance subdivision roads with a rural minor road classification that have existing brick or masonry mailbox structures will be allowed so long as they meet the following requirements:

1. No portion of the mailbox or its structure shall be closer than two feet to the edge of pavement or one foot from the back of the curb.

2. The Public Works Department reserves the right to review all existing mailbox structures on a case-by-case basis as requested.

3. All undeveloped lots within a subdivision on a single entrance, low volume and low speed road shall conform to the specifications for mailbox structures defined in subsection 11.3.4(A)(2) above.

D. Other Structures: Masonry or other type vertical walls that create a hazard will not be allowed on county rights-of-way. Existing masonry or other type walls built on driveways in the right-of-way will comply with the following regulations:

1. Single entrance subdivision roads with a rural minor road classification that have existing brick, rubble or masonry driveway headwalls will be allowed so long as they meet the following requirements:

a. The wall shall not come within four and one-half feet of the edge of pavement.

b. The wall shall not extend above the existing driveway height without having adequate drain holes through the wall.

c. The overall height shall not exceed 18 inches above the driveway surface.

d. All undeveloped lots within a subdivision on a single entrance, low volume, low speed road shall

conform to these same specifications.

2. Subdivision entrances with elaborate cosmetic structures of brick, masonry, or other materials forming an island shall conform to the following:
   a. No structure shall extend beyond the right-of-way line of the adjoining street.
   b. No structure shall extend vertically to a height that would impair visibility of adjacent vehicle traffic.
   c. Structure walls must not lean or protrude over the adjacent pavement so as to hinder resurfacing or maintenance of the surface.
   d. No structure shall be placed in conflict with utility facilities.
   e. Structures placed in the middle of the cul-de-sac shall conform to all of the above specifications.
   f. All structures must have some type of approved reflective device or be lit.
   g. Any damage to existing structures during routine maintenance of the street will be the liability of the property owner or homeowners association.
3. Exemption for new construction: Masonry or other type vertical walls may be built on driveways that are located in a platted subdivision on a "rural minor" road, defined herein and classified as a low volume, low speed, residential road that primarily serves the residents of the subdivision. A subdivision road or street that may be used as a cut through or connector road to a main road may not be considered a "minor" road. These structures must conform to the regulations as stated in this section. Habersham County does not accept maintenance responsibility for these vertical wall structures. The Public Works Department reserves the right to review all structures on a case-by-case basis as requested.

E. Enforcement:
   1. Existing structures: It shall be the responsibility of the Administrative Officer to enforce the provisions of this section as it relates to existing structures. The Administrative Officer shall notify, in writing, property owners found to be in violation of this section. If the property owners fail to remove the structures(s) within the time allowed by this section, the Administrative Officer is authorized to issue a notice of violation to the property owner stating the nature of the violation, the cost to the property owner for removal.
   2. Enforcement (new construction): It shall be the responsibility of the Administrative Officer to enforce the provisions of this section as it relates to all new construction. In addition, the Chief Building Inspector is directed and authorized to deny any and all construction permits for any property or to any property owner with a structure(s) in violation of this section as cited by the Administrative Officer.

11.3.5 Required Improvements

A. Performance and Specifications: Every subdivider and developer shall be required to make the improvements outlined in this article in accordance with the specifications herein or otherwise adopted by Habersham County. The necessity for storm drainage on each site will be determined by inspection.

B. Grading: All streets, roads and alleys shall be graded by the subdivider so that pavements and sidewalks, where required, can be constructed to the required cross section. The minimum width of grading shall be the pavement width as specified in 11.3.2 plus eight feet on each side. Deviation from the above will be allowed only when due to special topographical conditions.

1. Preparation: Before grading is started, that part of the right-of-way consisting of the area to be paved plus the shoulders shall be first cleared of all stumps, roots, brush and other objectionable materials and all trees not intended for preservation.
2. Cuts: All boulders and other obstructions shall be removed to a depth of two feet below the subgrade. Rock, when encountered, shall be scarified to a depth of 18 inches below the subgrade. All vegetative debris, to include tree stumps and roots, must be removed from the site or may be burned in its entirety on site if burning complies with state rules and regulations.
3. Fill: All suitable material from roadway cuts may be used in the construction of fills, approaches or at other places as needed. Excess materials including organic materials, soft clays, etc. shall be removed from the roadway. The fill shall be spread in layers not to exceed six inches loose and compacted by a sheepsfoot roller. The filling of utility trenches and other places not accessible to the roller shall be mechanically tamped.
4. Subgrade: The subgrade shall be properly shaped, rolled and uniformly compacted to conform to the lines, grades and typical cross-sections as shown on drawings approved by the Planning Commission. Unsuitable materials shall be excavated and replaced with acceptable compacted material.

B. Storm Water Management Plan: This section is to formulate a plan to manage storm water runoff so that storm water hazards are not created and existing runoff-related problems are not exacerbated either upstream or downstream from or within the boundaries of the development. The storm water management plan will consist of a storm water report and construction documents (if applicable) to meet the minimum requirements set forth in this section.
   1. A storm water management plan shall be submitted with the request for land disturbance permit stage and shall contain the following information:
      a. Location of proposed drainage-ways, streams and sediment ponds within the development.
      b. Location, size and invert elevations of proposed drainage structure including culverts, bridges, pipes, drop inlets and top elevations of headwalls, diversion ditches, etc.
      c. Area of land contributing runoff to each drainage feature.
      d. Location of easements and right-of-way for drainage ways and maintenance accesses therefore.
      e. Typical improvement around drainage features and culverts, if any.
      f. Direction of water flow throughout the subdivision and computed velocities at those points deemed necessary by the review agency staff.
      g. Detailed engineering drawings on all impoundment structures, dams, sediment ponds, etc.
   2. A storm water management plan must be prepared for new development or redevelopment to any site that meets one or more of the following criteria:
      a. A new development in which 5,000 square feet or greater of new impervious area is created or that involves the land disturbing activity of one acre of land or greater.
      b. Land development activity on a redevelopment site that constitutes more than 50 percent of the site area for the entire site or increases the impervious area on site by more than 5,000 square feet.
   3. The following development activities may be exempt from a storm water management plan:
      a. Developments that do not create the addition of 5,000 square feet of impervious surfaces or disturb more than one acre of land.
      b. Individual single-family residential lots (single-family lots that are part of a subdivision or phased development project are not exempt).
      c. Additions or modifications to existing single-family structures.

d. Agricultural and silvicultural construction is exempt.

C. Storm Water Report: A storm water hydrology report shall be provided to ensure that the requirements and criteria in these regulations are being complied with and that opportunities are being taken to minimize post-development storm water runoff impacts from the development. The storm water hydrology report shall identify the locations and quantities of storm water runoff entering and exiting the site for both existing and developed conditions. The report at a minimum shall consist of pre- and post-developed topographic drainage maps delineating study points, drainage basins, soil types, runoff coefficients/curve numbers and land cover. In addition, the report shall contain a brief narrative, a vicinity map, a chart summarizing the water runoff associated with the proposed development and supporting design calculations for any proposed storm water management facility (such as and including stage-storage or outlet rating curves and inflow and outflow hydrographs, pre- and post-developed hydrographs). Pond discharge locations shall be in defined drainage ditches or piped systems. If this is not possible, the hydrology report shall address the creation of concentrated flows where none had occurred previously. The design professional shall ensure that the addition of any storm water management facility within its watershed basin does not adversely affect downstream property owners or storm water drainage systems and structures. Storm water hydrology reports shall be conducted in accordance with the criteria established in this section and must be submitted with the stamp and signature of a professional engineer (PE) or a registered land surveyor (RLS) licensed in the State of Georgia.

D. Storm Water Management Facilities: Storm water management facilities shall be implemented to control post-developed storm water runoff. The facility shall be designed so that the peak release rates (when combined with all detention bypass areas) are equal to or less than the pre-developed runoff rates at the same location. The facility will be designed to control the two to 50-year storm events. The facility shall also provide the safe passage of the 100-year storm event while providing one foot of free board between the 100-year pond elevation and the top of the dam. A proposed storm water management facility must be accompanied by a set of construction documents signed by a design professional, depicting the location and layout of the proposed facility and provide details for the construction of the facility (ex., outlet structures, dams, positive drainage, other structural controls, etc.). All storm water facilities shall be enclosed by fencing and an access gate where the sides of the facility adjacent to the water are steeper than 3:1 and the depth of the water in the pond is greater than three feet. The owner of the property on which the facility is located shall be responsible for maintaining all storm water management facilities. A clean-out marker showing two-thirds volume level of the pond shall be designated on the outlet structure to facilitate in inspection of the facility. If it is determined that the facility is not hydraulically functioning as designed due to inadequate maintenance, the county may conduct inspections and maintenance on the facility and the owner will be responsible for all expenses involved. A 25-foot easement measured from the elevation of the 100-year storm event within the facility and a 25-foot access easement to the facility shall be provided to the County. The County shall notify the owner 24 hours prior to any inspection or maintenance work which involves accessing the easement. All storm water management facilities shall be designed in accordance with the criteria established in this section, and plans and reports must be submitted with the stamp and signature of a professional engineer (PE) licensed in the State of Georgia.

1. The following are exempt from storm water management facilities but must provide a hydrology report:

a. A residential subdivision that does not increase the runoff for the two to 50-year storm event by more than 0.1 cubic feet per second per acre. Designated open space areas, flood plains, wetlands, green space and any other areas that are not buildable, with an exemption for stream or creek buffers, may not be included in the hydrological analysis in determining if the subdivision meets this exemption. In addition, the lot sizes must be uniformly sized throughout the subdivision development.

b. Where development does not increase the storm water runoff by more than one cubic feet per second (cfs) for the two to 50-year storm event.

2. Storm water conveyance pipes: All culverts, cross drain, storm sewers or other drainage facilities under the County's jurisdiction shall be designed to accommodate all runoff from its entire upstream drainage area and be based upon the 50-year storm event.
3. An adequate drainage system, including necessary open ditches, pipes, culverts, intersectional drains, drop inlets, bridges, etc. shall be provided for the proper drainage of all surface water. Cross-drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit full width roadway (roadway is defined as the portion of a road or street within the limits of construction) and the required slopes. The culvert pipe size to be provided shall be determined based on an engineering study. In no case shall the pipe diameter for cross drain pipe be less than 18 inches. Side drain pipe (driveway, etc.) shall not be less than 15 inches in diameter.
    a. All pipe used for cross drains shall consist of one of the following:
        i. Reinforced concrete pipe
        ii. Metal pipe with paved invert and coated with bituminous material
        iii. Aluminized coated pipe meeting ASSHTO Standard M274 and M36
        iv. Smooth interior corrugated polyethylene pipe not to exceed 36 inches in diameter meeting ASSHTO Standard M294
4. Public Works Director, or his designee, shall review cross-lot drainage originating from the county right-of-way only, to ensure no increase in runoff volume, velocity, or erosion onto downstream properties beyond pre-development conditions.

E. Installation of Utilities and Driveways: After grading is completed and approved and before any base is applied, all of the underground work, water mains, gas mains, etc., and all service crossings shall be installed completely and approved throughout the length of the road and across the flat section. All driveways for houses as they are built shall be cut and drained from the right-of-way.

F. Water Supply System: Water mains within the subdivision must be provided with connections to each lot from a community water system controlled by EPD or public water system. Minimum diameter of water pipes shall be six inches. Fire hydrants must be provided at not more than 1,000 feet intervals whenever community or public water system is used. Required fire hydrants shall be served with adequate water volume and pressure as required by the fire chief and the governing body of Habersham County. If a municipal water supply is not available to the subdivision at the time of development of the subdivision, then the developer should provide an adequate water source and an adequate water storage facility. This shall be accomplished by the use of individual wells for each housing unit or by a community water system. Individual wells are the responsibility of the lot purchaser; however, the community (subdivision) or municipal water system shall provide a minimum flow of 400 gallons per day per lot, shall be sanitary, and shall have a minimum adverse pressure of 30 pounds per square inch at each lot in the subdivision.

G. The community water system shall be approved by the Habersham County Health Officer or the

Georgia Department of Natural Resources, Water Supply Section and a letter of approval shall accompany the recording permit application.

Water distribution plan: A water distribution plan shall be provided for all developments providing a community water supply system, regardless of the provider/municipality. All designs shall meet the Habersham County Water Main Standards or the state requirements, whichever is more stringent. It shall contain the following information:

1. Location and size of water distribution system, including pipes, valves, fittings, hydrants, high pressure pumping equipment, pressure reducing valves, etc., complete to individual lots.
2. Location and size of all wells, storage tanks and lift stations.
3. A water supply system letter of approval from environmental health or the Department of Natural Resources, Water Supply Section, shall be attached.

H. Sanitary Sewers: If the sewage disposal facilities cannot be connected to a trunk line sewer at the time of the development of the subdivision, septic tanks or another approved method of treatment of sanitary sewerage shall be installed by and at the expense of the subdivider or lot purchaser for interim use in conformity with the requirements of the County health department. Plans shall be reviewed by the appropriate municipality or county facility accepting the waste. Further, approved sanitary sewage methods other than septic tanks shall include the maintenance and ownership agreements and requirements explained in detail. In addition, once the proposed plans are approved by a municipality, the Planning and Development Department shall review and approve the plans for installation on County right-of-way. A sanitary sewer plan shall be provided for those developments offering such service.

I. Street and Alley Improvements:

1. All new single family subdivisions within Habersham County shall adhere to the following road paving specifications:
    a. Base Layer: A minimum of 6 inches of graded aggregate base (GAB).
    b. Binder Layer: A minimum of 2 inches of (19mm) asphalt binder course.
    c. Surface Layer: A minimum of 1.5 inches of (9.5mm) asphalt surface course.
2. All new non-single-family developments within Habersham County shall adhere to the following revised road paving specifications:
    a. Base Layer: A minimum of 8 inches of graded aggregate base (GAB).
    b. Binder Layer: A minimum of 2.5 inches of (19mm) asphalt binder course.
    c. Surface Layer: A minimum of 1.5 inches of (9.5mm) asphalt surface course.
3. Developers must submit road construction plans for review and approval by the county engineering department before commencing.
4. Required streets shall be either public streets or private streets, all platted with right-of-way specified in this chapter. All streets must be paved to meet specifications in this chapter below in order to qualify for final plat approval or acceptance for maintenance by the county governing body as public streets.

J. Base: The base course shall consist of compacted and graded aggregated crushed stone or other approved material having a minimum thickness, after being thoroughly compacted, in accordance with

the specifications 11.3.5(J) on all rural minor and residential streets regardless of the type pavement wearing surface used.

1. All materials shall be secured from an approved source and shall generally conform to minimum acceptable standards of the Georgia Department of Transportation.
2. All materials shall be mixed to the extent necessary to produce a thoroughly pulverized and homogeneous mixture.
3. As soon as the base material has been spread and mixed, the base shall be brought to approximate line, grade and cross-section and then rolled with a sheepsfoot or other approved roller until full thickness of the base course has been compacted thoroughly. Defects shall be remedied as soon as they are discovered.
4. The base course shall be maintained under traffic and kept free from ruts, ridge and dusting, true to grade and cross-section until it is primed.
5. No base material shall be deposited or shaped when the subgrade is frozen or thawing or during unfavorable weather conditions.

K. Pavement: Wearing surface shall conform to mixes found suitable by the Georgia Department of Transportation, Highway Division, or an independent testing laboratory and shall be applied after prime coat. Unless otherwise approved by the platting authority, pavement shall be constructed as follows:

1. Bituminous material used for prime coat shall be in accordance with the current edition of the Georgia Department of Transportation Standard Specifications Manual and shall be applied on clean slightly damp surface in the amounts of from 0.15 to 0.30 gallons/square yard, depending on the nature and condition of the surface.
2. Wearing surface shall consist of either an approved plant mix prepared in accordance with the standards in the current edition of the Georgia Department of Transportation Standard Specifications Manual and shall have a completed minimum compacted thickness as listed in 10.3.5(J).
3. Weather limitations. Comply with the current edition of the Georgia Department of Transportation Standard Specifications Manual.
4. Care and precaution shall be taken that all joints between the surface mixture and such structures as manholes and curbs are well sealed.
5. Materials and installation of traffic control devices, such as striping or required signal devices and signage, shall be at the developer's expense and comply with Manual for Uniform Traffic Control Devices.

11.3.6 Warranty deed and resolution of acceptance.

Subdivision streets and right of ways and other lands to be dedicated to the public shall be accepted by the county only upon the approval by the Habersham County Board of Commissioners of a general warranty deed conveying fee simple title of such right of ways and lands. The warranty deed shall be accompanied by a certificate of title and a tax transfer form addressed to the Habersham County Board of Commissioners, certifying that the grantor in such deed is vested with marketable fee simple title to the property conveyed thereby, free and clear of all liens and encumbrances, and further that the individual executing such deed has full authority to do so. The subdivider shall forward executed deeds for the streets,

and dedication of other public properties if applicable, to the Planning and Development Director who will schedule the matters for the next available meeting of the Habersham County Board of Commissioners for consideration, and if approved, recording, along with a resolution accepting the public improvements for perpetual maintenance.

11.3.7 Existing situations without improvement guarantees.

A. Intent. This section is intended to apply only in exceptional circumstances where neither the original subdivision owner nor their successor in interest exists or is solvent and multiple builders have purchased lots in the subdivision, and only in order for the county to ensure a funding source for the maintenance and performance costs associated with the subdivision.

B. Applicability. This section shall apply when: 1) a final subdivision plat has been approved; and 2) the original owner of the subdivision at the time of approval of the subdivision plat no longer owns any lots in said subdivision, has filed for bankruptcy, or is otherwise determined to be insolvent; and 3) no improvement guarantee is in place for the subdivision; and 4) more than one person or entity owns undeveloped lots (i.e. lots without a certificate of occupancy) in said subdivision such that posting of a guarantee for the entire subdivision is not feasible.

C. In the event of the fulfillment of the above-stated four conditions, the county may, in its discretion, accept from the applicant for a building permit or for a certificate of occupancy for any lot or series of lots, a cash guarantee in the amount of a by-lot, pro-rata portion of the amount of the applicable guarantee that would otherwise be required for the entire subdivision, in lieu of the improvement guarantee required to provide for maintenance and performance requirements for the entire subdivision. By way of example, in a 100-lot subdivision for which the normal required improvement guarantee would be $100,000.00, an applicant for one lot could provide a cash improvement guarantee in the amount of $1,000.00; an applicant for two lots could provide a cash improvement guarantee in the amount of $2,000.00.

11.3.8 Release of improvement guarantee.

A. Upon adoption by the Habersham County Board of Commissioners of a resolution accepting the public improvements within the subdivision for perpetual maintenance, the improvement guarantee shall be released by the zoning administrator.

11.3.9 Private Roads.

A. Private roads may, upon application, be permitted within subdivisions subject to the requirements of this section. The Planning and Development Director may impose conditions on the approval of private roads to ensure various public purposes and to mitigate potential problems with private roads. No final plat involving a private road shall be approved unless said final plat conforms to the requirements of this section.

B. It shall be unlawful for any person, firm or corporation to construct a new private road or alter an existing private road or to cause the same to be done without complying with this section provided, however, that this shall not be construed to apply to logging roads (trails) and roads (trails) serving agricultural purposes.

C. All private roads shall at minimum be constructed to all standards specified in this chapter.

D. Rights-of-way for private roads shall be designated on final plats as general purpose public access and

utility rights-of-way along with the name of said private road. Rights-of-way for private roads shall not be included in any calculation of minimum lot size established by this chapter. Private road rights-of-way shall be shown on the final plat as a discrete parcel to be dedicated to a private homeowners association or other appropriate group (i.e., not shown to be a part of any lot).

E. Habersham County shall have no responsibility to maintain, repair, resurface, rebuild, or otherwise improve private roads, signs, drainage improvements or any other appurtenances within general purpose public access and utility rights-of-way established for private roads. A private maintenance covenant recorded with the office of the Clerk of the Superior Court of Habersham County shall be required for any private road and other improvements within general purpose public access and utility rights-of-way established for private roads. The covenants shall set out the distribution of expenses, remedies for noncompliance with the terms of the agreement and other pertinent considerations.

F. The covenant shall specifically include the following terms:

1. The minimum annual assessments in an amount adequate to defray costs of ordinary maintenance and procedures for approval of additional needed assessments. The covenant shall also specify that the funds from such assessments will be held by a homeowners' or property owners' association or other appropriate group.
2. A periodic maintenance schedule.
3. Enforceability by any property owner served by the private road.
4. A formula for assessing maintenance and repair costs equitably to property owners served by private road.
5. The covenant shall run with the land.
6. The Planning and Development Director may, at his discretion, as a condition of approving private roads require a performance bond and/or maintenance bond be submitted by the subdivider and held by a homeowners' or property owners' association or the Planning and Development Director may require that the subdivider pay an amount of money as recommended by the county engineer into an escrow account or other suitable account for the maintenance and repair of private roads and storm water management improvements to be drawn from by the homeowners' or property owners' association as maintenance and repair needs may arise.

G. No final plat involving a private road shall be approved by the Planning and Development Director for recording unless and until it shall contain the following on the face of the plat:

1. Deed book and page reference to the recorded covenant required by this section.
2. "Habersham County has no responsibility to build, improve, maintain or otherwise service the private roads, drainage improvements, and other appurtenances contained within the general public purpose access and utility right-of-way or rights-of-ways for private roads shown on this plat."

11.4 Paving of a Gravel Road without Obtaining Additional Right-of-Way

11.4.1 Purpose and Intent

This ordinance establishes the conditions under which the county may pave existing gravel roads without

requiring the acquisition of additional right-of-way.

11.4.2 Applicability

This ordinance applies to all county-maintained gravel roads that meet the following criteria:

A. The road is currently in the county-maintained road system.

B. The road is deemed suitable for paving based on engineering review and limitations outlined in Section 3.

C. The paving can be accomplished within the existing roadbed and right-of-way without requiring encroachments onto adjacent private properties.

11.4.3 Engineering Review and Limitations

The county shall conduct an engineering assessment to ensure that paving within the existing footprint will not:

A. Cause or create drainage issues.
   1. Create traffic safety hazards due to width, visibility, or other factors.
   2. Require any modifications to existing utilities, driveways, or other infrastructure.

B. In addition to the above, the following engineering limitations shall apply to any road proposed to be paved "as is":
   1. **Speed Limit**: All paved "as is" roads shall have a maximum posted speed limit of **25 miles per hour**.
   2. **Road Width**: Roads must have a minimum usable width of **18 feet** throughout.
   3. **Roadway Grade**: Roads must have a grade variation of less than of **5%.**
   4. **Roadway Drainage**: Roads with existing or unresolved drainage issues shall not be eligible for paving.
   5. **Roadway Alignment**: Roads must not have severe horizontal or vertical curves. All existing driveways and intersecting roadways must have a minimum sight distance of **260 feet.**

C. If adjustments are necessary for drainage or safety concerns, reasonable modifications may be made within the existing road footprint.

11.4.4 Construction Guidelines

A. The county may use asphalt, chip seal, or other suitable paving materials based on cost-effectiveness and road conditions.

B. The project shall be carried out by the Habersham County Road Department or contracted services as determined by the Board of Commissioners.

C. No private property shall be disturbed beyond the existing county-maintained roadbed unless the property owner provides written consent.

11.4.5 Public Notice and Objections

If a property owner submits a written objection demonstrating a material adverse impact, the county shall review the concerns and determine whether modifications or mitigation are necessary.

11.4.6 Exceptions and Waivers

The Board of Commissioners may approve exceptions to this ordinance on a case-by-case basis if compelling public interest is demonstrated.

ARTICLE 12: SIGNS

Section 12.1 General Regulations.

12.1.1 Purpose and Intent.

A. Habersham County finds that signs are a proper use of private property, are a means of personal free expression and a necessary component of a commercial environment. As such, signs are entitled to the protection of the law. In the absence of regulation, however, the number of signs tends to proliferate, with property owners desiring ever-increasing numbers and sizes of signs, leading to cluttered and aesthetically blighted thoroughfares. In addition, the competition among competing sign owners for visibility of their signs contributes to safety hazards for both vehicles and pedestrians and undermines the sign owners' original purpose of presenting a clear message of its idea or identification of its premises.

B. Regulation of the location, size, height, placement, number, spacing and certain content neutral features of signs is necessary to protect the public safety, to assure compatibility of signs with surrounding land uses, to enhance the business and economy of the County, to enable the public to locate goods, services, and facilities in the County without difficulty and confusion, to provide for the orderly and reasonable display of advertising for the benefit of all the County's citizens, to protect the public investment in the streets and highways, to maintain the tranquil environment of residential areas, to promote industry and commerce, to eliminate visual clutter and blight, to provide an aesthetically appealing environment, to improve the general attractiveness of the community, to take advantage of the beauty of the community's environment, and to protect property values.

C. The goal of this article is to avoid being an impermissible content-based regulation, and instead to be a permissible content neutral time, place and manner restriction. More communication is desirable during the election cycle, so that all citizens may freely express their viewpoints during the election campaigns, and therefore this ordinance allows increased opportunities for signs during these periods, without limiting content.

D. At all times, any sign permitted under this regulation can carry any legal message, political or non-political, commercial or non-commercial. However, it is not the intent of this article that all signs are built to the maximum size. The County encourages use of the minimum signage necessary to meet the purposes required. Accordingly, it is the intention of the County to establish regulations governing signs which will:

1. Promote and protect the public health, safety, and general welfare;
2. Enhance the economy of the County by promoting the reasonable, orderly and effective display of signs;
3. Balance the rights of persons to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs;
4. Restrict signs and lights which increase clutter or which increase the probability of traffic accidents by obstructing vision;
5. Promote signs compatible with their surroundings;
6. Protect property values by minimizing the possible adverse effects and visual blight caused by

signs; and

7. Improve pedestrian and traffic safety and reduce traffic and pedestrian hazards.

E. Further, recognizing that the aesthetic, cultural, and historic qualities of the County are unique and, therefore, vital to the community's interest, it is the objective of this article to protect these and to ensure that these are not compromised. It is an objective of this article to protect and preserve the aesthetic qualities of the community by regulating the number, size, placement, installation and maintenance of signs. The fact that such signs are intended to command visual contact, grants to signs a proportionally greater role than other structures in determining the overall aesthetic quality of the community. The aesthetic impact of signs has an economic factor that can bear heavily upon the enjoyment and value of property; therefore, the regulation of signs is validly justified on the basis of conserving the value of property and encouraging the most appropriate use of land throughout the community. It is both rational and important for a community's citizens to plan their physical surroundings so unsightliness is minimized. Signs can detract from the beauty of a neighborhood and lower property values.

F. Further, in seeking to comply with federal and Georgia law, the Board of Commissioners has determined the following: large billboards are, as the U.S. Supreme Court has recognized, an aesthetic harm and potential traffic safety hazard; the Georgia Supreme Court has upheld sign regulations on the basis of aesthetics and preserving the beauty of environment; and, judicial decisions of the Eleventh Circuit have recognized that portable signs are visual clutter and a potential traffic hazard. These holdings support the constitutionality of this article, as intended by the County. It is not the intent of this Article to regulate the content of speech through signage controls. To the extent any court of competent jurisdiction interprets any provision of this Section to restrict the content of speech; it is the intent of the Board of Commissioners that all allowable signs may display a noncommercial message in addition to, or in lieu of, any other message.

12.1.2 Authority.

A. This Section is enacted pursuant to Article IX, Section II, Paragraph IV of the Georgia Constitution of 1983, the general police powers of Habersham County, and other authority provided by federal, state or local laws applicable hereto.

12.1.3 Applicability.

A. These sign regulations shall be valid throughout the unincorporated boundaries of Habersham County. Signs shall be erected, placed, established, painted, created and maintained in accordance with the physical standards outlined in this Section. Sign placement and size regulations shall vary between districts. Nothing herein shall be construed to permit display of any message which is obscene, illegal or speech which is otherwise unprotected under the First Amendment of the United States Constitution. Nothing herein shall be construed to prohibit a prosecution for violation of a criminal statute by the County or other duly constituted government authority or a civil action by the County or other private person or entity.

12.1.4 General Provisions.

A. All signs must be in compliance with the provisions of this article, the Standard Building Code, the UDO, and the National Electric Codes as adopted.

B. All signs must be placed on private property, except signs erected on public property by an authorized governmental unit. No sign shall be located closer than ten feet from the back of the curb of a public roadway, nor be located closer than ten feet from the public right-of-way.

C. No sign shall be attached to or painted on a telephone pole or power pole, or any tree, rock or other natural object.

D. For the purposes of determining the number of signs, ground signs shall be equal to the number of sign structures. All other non-ground signs shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in random manner without organized relationship of elements, each such element shall be considered to be a single sign.

E. No sign or sign structure (above a height of three feet) shall be maintained within 15 feet of the intersection of the extended right-of-way lines of two streets, of an intersection of a street right-of-way with a railroad right-of-way, or otherwise placed in a location that limits sight distance as determined by the Planning and Development Director.

F. No sign or sign structure may be erected or maintained which obstructs any fire escape, window, ventilation, door or hydrant; nor shall any sign or sign structure be attached to a fire escape.

12.1.5 Signs Regulated by Zoning District.

A. Types of signs and regulatory aspects of those signs, allowed per zoning district shall be:

1. Signs in the AG, RR, and PI zoning districts.

   a. Standard Informational Signs. The aggregate sign area of all standard informational signs on a lot shall not exceed 16 square feet in sign area. Standard informational signs shall not be located within the public street right-of-way and shall be no closer than ten feet to the back of curb of a public roadway. Notwithstanding the foregoing, during the period from opening of qualifying for elections until the final determination of all contests and issues resolved by that election, there shall be no limit on the aggregate sign area of standard informational signs and an unlimited number of standard informational signs shall be permitted on any property in the County.

   b. Ground signs. Ground signs shall be limited to a quantity of one per road frontage per lot with an aggregate sign area of no more than 35 square feet and a sign height of no more than five feet.

   c. Monument signs. Two single-faced, monument signs or one double-faced monument sign shall be permitted at every entrance to a residential subdivision or development. Monument signs at the entrances to residential subdivisions or developments shall not exceed five feet in height and 24 square feet in sign area per sign face. All sign structures shall be constructed of brick, stone, textured concrete masonry units or equivalent architectural material. Internal illumination is prohibited.

   d. Temporary residential development sign. Residential lot developers and residential lot development companies may apply for a sign permit to put up a temporary sign at the entrance of residential subdivisions if there are currently lots for sale in the subdivision. The temporary sign must be displayed within 100 feet of the entrance of the subdivision on private property or common area of the subdivision. Permission must be obtained from the owner of the

property. The temporary signs are limited to one per public road entrance to the subdivision and shall only be allowed for a maximum of three years or until lots are sold, whichever is less. The temporary sign may be in the form of a simple pole sign with the maximum dimensions of four feet by six feet and a maximum height of five feet from the ground.

e. No sign, permanent or temporary, shall be erected that has a sign height that is greater than five feet.

f. No sign, permanent or temporary, shall be illuminated in any manner.

2. Signs permitted in the NC and SR zoning districts.

a. Standard Informational Signs. Standard informational signs shall be limited to window signs. The aggregate sign area of all standard informational signs on a lot shall not exceed 16 square feet. Notwithstanding the foregoing, during the period from opening of qualifying for elections until the final determination of all contests and issues resolved by that election, there shall be no limit on the aggregate sign area of standard informational signs and an unlimited number of standard informational signs shall be permitted on any property in the County.

b. Ground signs. Ground signs shall be limited to a quantity of one ground sign per road frontage per lot with a sign area of no more than 32 square feet per sign face and an aggregate sign area of no more than 64 square feet. Ground signs shall be limited to a maximum height of eight feet and shall have a minimum setback of ten feet. Ground signs shall be attached to a permanent wall or base constructed of brick, stone or textured concrete masonry units.

c. Window signs. Individual or aggregate window signs shall not exceed 25 percent of the area of windows on the building elevation facing the road frontage, not to exceed 64 square feet. For buildings with multiple tenants, the foregoing limitation is to be applied separately to each tenant space.

d. Wall signs. One wall sign per road frontage for each tenant no greater than one square foot of sign area per one linear foot of tenant space frontage shall be permitted, not to exceed 64 square feet.

e. Banners. Banners up to 16 square feet in sign area may be displayed for thirty (30) days per premise up to four times per year with at least forty-five (45) days between each thirty (30) day display period. No banner shall be attached to a utility pole or light pole.

f. Monument signs. Two single-faced, monument signs or one double-faced monument sign shall be permitted at every entrance to a commercial, office, or industrial planned center or any residential development. Monument signs shall not exceed eight feet in height and 32 square feet in sign area per sign face. All sign structures shall be constructed of brick, stone, textured concrete masonry units or equivalent architectural material. Internal illumination is prohibited.

g. Temporary residential development sign. Residential lot developers and residential lot development companies may apply for a sign permit to put up a temporary sign at the entrance of residential subdivisions if there are currently lots for sale in the subdivision. The temporary sign must be displayed within 100 feet of the entrance of the subdivision on private property or common area of the subdivision. Permission must be obtained from the owner of the property. The temporary signs are limited to one per public road entrance to the subdivision and shall only be allowed for a maximum of three years or until lots are sold, whichever is less. The temporary sign may be in the form of a simple pole sign with the maximum dimensions of

four feet by six feet and a maximum height of five feet from the ground.

h. Except as otherwise provided in this subsection, signs may be illuminated internally or externally, provided that any external light fixtures must be directed away from streets and adjacent property.

3. Signs permitted in the GC zoning district.

a. Standard Informational Signs. Standard informational signs shall be limited to window signs. The aggregate sign area of all standard informational signs on a premise shall not exceed 16 square feet. Notwithstanding the foregoing, during the period from opening of qualifying for elections until the final determination of all contests and issues resolved by that election, there shall be no limit on the aggregate sign area of standard informational signs and an unlimited number of standard informational signs shall be permitted on any property in the County.

b. Ground signs. Ground signs shall be limited to a quantity of one ground sign per road frontage per lot of not more than 32 square feet in sign area per sign face and an aggregate sign area of more than 64 square feet. Ground signs shall be limited to a maximum height of six feet and a minimum setback of ten feet. Ground signs shall be attached to a permanent wall or base constructed of brick, stone or textured concrete masonry units.

i. Ground signs may be illuminated internally or externally, provide that external light fixtures must be directed away from streets and adjacent property.

ii. Ground signs that are not located in the designated historic district may use a light emitting diode (LED) board to display static messages provided that the following standards are complied with in addition to all other requirements of this article:

1. The LED board shall contain static messages only and shall display each static message for no less than 30 seconds;
2. The LED board shall not operate at a brightness level of more than 0.20 footcandles above ambient light levels (at measurement conditions) as measured at a distance of 125 feet or, if the LED board is in the line of sight of any residential structure, 0.10 footcandles above ambient light levels (at measurement conditions) as measured at a distance of 125 feet;
3. Once every twelve (12) months and in the event of a complaint, the owner of the LED board shall be required to provide to the Planning and Development Director a certification of the brightness level of the LED board from an independent contractor and, if the brightness levels are not met, the owner shall turn off the LED board until the brightness level is corrected;
4. The LED board must have a light sensing device that will adjust the brightness of the display as the natural ambient light conditions change;
5. The LED board shall employ a default setting that displays a dark, blank screen should a malfunction occur and the owner of the sign shall provide to the Planning and Development Director, information for a 24-hour contact able to turn off the LED board promptly if a malfunction occurs; and
6. The LED board shall not be animated, move, flash, blink, or vary in light intensity during the display of a single message, and transitions between messages shall not

use frame effects or other methods which result in movement of a displayed image during such transition.

c. Window signs. Individual or aggregate window signs shall not exceed 25 percent of the area of windows on the building elevation facing the road frontage, not to exceed 64 square feet. For buildings with multiple tenants, the foregoing limitation is to be applied separately to each tenant space.

d. Wall signs. One wall sign per road frontage for each tenant no greater than one square foot of sign area per one linear foot of tenant space frontage shall be permitted. Wall signs may be illuminated internally or externally, provided that external light fixtures must be directed away from streets and adjacent property.

e. Canopy signs. One canopy sign per tenant printed or affixed directly onto the canopy material with a sign area not to exceed eight square feet.

f. Projecting signs. One projecting sign per building with a sign area not to exceed six square feet. Minimum clearance of seven feet six inches (7'6"), measured from the bottom of the sign, is required above any pedestrian way.

g. Double-faced signs. One double-faced sign per tenant with a sign area not to exceed four square feet per sign face and a sign height not to exceed three feet. Double-faced signs may only be placed directly in front of the building space occupied by the tenant and shall not impede the flow of pedestrian traffic. Double-faced signs must be removed and shall not be displayed between the hours of 10:00 p.m. and 7:00 a.m.

h. Banners. Banners up to 12 square feet in sign area may be displayed for thirty (30) days per premise up to four times per year with at least forty-five (45) days between each thirty (30) day display period. No banner shall be attached to a utility pole or light pole.

i. Monument signs. Two single-faced, monument signs or one double-faced monument sign shall be permitted at every entrance to any commercial, office or industrial planned center. Monument signs at the entrance of a commercial, office, or industrial planned center shall not exceed eight feet in height and 32 square feet in sign area per sign face. All sign structures shall be constructed of brick, stone, textured concrete masonry units or equivalent architectural material.

j. Except as others provided in this subsection, signs shall not be illuminated internally or externally.

4. Signs permitted in the GI zoning district.

a. Standard Informational Signs. Standard informational signs shall be limited to window signs. The aggregate sign area of all standard informational signs on a premise shall not exceed 16 square feet. Notwithstanding the foregoing, during the period from opening of qualifying for elections until the final determination of all contests and issues resolved by that election, there shall be no limit on the aggregate sign area of standard informational signs and an unlimited number of standard informational signs shall be permitted on any property in the County.

b. Ground signs. Ground signs shall be limited to a quantity of one ground sign per road frontage per lot of not more than 100 square feet in sign area per sign face and an aggregate sign area of more than 200 square feet. Ground signs shall be limited to a maximum height of ten feet

and a minimum setback of ten feet. If the lot contains a principal building or planned center of over 65,000 square feet, the maximum sign area per sign face shall be 150 square feet with an aggregate sign area of not to exceed 300 square feet. Ground signs shall be attached to a permanent wall or base constructed of brick, stone or textured concrete masonry units. Ground signs may be illuminated internally or externally, provided that external light fixtures must be directed away from streets and adjacent property.

c. Window signs. Individual or aggregate window signs shall not exceed 25 percent of the area of windows on the building elevation facing the road frontage, not to exceed 100 square feet. For buildings with multiple tenants, the foregoing limitation is to be applied separately to each tenant space.

d. Wall signs. One wall sign per road frontage for each tenant no greater than one-fourth square foot of sign area per one linear foot of tenant space frontage shall be permitted. Wall signs may be illuminated internally or externally, provided that external light fixtures must be directed away from streets and adjacent property

e. Banners and sail signs. Banners and sail signs up to 16 square feet in sign area may be displayed for thirty (30) days per premise up to four times per year with at least forty-five (45) days between each thirty (30) day display period. No banner shall be attached to a utility pole or light pole. No sail sign shall exceed 16 feet in height measured from ground level at the point where it's based is mounted.

f. Monument signs. Two single-faced, monument signs or one double-faced monument sign shall be permitted at every entrance to any commercial, office or industrial planned center. Monument signs at the entrance of a commercial, office, or industrial planned center shall not exceed eight feet in height and 32 square feet in sign area per sign face. All sign structures shall be constructed of brick, stone, textured concrete masonry units or equivalent architectural material.

g. Except as otherwise provided in this subsection, signs shall not be illuminated internally or externally.

5. Signs in the residential-only PD zoning districts.

a. Standard Informational Signs. The aggregate sign area of all standard informational signs on a lot shall not exceed 16 square feet in sign area. Standard informational signs shall not be located within the public street right-of-way and shall be no closer than ten feet to the back of curb of a public roadway. Notwithstanding the foregoing, during the period from opening of qualifying for elections until the final determination of all contests and issues resolved by that election, there shall be no limit on the aggregate sign area of standard informational signs and an unlimited number of standard informational signs shall be permitted on any property in the County.

b. Monument signs. Two single-faced, monument signs or one double-faced monument sign shall be permitted at every entrance to a residential subdivision or development. Monument signs at the entrances to residential subdivisions or developments shall not exceed five feet in height and 24 square feet in sign area per sign face. All sign structures shall be constructed of brick, stone, textured concrete masonry units or equivalent architectural material.

c. Temporary residential development sign. Residential lot developers and residential lot

development companies may apply for a sign permit to put up a temporary sign at the entrance of residential subdivisions if there are currently lots for sale in the subdivision. The temporary sign must be displayed within 100 feet of the entrance of the subdivision on private property or common area of the subdivision. Permission must be obtained from the owner of the property. The temporary signs are limited to one per public road entrance to the subdivision and shall only be allowed for a maximum of three years or until lots are sold, whichever is less. The temporary sign may be in the form of a simple pole sign with the maximum dimensions of four feet by six feet and a maximum height of eight feet from the ground.

d. No sign, permanent or temporary, shall be illuminated in any manner.

12.1.6 Prohibited Signs.

A. The following types of signs are prohibited in all zoning districts of the County:

1. Signs imitating traffic or emergency signals or which display intermittent lights resembling the color, size, shapes, or order of lights customarily used in traffic signals or on emergency vehicles or on law enforcement vehicles.
2. Signs or devices employing intense illumination when visible from the public right-of-way, flashing (strobe type) or blinking lights, spot lights, floodlights, or any type of pulsating or moving light.
3. Signs which contains flashing or intermittent red, green, blue, or amber illumination or white flashing strobe lights. (Nothing herein is to be confused with seasonal lighting).
4. Signs that cast direct light onto any residential premises.
5. Signs tacked, posted, marked, painted or otherwise affixed on a roof, fire escape or utility pole.
6. Signs which obscure or disfigure any significant architectural element of the building to which it is attached.
7. Signs installed over, above, or extending above the bottom edge of a roof.
8. Signs on a vehicle or trailer and parked with the primary purpose of providing a sign not otherwise allowed.
9. Signs that require removal of any trees from the public right-of-way.
10. Cold-air/helium-filled devices exceeding five feet at any measurement.
11. Pennants and streamers.
12. Neon signs.
13. Projecting signs.
14. Rotating signs.
15. Signs not in good repair, including without limitation any sign which is in a state of disassembly or any sign which has its internal lighting exposed to view for more than one week.
16. Portable signs, except as permitted herein.
17. Signs emitting any sound, smoke, or vapor.
18. Animated signs.
19. Window signs in AG zoning district.

20. Signs which contain words, pictures, or statements which are obscene.
21. Any sign that is structurally unsound or is a hazard to traffic or pedestrians.
22. Signs placed within public rights-of-way, except publicly owned, authorized or maintained signs which serve an official public purpose.
23. Any sign placed or erected on property without the permission of the owner.
24. Signs attached to a building for structural support that exceed 150 square feet in sign area.
25. Signs not attached to a building for structural support that exceed 30 feet in ground sign height and/or 150 square feet of sign area.
26. Signs that violate this Article, the UDO, or any other law, ordinance, or code.

12.1.7 Signs Allowed without a Permit in All Zoning Districts.

A. Any sign not visible from the outside of a structure or to passing members of the public from public thoroughfares or right of way.

B. Signs for the sole purpose of displaying street numbers as may be required by other ordinances and other signs required by law. Such signs shall be no more than four inches in height per numeral in residential districts and 12 inches in height per numeral in commercial and industrial districts.

C. Official signs erected by, or on the order of, a public officer in the performance of his duties.

D. Window signs not exceeding 20 percent of the available window space per building elevation in a single occupant building or per tenant space in a multi-occupant building.

E. Non-illuminated, standard informational signs (excluding banners). For each residential or non-residential lot, the quantity of standard informational signs shall be limited to either one standard informational sign that is 16 square feet in sign area or a combination of standard informational signs the aggregate of which shall not exceed 16 square feet in sign area. Standard informational signs shall not be located within the public street right-of-way and shall be no closer than ten feet to the back of curb of a public roadway. Notwithstanding the foregoing, during the period from opening of qualifying for elections until the final determination of all contests and issues resolved by that election, an unlimited number of standard informational signs is permitted on any property in the County.

Section 12.2 Review and Approval.

12.2.1 Procedures.

A. Permit.

1. A sign permit or temporary sign permit is required before a sign or temporary sign may be erected or an existing sign or temporary sign may be enlarged, relocated or have any improvements made costing 60 percent or more of the sign's total replacement value. All signs using electrical wiring and connections require an electrical permit in addition to any sign permit required under this article.
2. A sign permit or temporary sign permit shall be issued by the County when the plans and specifications for the proposed sign or part thereof conform in all respects to this Article and the building code. Applications for such permits shall be accompanied by all the information required

hereunder and such other information as the County may require in the exercise of sound discretion to determine compliance with this article. Standardized sign plans may be filed with the County in fulfillment of this requirement, although site plans shall be filed with each application.

3. Except as otherwise provided in this Article, a temporary sign permit shall authorize the display of a temporary sign only for a period of thirty (30) consecutive days from the date of issuance. In no case shall the same premises be issued a temporary sign permit more than four times in a 12-month period. Upon expiration of the temporary sign permit, the permittee shall remove the temporary sign and its supporting structure.
4. Each sign application shall contain an agreement to indemnify, defend and save the County harmless from all damages, demands or expenses which may in any manner be caused by the sign or sign structure.
5. Every sign for which a sign permit is required shall be plainly marked with the name of the permittee and shall have the number of the permit issued for said sign by the County affixed on the framework of the sign so the information therein shall be readily accessible, legible and durable.

B. Application. Applications for permits shall be filed with the County, on County forms. The application shall describe and set forth the following and any additional information pertinent to the application as may be requested by the County to determine compliance:

1. The type of the sign;
2. A scaled site plan showing the location, and plan describing the construction;
3. Scaled elevation drawing showing height and sign face dimensions;
4. Square footage, height and use of existing signage;
5. The name(s) and address(es) of the sign owner(s);
6. Written consent of the property owner or agent, granting permission for the sign;
7. The name, address, and phone number of the sign contractor.

C. Expiration date. A sign permit shall expire if the sign has not been completed within six (6) months after the date of issuance; provided, however, that one six-month extension of the permit shall be granted if an additional permit fee has been paid prior to the expiration.

D. Processing. Upon receipt of a properly completed application, the County shall commence review of its submission. A copy of any application within the BUS zoning district shall be transmitted to the main street manager for comment and review, who shall have ten days from receipt of the application to submit comments. Review by all County officers shall be completed and the permit shall be issued or denied by the thirtieth day after submission. A permit shall be denied for any noncompliance with this article. All applications meeting the standards shall be granted.

E. Fees. No permit shall be issued until the fees, as adopted by the Board of Commissioners, have been paid.

12.2.2 Construction and Maintenance.

A. All signs, together with all their supports, braces, guys, and anchors shall be kept in constant good repair and, unless constructed of galvanized or non-corroding metal, shall periodically be given an appropriate protective coating. The area surrounding the base of all signs shall be maintained free of

high weeds and debris.

B. The County may periodically inspect signs to determine compliance.

C. The permittee shall remove discarded or unusable paper, sign faces, parts and debris from the sign or sign structure.

D. No permittee shall allow sign(s) to fall into disrepair. On first class mail written notice from the County to the sign owner and property owner, any sign which is in disrepair or vandalized shall be repaired or removed. The County shall include in the written notice a time limit for compliance of up to thirty (30) consecutive days. An aggrieved party may appeal by filing a written notice of appeal, as provided in Article 13, Public Hearing Application and Review Procedures provided that the final determination shall be made within sixty (60) days from the notice of appeal. On appeal, the standards that shall be considered in making a decision are the standards set forth in this article. If it is determined the original decision was made contrary to the standards of this article, the appeal shall be upheld. If it is determined the standards of this article were correctly applied, the decision shall be upheld and the appeal dismissed.

Section 12.3 Administration and Enforcement.

12.3.1 Enforcement.

A. Enforcement. This article shall be administered and enforced by the Planning and Development Director.

B. Removal.

1. The County may order the removal of any sign in violation of this article. Notice shall be given by first class mail to the permittee and owner of the sign allowing up to thirty (30) days to comply.
2. An aggrieved party may appeal by filing a written notice of appeal as provided in Article 13, provided that the final determination shall be made within sixty (60) days from the notice of appeal. On appeal, the standards that shall be considered in making a decision are the standards set forth in this article. If it is determined the original decision was made contrary to the standards of this article, the appeal shall be upheld. If it is determined the standards of this article were correctly applied, the decision shall be upheld and the appeal dismissed.
3. If the sign is not removed within either thirty (30) days after the order of removal or thirty (30) days after the date of decision on any appeal, whichever is later, the County may cause the sign to be removed.

C. Removal without notice. The County may cause the removal of any sign in violation, without notice to any party, if:

1. The sign is on the public property; or
2. The sign poses an immediate threat to life, health, or safety.

D. Costs of removal.

1. Any sign in violation of this article is declared a nuisance and the costs of removal shall be at the sign owner's expense.
2. Removal without notice shall be without liability to the County, its officials, officers, agents, servants or employees. The permittee and property owner shall be jointly and severally responsible

for the costs of removal. If payment for such removal is not made within sixty (60) days after the receipt of a statement, the County may certify the amount thereof for collection to the County attorney. If a sign remains unclaimed for more than one hundred and twenty (120) days from removal, it may be disposed of per O.C.G.A. §§ 44-14-411 et seq.

E. Invalid permit or non-compliant sign. The County may issue a removal order following the procedures of the subsection above when a permit was improperly issued, issued on the basis of misstatement of fact or fraud, a sign has not been constructed per this article or the application or site plans, a sign permit has expired, or a sign is otherwise not in compliance with this article. If a sign is not removed within ten (10) days following receipt of a removal order the County may institute such legal proceedings hereunder against the property owner, sign owner, permittee, lessee, sign erector or a combination of the above as may be required to effect removal.

12.3.2 Fines and Penalties.

A. Citations. Any responsible parties may be cited to appear in County court for the violation of this article.

B. Penalties. Any person or entity convicted of violation may be punished as provided in the County Code.

12.3.3 Inspections.

A. Inspection and enforcement personnel are empowered to enter into or inspect any building, structure, or premises upon which a sign subject to this article is located for inspecting the sign, its structural and electrical connections, and to ensure compliance with this article.

12.3.4 Nonconforming Signs.

A. Signs which do not comply with this article and were legally placed before the effective date of this article shall become nonconforming. However, signs which were illegally erected, established or maintained with respect to the applicable requirements of prior ordinances shall be removed or brought into compliance within thirty (30) days from the effective date of this article. Upon failure to comply with this article, the County may cause the removal of any nonconforming sign at the expense of the owner.

B. A nonconforming sign shall not be replaced by another nonconforming sign, except that the substitution or interchange of poster panels, painted boards or demountable material on nonconforming signs shall be permitted. Provided, however, if a nonconforming sign is damaged by an act of God, the owner may repair the sign but shall make the sign conforming if physically possible. If not, the sign may be repaired if the repair does not extend the natural life of the sign as it existed before the damage occurred.

C. Minor maintenance of nonconforming signs such as repainting, electrical repairs and neon tubing shall be permitted. However, no structural repairs or changes in the size or shape of the sign shall be permitted except to make the sign comply with this article.

D. Each sign which exists at the effective date of this article shall be registered by its owner with the County.

12.3.5 Appeals.

A. The applicant shall be given written notice stating the reasons the applicant's sign permit application is denied. An applicant may appeal per Article 14, Public Hearing Application and Review Procedures.

On appeal, the procedures and standards that shall be considered in making a decision are the standards set forth in this Ordinance.

ARTICLE 13: REVIEW BODIES AND ADMINISTRATORS

Section 13.1 Governing Body

13.1.1 Purpose

A. The purpose of this Section is to establish the authority for review and consideration of certain applications and other proposed actions, and to assign authority to the governing body, the Board of Commissioners of Habersham County, Georgia.

13.1.2 Powers and Duties

A. General Authority. The Board of Commissioners shall have the powers and duties listed below, in addition to those provided elsewhere in the Habersham Code of Ordinances, the Georgia Constitution, Georgia General Session Laws, and applicable federal and local laws.

B. Final Authority. The Board of Commissioners shall be responsible for final action regarding:

1. Comprehensive Plan Amendments;
2. Text Amendments;
3. Map Amendments;
4. Special Use Permits;
5. Amendment to any of the actions described in this Section; and
6. Appeals of Planning Commission decisions.

C. Appointments. The Board of Commissioners shall appoint members of review bodies, as required by this UDO.

Section 13.2 Review Bodies

13.2.1 Purpose

A. The purpose of this Section is to establish the authority for review and consideration of certain applications and other proposed actions, and to assign authority to the review bodies.

13.2.2 Rules Applicable to Review Bodies

A. Appointments. All members of the Planning Commission shall be appointed by the Board of Commissioners. The number of members of the Planning Commission, and the qualifications of such members are specified in the provisions of this Article with respect to such body. In addition, the provisions of this section shall apply to members of all review bodies.

B. Qualifications. In considering appointees to the Planning Commission, the Board of Commissioners may, but are not required to give consideration to persons who have demonstrated a special interest in planning and zoning, or who have personal or professional experience and expertise in planning and zoning, architecture, building construction, engineering, environmental science, historic preservation, landscape architecture, arboriculture, law, or urban design.

C. Disclosure. Applicants for appointment to the Planning Commission shall disclose whether or not they are currently elected or appointed to hold office in any public body or agency, including serving on an

advisory board.

D. Ethics. Members of the Planning Commission:

1. Shall not participate in the consideration, discussion, deliberation, or vote on any matter in which they have a conflict of interest, or in which the applicant is a person, entity, or business to whom the member has familial, or business ties or stands to benefit financially;
2. Shall comply with all applicable ethical rules and procedures established by state law, this UDO and the by-laws and procedures of the Planning Commission in which they are a member;
3. Shall act in a courteous, professional, and respectful manner to other Planning Commission members, applicants, citizens, staff members, and other persons in conducting the business of the review body in which they are a member;
4. Members of the Planning Commission do not have the authority to summon or require any member of the public to bring any matter before the review body;
5. Shall only act upon those petitions which are brought before them by the Planning and Development Director, through pathways outlined in this UDO; and

E. Removal from Office. The Board of Commissioners, by majority vote, may remove any member of the Planning Commission from office if they find that:

1. The member has been absent for more than one-third of the held regular meetings of the Planning Commission within a 12-month period; or
2. The member has participated in or voted on any matter coming before the Planning Commission in which the member had a conflict of interest, or in which the applicant is a person, entity, or business to whom the member has familial, financial, or business ties or stands to benefit financially; or
3. The member is convicted of a felony or any crime involving moral turpitude while serving on the Planning Commission; or
4. The member has misrepresented their credentials or qualifications in applying for their appointment to the Planning Commission; or
5. The member has acted in a discourteous, unprofessional, or disrespectful manner to another Commission member, applicant, citizen, or other person while conducting or participating in the business of the Planning Commission, and has not ceased their discourteous, unprofessional, or disrespectful behavior after being requested to do so by the Chair, another member of the Planning Commission or a member of the Board of Commissioners.

13.2.3 Meetings and Rules of Procedure

A. The following provisions shall be applicable to the Planning Commission in this UDO with the exception of the Board of Commissioners.

1. Meetings
   a. Regular Meetings. Regular meetings shall be held each month at a set time, date, and location as applications or other business necessitates.
   b. Special Meetings. Special meetings may be called by the Chair of the review body or a majority of the members of the Planning Commission.

2. Minutes and Public Records. The secretary of the Planning Commission shall keep minutes of its proceedings, recording the presence/absence of members and the vote of each member.
3. Meetings and Hearings to be Public. All meetings and hearings of the Planning Commission shall be open to the public.
4. Public Notice. Public notice of the Planning Commission meeting shall be provided as required for each application type as provided in Article 13, Public Hearing Application and Review Procedures.
5. Quorum. A quorum for the transaction of any meetings or business by the Planning Commission shall be a majority of the authorized number of members of the body as set forth in this UDO. In the absence of a quorum, a meeting shall not be opened, and all public notice requirements shall be met for any future meeting.
6. Consideration of Applications and Other Actions. The Planning Commission may take action or make a decision or other determination by majority vote of the quorum present at the meeting.
7. Secretary. The secretary/officer of any review body shall be the Planning and Development Director. The secretary shall be authorized to accept service for any appeal.

Section 13.3 Planning Commission

13.3.1 Establishment

A. The Habersham County Planning Commission (hereinafter the Planning Commission) is hereby established.

13.3.2 Composition and Term of Office

A. Composition. The Planning Commission shall be composed of seven (7) members, who are selected by the Board of Commissioners.

B. Term of Office. Each member shall serve a term of three (3) years, and terms shall be staggered with four (4) members terms ending on December 31, 2027 and three (3) members terms ending on December 31, 2028.

13.3.3 Residence of Members

A. Members of the Planning Commission shall reside within Habersham County.

13.3.4 Powers and Duties

A. The Board of Commissioners hereby creates the Planning Commission with the following powers and duties:

1. General Authority
    a. The Planning Commission shall perform duties as directed by the governing body.
    b. The Planning Commission may exercise additional powers as may be described elsewhere in this UDO, as applicable.
2. Review Authority. With respect to this UDO, the Planning Commission shall review and make recommendations to the Board of Commissioners regarding:

a. Comprehensive Plan Amendments;
b. Text Amendments;
c. Map Amendments; and
d. Special Use Permits.

3. Final Authority. With respect to this UDO, the Planning Commission shall be responsible for final action regarding:
   a. Variances;
   b. Appeal of Planning and Development Director decision.

Section 13.4 Planning and Development Director

13.4.1 Defined

A. The Planning and Development Director shall be the head of the Planning and Development Department.

13.4.2 Delegation of Authority

A. The Planning and Development Director may delegate any of their authority or responsibility under this UDO by designating one or more County staff members to execute such authority.

13.4.3 Powers and Duties

A. With respect to this UDO, the Planning and Development Director shall review and make recommendations regarding the following:

1. General Authority
   a. The Planning and Development Director shall perform related duties as directed by the Board of Commissioners; and
   b. The Planning and Development Director shall have the powers and duties listed below, in addition to those provided elsewhere in this UDO and other Habersham County Codes, as applicable.
2. Review Authority. With respect to this UDO, the Planning and Development Director shall review and make recommendations regarding the following:
   a. Comprehensive Plan Amendments;
   b. Text Amendments;
   c. Map Amendments;
   d. Special Use Permits;
   e. Variances; and
   f. Other duties as specified by this UDO.
3. Final Authority. With respect to this UDO, the Planning and Development Director shall be responsible for final action regarding:

a. Section 7.2, Subdivisions;

b. Administrative Variances not to exceed ten percent of the district requirement but not including any buffer or any setback which is a condition of zoning or conditional use.

c. Other duties specified by this UDO.

ARTICLE 14: PUBLIC HEARING APPLICATION AND REVIEW PROCEDURES

Section 14.1 Application and Procedural Requirements.

14.1.1 Zoning Application Initiation.

A. An application for rezoning (map amendment), special use permit, variance, or modification of a condition of zoning approval tied to a previous zoning action may be initiated for any property within unincorporated Habersham County by any of the following:

1. The Board of Commissioners;
2. The Planning and Development Director;
3. The County Manager; or
4. Any person owning property within the County who seeks a rezoning for their own property or an authorized agent of such owner.

B. An application for text amendment or Comprehensive Plan updates may be initiated by the following:

1. The Board of Commissioners;
2. The Planning and Development Director; or
3. The County Manager.

C. Successive Applications. Except for County-initiated applications, applications for the same relief affecting the same property shall not be considered by the Board of Commissioners more than once every twelve (12) months; provided, however, that the Board of Commissioners may approve a reduction in the waiting period to no less than six (6) months.

14.1.2 Withdrawals, Deferrals, and Expirations.

A. An application may be withdrawn by the applicant at any time prior to the final decision by the Board of Commissioners on said application by submitting written withdrawal request to the Planning and Development Director. No vote is required by either the Planning Commission or Board of Commissioners to affect a withdrawal.

B. An application may be deferred to a future scheduled meeting by the applicant by submitting written notice to the Planning and Development Director in advance of the scheduled public hearing or by verbally stating the request on record at the scheduled public hearing. Upon receipt of the request, the following procedures shall be followed:

1. The body condusting the scheduled public hearing shall vote to defer the application to a future meeting that is a minimum of one (1) month after the notice of deferral is received by the County.
2. In the event that the new date and time cannot be or is not set for the scheduled hearing, the application shall be readvertised pursuant the Public Notice requirements of this article to a future meeting that is a minimum of one (1) month after the notice of deferral is received by the County.
3. No more than two deferrals pursuant to this section may be granted for any application.

C. Application Expiration. An application is deemed expired and withdrawn if it remains dormant. Dormant means no substantive step has occurred to advance the application, including but not limited to: payment of required fees; submission of required or requested materials; timely response to staff review comments within thirty (30) days unless a longer period is granted in writing; requesting or maintaining a hearing date; or other actions necessary for staff review or decision.

1. Tolling. The dormancy period is tolled for delays caused by the County or external agency, a duly adopted moratorium, or a court-ordered stay, as documented in the file.
2. Extension. Prior to expiration, the Planning and Development Director may grant one written extension of up to ninety (90) days for good cause demonstrated in the extension request.
3. Effect of expiration. Upon expiration, processing ceases and the application is closed. Any resubmittal shall be treated as a new application subject to the current UDO and applicable fees and schedules.

14.1.3 Application Process.

A. Forms and fees.

1. Applications required under this UDO shall be submitted on standardized forms developed by Habersham County. Applications shall be filed and completed as specified on the form.
2. Application and filing fees must be paid in full before any application is processed or reviewed.
    a. Fees shall be charged per the fee schedule adopted by the Board of Commissioners.
    b. In the event an application is withdrawn prior to the distribution of materials to staff for review, said applicant will be entitled to a refund of the total fee amount paid, less 10% for administrative costs, upon written request to the Planning Development Director. Once staff review of application materials has begun, no refunds are available.
    c. In the event an application is deferred after the legal advertisement has been published, readvertising fees will be charged in accordance with the approved fee schedule.
    d. County-initiated petitions are exempt from fee requirements.
3. No application shall be processed or reviewed for any property on which there are delinquent taxes, fines, or other forms of indebtedness to the County, until the property is brought into compliance or an arrangement satisfactory to the Planning and Development Director has been made to bring the property into compliance. It shall be the Applicant's responsibility to provide evidence of proof that all taxes and fines have been paid; or, that implementation of arrangements for payment of said taxes and fines have been made as required herein.

B. Determinations of Completeness.

1. Applications shall be submitted to the Planning and Development Director. An application is determined to be complete if all required information and documents have been prepared in accordance with the specific application requirements outlined in this Article.
2. Incomplete applications shall not be accepted for review. If an application is determined incomplete, the applicant shall be notified of the additional information that is required to process

and review the application.

3. Complete applications shall be accepted for review and placed on the next available agenda of the Planning Commission and Board of Commissioners. The applicant shall be notified of the date, time, and location of their scheduled public hearings with the Planning Commission and Board of Commissioners, as applicable.

C. Application and Materials Deadline. Applications shall be submitted in accordance with the published calendar schedule. Schedules indicating submittal dates shall be developed each year and made available to the public, upon request.

D. Concurrent Petitions. Related applications may be filed and reviewed simultaneously. Applications submitted simultaneously are subject to individual approval. Any application that is contingent upon the approval of another application shall not be eligible for final approval until the contingent application is approved.

E. Maximum Cases per Public Hearing. A maximum of ten applications shall be accepted by the administrative officer for consideration at any public hearing before the Planning Commissioner or the Board of Commissioners.

F. Table 14.1.3, Procedures Summary Table provides a summary of review and decision-making authority under this UDO. In the event of conflict between Table 13.1.3, Procedures Summary Table and the detailed procedures identified in this UDO, the detailed procedures govern.

Table 14.1.3.F - Procedures Summary Table

Application Type	County Staff	Planning Commission	Board of Commissioners
Comprehensive Plan Amendment	R	<R>	<DM>
Text Amendments	R	<R>	<DM>
Rezoning (i.e., Map Amendments)	R	<R>	<DM>
Special Use Permit	R	<R>	<DM>
Variance	R	<R>	<DM>
Appeal of Admin. Decision	R	--	<DM>
Modifications of Conditions of Approval	R	<R>	<DM>

Legend:
1. R = Review or Recommending Body
2. DM = Decision-Making Body (Final Decision)
3. <> = Public hearing required

14.1.4 Application Materials.

A. An application for rezoning (map amendment), special use permit, variance, or modification of condition of zoning approval shall include the following information:
   1. Application Form;
   2. Notarized Property Owner Authorization (from all owners);
   3. Contribution Disclosure Forms;
   4. Boundary Survey or Plat for each property;
   5. Site Plan showing the proposed concept for redevelopment of the property (if applicable);
   6. Traffic Study (upon request by the Planning and Development Director);
   7. Letter of Intent describing the reason for the request, project details, and addressing all criteria;
   8. Any other exhibit or information requested by the Planning and Development Director.

B. Changes to application materials shall be filed not later than seven (7) business days prior to the scheduled public hearing date held by the reviewing body. After this time, the reviewing body shall have the authority to vote to postpone their review of amended applications to a future meeting date. The date and time of the new hearing shall be clearly indicated by the reviewing body meeting at the originally scheduled public hearing.

14.1.5 Public Notification.

A. Published notice in local newspaper is required.
   1. Due notice of each public hearing shall be published in the newspaper of general circulation within the County at least fifteen (15) days but not more than forty-five (45) days prior to the date of each scheduled public hearing hosted by Planning Commission or Board of Commissioners.
   2. The notice shall provide at minimum the information listed below:
      a. Public Hearing Location, Time, and Date. The location, time, date, and purpose of all scheduled public hearings for the application.
      b. Location of the Subject Property. The location of the property subject to the application. Location can be cited by street address, or if there is no street address, by the reference to the closest intersection of public streets.
      c. Zoning Classifications and Uses. The information provided shall include the zoning district(s) of the property subject to the application. If the application is for a Rezoning (Map Amendment), the proposed zoning district(s) shall also be provided. If the application is for a Special Use Permit, the proposed land use shall also be provided.
      d. County Notice for Rezoning Petitions. The notice shall also state: "Notice is hereby given that the governing body has the power to impose a different land use classification from the classification requested and impose or delete zoning conditions that may change the application considerably."

B. Posted Signs are required. Signs shall be posted at least fifteen (15) days but not more than forty-five

(45) days prior to the scheduled public hearing hosted by Planning Commission or Board of Commissioners. For any County-initiated amendment to this UDO or any County-initiated amendments to the zoning map, posted notice shall not be required, notwithstanding any other provision of this UDO or state law.

1. The sign shall contain the same information as required for legal advertisements and be posted as follows:
    a. Subject Property. Signs shall be placed in a conspicuous place on the subject property.
    b. Installation. Signs shall not be posted onto any tree.
    c. Street Frontage. Signs shall be placed along each street that the property abuts so that the signs are visible from the street.
    d. Lack of Street Frontage. If the property does not have street frontage, at least one (1) sign shall be placed on the property at the access point and additional sign(s) shall be placed on the nearest public right-of-way so that the sign is visible to the public.

C. Mailed notice for quasi-judicial decisions. Mailed notice shall be provided to the applicant, the owner(s) of the subject property, and the appellant (if different from the applicant or owner), for all variance and appeal applications. Notice shall be mailed at least fifteen (15) days but not more than forty-five (45) days prior to the scheduled public hearing hosted by Planning Commission or Board of Commissioners and shall include the same information as the published notice required herein.

D. Additional Notice Required. When any of the following actions are proposed, reference the Georgia Zoning Procedures Law, O.C.G.A. 36-66-1 et seq., for additional notice requirements.

1. County-initiated rezoning and/or text amendment to revise a zoning classification related to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning; or,
2. Halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency.

14.1.6 Planning Commission Role and Authority.

A. The Planning Commission shall:

1. Hold a public hearing on each application pursuant to this article in accordance with a schedule adopted by the Planning Commission.
2. Vote to table or approval, approval with conditions, or denial of the application. The outcome of the vote on a rezoning application shall be a recommendation and carry no binding effect on the applicant or property. Tabling is limited to a maximum of (1) meeting to the next available meeting. A tie vote on any final motion on an application shall equate to a denial.

14.1.7 Board of Commissioners Role and Authority.

A. The Board of Commissioners shall:

1. Hold a public hearing on each zoning application pursuant to this article in accordance with the schedule adopted by the Board of Commissioners.
2. Review the written recommendation for each application prepared by the Planning Commission.
3. Vote to table, approve, approve with conditions, or deny the application. The outcome of the vote shall be final and have the full force and effect of law.
    a. Condition(s) to zoning approval may be imposed regardless of whether it is agreed to by the applicant or property owner.
    b. Use or development of the rezoned property shall not be permitted unless the conditions are fully complied with.

14.1.8 Conduct of the Hearing.

A. The following procedures govern public hearings for purposes of considering applications other than appeals of administrative hearings as specified in this article:
    1. Presiding officer. The public hearing shall be conducted by the presiding officer.
    2. Requirements for speaker. Persons wishing to speak in support (including the applicants or designated representative) or in opposition to any application shall provide their name and attest to the presiding officer that they that they are a resident, property owner, or business owner of property or enterprise located in unincorporated Habersham County on the specified form to County staff prior to speaking at the public hearing. To provide for the confidentiality of addresses of certain persons who have been, or may be, subject to acts of family violence, stalking, or who currently reside in family violence shelters, no person shall be required to state their current address on public record as a condition to participating in the public hearing.
    3. Time limits. Speakers at the public hearing shall be allowed not less than ten (10) minutes per side, provided, however, that the presiding officer may at their discretion elect to extend this time period equally to proponents and opponents.
    4. Robert's Rules of Order. Parliamentary procedure for all public hearings shall follow Robert's Rules of Order, as amended in this Section.

14.1.9 Standards Governing the Exercise of Zoning Power.

A. In reviewing an application for rezoning (map amendment), the Board of Commissioners shall consider the following criteria:
    1. The existing land uses and zoning classification of nearby property;
    2. The suitability of the subject property for the zoned purposes;
    3. The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
    4. The extent to which the diminution of property values of the subject property promote the health, safety, morals or general welfare of the public;
    5. The relative gain to the public as compared to the hardship imposed upon the individual property

owner;

6. Whether the subject property has a reasonable economic use as currently zoned;
7. Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
8. Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
9. Whether the zoning proposal is in conformity with the policies and intent of the Comprehensive Plan and Unified Development Code;
10. Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities or schools;
11. Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

14.1.10 Standards for Granting Special Use Permits.

A. A Special Use permit shall be required for all special use permits (identified with an "SUP" designation) as set forth in the permitted use tables of Section 4.1.2.E, Table of Allowable Uses.

B. Criteria for Special Use Permits. In reviewing an application for a special use permit, the Board of Commissioners shall consider the following criteria:

1. A proper application has been filed in accordance with the requirements of the governing body;
2. A recommendation has been received from the Planning Commission;
3. The applicant is in compliance with the particular conditions for the proposed special use that are required by this UDO;
4. The applicant is in compliance with conditions imposed by the governing body for the purpose of reducing the harmful effects of the use on surrounding uses and assuring compatibility with surrounding uses;
5. The governing body determines that the benefits of and need for the proposed special use are greater than any possible depreciating effects and damages to the neighboring properties.

C. Additional Hearings Required. When any of the following actions are proposed, reference the Georgia Zoning Procedures Law, O.C.G.A. § 36-66-1 et seq., for additional hearing requirements:

1. County-initiated rezoning and/or text amendment to revise a zoning classification related to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning;
2. Halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency; or
3. Annexations.

14.1.11 Standards for Granting Variances.

A. Burden of Proof. The applicant seeking the variance shall have the burden of presenting evidence sufficient to allow an informed decision to be made as regards the request.

B. Criteria for Variances. In reviewing an application for variances, the Planning Commission shall consider the following criteria:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography that are not applicable to other land or structures in the same district.
2. A literal interpretation of the provisions of these regulations would create unnecessary hardship and would deprive the applicant of rights commonly enjoyed by other property owners within the district in which the property is located.
3. Granting the variance requested will not confer upon the property of the applicant any special privileges that are denied to other properties of the district in which the applicant's property is located.
4. Relief, if granted, will be in harmony with the purpose and intent of this UDO and will not be injurious to the neighborhood or general welfare in such a manner as will interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.
5. The special circumstances are not the result of the actions of the applicant.
6. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure.
7. The variance is not a request to authorize a use which is prohibited in the district involved.

14.1.12 Standards for Granting Modifications of Conditions of Approval.

A. Conditions attached to previously approved rezonings, special use permits, variances, and any other zoning or quasi-judicial decisions may be modified in accordance with this section.

B. Minor Modifications. A minor modification refers to a slight alteration or change in layout, including but not limited to, small shifts in the location of buildings, streets, driveways, sidewalks, trails, utilities, easements or other similar features, provided the proposed change does not increase the number of necessary variances or negatively impact the quality of project materials, project appearance, or the health, safety, and quality of the built or natural environment.

1. Examples of minor modifications include:
    a. Movement of a building or structure within the site while maintaining required setbacks from property line and upholding the required buffer, landscape zone, sidewalk zone, or streetscape;
    b. Change the minimum size of residential units to provide greater heated floor area;
    c. Increasing the width of a required buffer or sidewalk;
    d. Decreasing building or structure height;

e. Changing the required gross floor area for different authorized uses by less than ten percent; or,

f. Decreasing the land area of the subject property or project, provided it does not impact compliance with other approved conditions.

2. The Planning and Development Director is authorized to approve minor modifications and no published or posted notices are required.

3. Any request for a minor modification shall be made in writing to the Planning and Development Director. If an approved site plan exists, the request for minor modification shall be accompanied by a copy of the revised site plan.

4. Modification of conditions that are not classified as a minor modification shall be treated as "major modification".

C. Major modifications.

1. Requests to change an approved phasing plan in timing or sequencing, or any other modification that the Planning and Development Director determines to be substantial enough to require Board of Commissioner review is considered a major modification.

2. Major modifications shall be processed as a new amendment application in accordance with the procedures of this article. Including the requirement for fees, notices, and hearings.

3. Any future alterations of condition of zoning approval shall be processed as new amendment application in accordance with the procedures of this article, including the requirement for fees, notices, and hearings.

Section 14.2 Development Impact Study

14.2.1 Purpose and Intent

The purpose of this ordinance is to ensure that new development within Habersham County, including developments proposed within the county, occurs in a manner that protects public safety, preserves community character, maintains adequate infrastructure capacity, and prevents the shifting of development-related costs onto the taxpayers of Habersham County.

This ordinance establishes requirements for a comprehensive Development Impact Study (DIS) to evaluate the effects of proposed developments on transportation systems, public utilities, schools, public safety, and surrounding communities. The intent is to ensure that growth is fiscally responsible, coordinated with county and municipal infrastructure planning, and consistent with the long-term vision for Habersham County.

14.2.2 Applicability

A Development Impact Study shall be required for:

B. Any rezoning, conditional use, or special use request submitted to Habersham County that proposes:

1. Residential developments of 50 units or more;

2. Commercial or industrial developments exceeding 2,000 square feet;
3. Any development generating projected traffic volumes exceeding 100 peak hourly trips; or
4. Any development determined by the Planning and Development Director or County Engineer to have potential significant impacts.

14.2.3 Required Components of the Development Impact Study

The Development Impact Study shall be prepared by qualified professionals licensed in the State of Georgia and shall include, at minimum, the following components:

A. Traffic Impact Analysis (TIA)

6. Methodology
   The TIA shall follow principles consistent with methodology as outline by the Institute of Traffic Engineers as approved by the Habersham County Engineer.
7. Study Area
   a. The analysis shall include all intersections and roadway segments within a minimum ½-mile radius of the site.
   b. The radius shall extend outward until the development's traffic no longer produces a measurable impact on Level of Service (LOS).
8. Required Analysis
   a. Existing traffic volumes and LOS
   b. Projected traffic volumes generated by the development
   c. Future LOS with and without the development
   d. Turn-lane warrants, signal warrants, and queue analysis
   e. Safety and crash history review
9. Performance Standard
   a. All county roads and intersections affected by the development must maintain Level of Service C or better.
   b. If LOS falls below C, the developer shall propose and fund improvements necessary to restore LOS to C or better.
10. Required Improvements
    a. Improvements may include turn lanes, signalization, roadway widening, intersection upgrades, or other measures identified by the County Engineer.

B. Water Capacity Analysis

5. Evaluation of the municipality's current water system capacity, including:
   a. Treatment capacity
   b. Storage capacity

c. Distribution system adequacy
d. Fire flow availability

6. Projection of additional water demand generated by the development.
7. Identification of any required upgrades to maintain adequate service.
8. Letter of Capacity from the municipality confirming:
   a. Current capacity exists OR
   b. Improvements are required and will be funded by the developer.

C. Sewer Capacity Analysis

5. Evaluation of the municipality's wastewater system, including:
   e. Treatment plant capacity
   f. Collection system capacity
   g. Pump station capacity
   h. Inflow and infiltration considerations
6. Projection of additional wastewater flows generated by the development.
7. Identification of required upgrades.
8. Letter of Capacity from the municipality confirming:
   a. Current capacity exists OR
   b. Improvements are required and will be funded by the developer.

D. School Impact Analysis

6. Projected student generation by grade level.
7. Identification of the school district(s) serving the development.
8. Current enrollment and capacity of affected schools.
9. Projected impact on school capacity and transportation routes.
10. Identification of mitigation measures if capacity is exceeded.

E. Public Safety Impact Analysis

4. Impacts on fire protection, EMS response times, and law enforcement coverage.
5. Identification of additional equipment, personnel, or facilities required.
6. Coordination with the Habersham County Sheriff's Office, Fire Department, and EMS.

F. Community Character and Compatibility Analysis

3. Evaluation of impacts on:
   a. Rural character
   b. Scenic viewsheds
   c. Agricultural lands

d. Historic or cultural resources

4. Assessment of compatibility with surrounding land uses and zoning.

G. Impacts to Neighboring Parcels

The study shall evaluate potential impacts to adjacent and nearby properties, including:

6. Light pollution
7. Noise levels
8. Stormwater runoff and drainage patterns
9. Property values (supported by market data or planning literature)
10. Crime potential, based on comparable developments and law enforcement input

Mitigation measures shall be proposed where impacts are identified.

14.2.4 Review and Approval

D. The Development Impact Study shall be submitted with the rezoning or annexation request.

E. The County Engineer, Planning Director, and other relevant departments shall review the study for completeness and accuracy.

F. The Board of Commissioners shall consider the study's findings when making decisions on rezoning or development approvals.

Section 14.3 Appeals.

14.3.1 Application Requirements.

A. A notice of appeal shall be filed within thirty (30) calendar days of a final decision.

B. An appeal shall be made by filing a written notice of appeal specifying the grounds for the appeal with the Planning and Development Director. All papers constituting the record upon which the action appealed from was taken shall forthwith be transmitted to the governing body.

14.3.2 Effect of Appeal.

A. An appeal shall stay only those proceedings that involve the subject of the appeal.

B. The filing of an does not stop the accruing of assessed civil penalties, if any.

14.3.3 Appeal Process.

A. Upon receipt of a notice appeal, the administrative official, commission, or board whose final decision is being appealed shall transmit to the Planning and Development Director all records, including all documents and electronic data, constituting the entire record of the proceedings from which the appeal is taken.

B. The Board of Commissioners shall select a reasonable time and place for the hearing of the appeal and give at least fifteen (15) days of public notice thereof and due notice to the parties in interest (both the

appellant and property owner(s), if different) and shall render a decision on the appeal within a reasonable time.

14.3.4 Hearing Procedures

A. The following procedures govern public hearings for purposes of considering appeals of Planning Commission decisions:

1. Presiding officer. The public hearing shall be conducted by the presiding officer.
2. Requirements for speaker. Persons wishing to speak in support (including the applicants or designated representative) or in opposition to any appeal shall provide their name and attest to the presiding officer that they that they are a resident, property owner, or business owner of property or enterprise located in unincorporated Habersham County. To provide for the confidentiality of addresses of certain persons who have been, or may be, subject to acts of family violence, stalking, or who currently reside in family violence shelters, no person shall be required to state their current address on public record as a condition to participating in the public hearing.
3. Time limits. Speakers at the public hearing shall be allowed not less than ten (10) minutes per side, provided, however, that the presiding officer may at their discretion elect to extend this time period equally to proponents and opponents.
4. Robert's Rules of Order. Parliamentary procedure for all public hearings shall follow Robert's Rules of Order, as amended in this Section.

14.3.5 Action by the Board of Commissioners.

A. An appeal shall be sustained only upon a finding by the Board of Commissioners that the administrative official, commission, or board whose final decision is being appealed was based on an erroneous finding of a material fact or that they acted in an arbitrary manner.

B. The Board of Commissioners may reverse or affirm (wholly or in part), or may modify the final decision appealed and shall make a final decision that in its opinion ought to be made in the case before it unless otherwise specified by this UDO. To this end, the Board of Commissioners shall have all the powers of the administrative official, commission or board from whom the appeal is taken.

C. A motion to reverse, affirm, or modify the final decision appealed shall include a statement of the specific reasons including the proposed findings of fact that support the decision. The findings of fact shall be based on the same evidence received by the first decision maker.

D. If a motion to reverse or modify is not made, or such motion fails to receive the affirmative vote of a majority of the members present, then the appeal shall be denied.

E. The appellant shall have the burden of proof.

14.3.6 Appeal of Final Action Taken by the Board of Commissioners.

A. An appeal of the final decision of the Board of Commissioners under this chapter may be taken by the applicable processes as stated in O.C.G.A. § 36-66-5.1.

B. If an appeal is being made by way of petition for review to the superior court where the property lies,

in accordance with both O.C.G.A. § 36-66-1 et seq and as provided for in Chapter 4, Title 5 of the Official Code of Georgia Annotated, any petition may be served through the County manager or chairman on behalf of the County.

C. An appeal shall be filed within thirty (30) calendar days after the final decision is rendered.

ARTICLE 15: GUARANTIES AND SURETIES

Section 15.1 Generally.

15.1.1 Surety Required.

A. Before plat recordation, land disturbance permit, building permit, or other project close-out, the Planning and Development Director shall certify that the developer/subdivider/applicant has obtained the necessary bonds, other sureties, and/ or agreements that ensure completion of all required public and private improvements on the subject property.

15.1.2 Sureties Accepted.

A. Three types of guarantees and sureties shall be provided for as a part of the Final Plat approval and/or development permitting processes in accordance with the provisions herein:

1. Performance guarantees
2. Maintenance guarantees
3. Maintenance agreements/inspections.

Section 15.2 Performance Guarantees.

15.2.1 Purpose.

A. Performance guarantees shall be allowed for required site improvements (public or private) not yet completed at the time a Final Plat or project closeout. Instead of requiring the completion, installation, and dedication of any and all improvements prior to approval of a Final Plat or certificate of occupancy or certificate of completion, Habersham County may enter into a written agreement with the developer or subdivider whereby the developer or subdivider shall agree to complete all required improvements prior to the release of the performance guarantee.

15.2.2 Performance Guarantee Amounts.

A. The performance guarantee shall be payable to Habersham County and shall be in an amount equal to 1.5 times the entire cost, as estimated by the developer or subdivider and verified by the County, of installing all outstanding required improvements.

15.2.3 Duration.

A. The duration of the performance guarantee shall be for no longer than twelve (12) months, or until such lesser time that the improvements are accepted by the County.

15.2.4 Forfeiture.

A. Performance guarantee funds are forfeited if the improvements are not completed and accepted by the County within twelve (12) months.

Section 15.3 Maintenance Guarantees.

15.3.1 Improvements.

All public improvements required for subdivisions shall have been properly installed and completed in accordance with all requirements and standards of this development code prior to final plat approval.

15.3.2 Submission.

Prior to approval of a final subdivision plat, a subdivision improvement guarantee in a form acceptable to the Planning and Development Director and county attorney is required for all completed improvements shown on the as-built surveys required by this development code. Prior to final plat approval, the owner of a subdivision involving public improvements shall submit a subdivision improvement guarantee.

15.3.3 Maintenance period and duration of guarantee.

The subdivider shall maintain any public improvements in the subdivision, for a period of two years or until certificates of occupancy have been issued for 90% or more of the principal buildings on the lots shown on the final subdivision plat, whichever occurs later. The two-year maintenance period shall begin upon recordation of the final subdivision plat. If the two-year term expires before the issuance of certificates of occupancy for 90% or more of the principal buildings on the lots shown on the final subdivision plat, the improvement guarantee shall be renewed or extended, until certificates of occupancy have been issued on 90% of the principal buildings on the lots shown on the final subdivision plat. The subdivider shall not assign this responsibility to another entity without permission of the county attorney and Planning and Development Director.

15.3.4 Amount of guarantee.

The value of the improvement guarantee shall be equal to 15 percent of the street improvement cost, verified by the county engineer and approved by the Public Works Director for the street for which acceptance is sought.

15.3.5 Inspection.

Prior to the end of the maintenance period, the subdivider shall request an inspection of the subdivision's public improvements. The Public Works Director, or his designee, shall perform the inspection. The subdivider shall be notified of the inspection results in writing at least 30 days prior to receipt of a request from the subdivider to the county to initiate an inspection.

15.3.6 Repairs.

If repairs are needed for the public improvements to meet county specifications during the two-year maintenance period, the subdivider shall be required to make such repairs within 30 calendar days, after written notification by the zoning administrator. The subdivider must correct all defects or deficiencies in materials or workmanship and make such repairs as necessary to approximate the as-built condition of the improvements. When the subdivider completes the necessary maintenance

repairs, he or she shall request in writing that the zoning administrator inspect the repairs. The zoning administrator shall inspect the repairs and notify the developer of the inspection results.

15.3.7 Remedy.

If the repairs are not completed, the subdivision improvement guarantee shall be called to pay for the repairs. Should the amount of the subdivision improvement guarantee be inadequate to pay for the repairs, the developer shall pay the remaining amount. The county may withhold building permits if the remaining amount required by this paragraph is not paid.

Section 15.4 Maintenance Guarantees (Stormwater).

15.4.1 Purpose.

Stormwater maintenance guarantees shall be provided for the ongoing maintenance of stormwater management facilities and features. Prior to approval of a Final Plat or final certificate of occupancy/completion (CC/CO), the County may enter into a written agreement with the developer or subdivider whereby the developer or subdivider shall agree to maintain in good repair and working order all applicable improvements prior to the release of the maintenance guarantee.

15.4.2 Maintenance Guarantee for Stormwater Facilities Amount.

The stormwater maintenance guarantee shall be payable to the County and shall be in an amount equal to $5.00/cubic foot of storage provided by the stormwater management facility, as estimated by the developer or subdivider and verified by the County. The guarantee shall be accompanied by the appropriate agreements outlined in Section 15.5 Maintenance Agreements/Inspections (Stormwater).

15.4.3 Duration.

The duration of the surety shall be for a period of twenty-four (24) months following the date of the approval of a Final Plat or final certificate of occupancy or certificate of completion.

Section 15.5 Maintenance Agreements/Inspections (Stormwater).

15.5.1 Required for Private Stormwater Facilities.

Prior to the issuance of any project close-out, Final Plat, or Certificate of Completion/Occupancy requiring a stormwater management facility or practice hereunder and for which the County requires ongoing maintenance, the applicant or owner of the site must, unless an on-site stormwater management facility or practice is dedicated to and accepted by the County, execute an inspection and maintenance agreement, if applicable, that shall be binding on all subsequent owners of the site.

15.5.2 Agreement, Generally.

A. Recordation Required. The inspection and maintenance agreement, if applicable, must be approved by the County prior to approval, and recorded in the deed records of the office of the Clerk of the Superior

Court of Habersham County, Georgia.

B. Inspection Required. The inspection and maintenance agreement shall identify, by name or official title, the person(s) responsible for carrying out the inspection and maintenance.

C. Owner Responsibility.

1. Responsibility for the operation and maintenance of a stormwater management facility shall remain with the property owner and shall pass to any successor owner, unless an agreement with the County is made whereby the County takes ownership of the facility.

2. If portions of the land are sold or otherwise transferred, legally binding arrangements shall be made to pass the inspection and maintenance responsibility to the appropriate successors in title. These arrangements shall designate for each portion of the site, the person to be permanently responsible for its inspection and maintenance.

D. Schedule Required.

1. As part of the inspection and maintenance agreement, a schedule shall be developed for when and how often routine inspection and maintenance will occur to ensure proper function of the stormwater management facility or practice, including their associated landscaping measures.

2. The agreement shall also include plans for annual inspections to ensure proper performance of the facility between scheduled maintenance and shall also include remedies for the default thereof.

E. County Enforcement.

1. In addition to enforcing the terms of the inspection and maintenance agreement, the County may also enforce all of the provisions for ongoing inspection and maintenance.

Section 15.6 Authorized Guarantee Types.

15.6.1 Mixture of Guarantees is Allowed.

Where required, the developer or subdivider shall provide either one, or a combination, of the following guarantees in the amounts and durations specified in this Section 15.6, Authorized Guarantee Types. Any expenses associated with the cost verification by the County shall be paid entirely by the applicant.

15.6.2 Bond.

Bonds shall be secured from a surety bonding company authorized to do business in the state. The bond shall be payable to the County.

15.6.3 Cash or Equivalent Security.

The developer or subdivider shall deposit cash, an irrevocable letter of credit, or other instrument readily convertible into cash at face value, either with the County or in escrow with a financial

institution designated as an official depository of the County.

15.6.4 Escrow.

When cash or other instrument is deposited in escrow with a financial institution as provided above, the applicant shall file with Habersham County an agreement between the financial institution and the applicant guaranteeing the following:

1. That said escrow amount will be held in trust until released by the Planning and Development Director and may not be used or pledged by the applicant in any other transaction during the term of the escrow; and
2. That in case of a failure on the part of the developer or subdivider to complete said improvements/maintenance, the financial institution shall, upon notification of the County to the financial institution of an estimate of the amount needed to complete the improvements, immediately pay to the County the funds estimated to complete the improvements, up to the full balance of the escrow account, or deliver to the County any other instruments fully endorsed or otherwise made payable in full to the County.

Section 15.7 Default.

15.7.1 Failure to Complete Improvements.

Upon default, meaning failure on the part of the applicant to complete the required improvements in the time allowed by this UDO, or as spelled out in the performance or maintenance bond or escrow agreement, then the surety, or financial institution holding the escrow account, shall, if requested by the County, pay all or any portion of the bond or escrow fund to the County up to the amount needed to complete the improvements or maintenance based on an estimate by the County.

15.7.2 Notification of Default.

Notification may take place following abandonment of the project for more than ninety (90) continuous days. Upon payment, the County, in its discretion, may expend such portion of said funds as it deems necessary to complete all or any portion of the required improvements. The County shall return to the applicant any funds not spent in completing the improvements.

15.8 Existing situations without improvement guarantees.

15.8.1 Intent.

This section is intended to apply only in exceptional circumstances where neither the original subdivision owner nor their successor in interest exists or is solvent and multiple builders have purchased lots in the subdivision, and only in order for the county to ensure a funding source for the maintenance and performance costs associated with the subdivision.

15.8.2 Applicability.

This section shall apply when: 1) a final subdivision plat has been approved; and 2) the original owner of the subdivision at the time of approval of the subdivision plat no longer owns any lots in said subdivision, has filed for bankruptcy, or is otherwise determined to be insolvent; and 3) no improvement guarantee is in place for the subdivision; and 4) more than one person or entity owns undeveloped lots (i.e. lots without a certificate of occupancy) in said subdivision such that posting of a guarantee for the entire subdivision is not feasible.

In the event of the fulfillment of the above-stated four conditions, the county may, in its discretion, accept from the applicant for a building permit or for a certificate of occupancy for any lot or series of lots, a cash guarantee in the amount of a by-lot, pro-rata portion of the amount of the applicable guarantee that would otherwise be required for the entire subdivision, in lieu of the improvement guarantee required to provide for maintenance and performance requirements for the entire subdivision. By way of example, in a 100-lot subdivision for which the normal required improvement guarantee would be $100,000.00, an applicant for one lot could provide a cash improvement guarantee in the amount of $1,000.00; an applicant for two lots could provide a cash improvement guarantee in the amount of $2,000.00.

Section 15.9 Release of Surety.

15.9.1 Inspection and Acceptance Required.

A. The County may release a portion of any security posted as the improvements are completed or the maintenance period completed and approved by the Planning and Development Director.

B. When the Planning and Development Director approves said improvements, the Planning and Development Director shall inspect the premises, and if work is found to be completed and satisfactory in accordance with ordinance regulations and approved plans, the Planning and Development Director shall release the portion of the security posted which covers the approved cost of the improvements and maintenance of satisfactorily completed work that was subject to the security.

C. It shall be the responsibility of the applicant to petition the County for release of guarantees and sureties and to warrant that all improvements subject to the guarantee or surety have been completed to fulfill the requirements of this UDO.

ARTICLE 16: VIOLATIONS, PENALTIES, ENFORCEMENT

Section 16.1 Inspections.

16.1.1 Building Inspection Division.

A. Establishment. There is hereby established a division of the Planning and Development Department to be called the building inspection division, and the person in charge shall be known as the Building Official.

1. Restrictions on employees. An officer or employee connected with the building inspection division, except one whose only connection is as a member of the board established by this chapter, shall not be financially interested in the furnishing of labor, material or appliances for the construction, alteration or maintenance of a building, structure, service, system or in the making of plans or of specifications thereof, unless he is the owner of such. This officer or employee shall not engage in any other work which is inconsistent with his duties or conflict with the interests of the building inspection division.
2. Records. The Building Official shall keep, or cause to be kept, a record of the business of the building inspection division. The records of the building inspection division shall be open to public inspection.
3. Liability. Any officer or employee, or member of the construction board of adjustment and appeals, charged with the enforcement of this chapter, acting for the applicable governing authority in the discharge of his duties, shall not thereby render himself personally liable, and is hereby relieved from all personal liability for any damage that may occur to persons or property as a result of any act required or permitted in the discharge of his duties. Any suit brought against any officer, employee or member because of such act performed by him in the enforcement of any provision of this chapter shall be defended by the County attorney until the final termination of the proceedings.

B. Powers and duties of the Building Official. The Building Official is hereby authorized and directed to enforce the provisions of the technical codes. The Building Official is further authorized to render interpretations of the technical codes which are consistent with their intent and purpose.

1. Right of Entry.
    a. Whenever necessary to make an inspection to enforce any of the provisions of this chapter, or whenever the Building Official has reasonable cause to believe that there exists in any building or upon any premises any condition or code violation which makes such building, structure, premises, electrical, gas, mechanical or plumbing systems unsafe, dangerous or hazardous, the Building Official may enter such building, structure or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Building Official by the technical codes, provided that if such building or premises is occupied, he shall first present proper credentials and request entry. If such building, structure, or premises is unoccupied, he shall

first make a reasonable effort to locate the owner or other persons having charge or control of such and request entry. If entry is refused, the Building Official shall have recourse to every remedy provided by law to secure entry.

b. When the Building Official shall have first obtained a proper inspection warrant or other remedy provided by law to secure entry, no owner or occupant or other persons having charge, care or control of any building, structure, or premises shall fail or neglect, after proper request is made as herein provided, to promptly permit entry therein by the Building Official for the purpose of inspection and examination pursuant to this chapter.

2. Stop work orders.

a. Upon notice from the Building Official, work on any building, structure, electrical, gas, mechanical or plumbing system that is being done contrary to the provisions of the technical codes, or in a dangerous or unsafe manner, shall immediately cease. Such notice shall be in writing and shall be given to the owner of the property, or to his agent, or to the person doing the work, and shall state the conditions under which work may be resumed. Where an emergency exists, the Building Official shall not be required to give a written notice prior to stopping the work, but a written order will follow

3. Revocation of permits.

a. Misrepresentation of application. The Building Official may revoke a permit or approval issued under the provisions of this chapter in case there has been any false statement or misrepresentations as to the material fact in the application or plans on which the permit or approval was based.

b. Violation of provisions. The Building Official may revoke a permit upon determination by the Building Official that the construction, erection, alteration, repair, moving, demolition, installation or replacement of the building, structure, electrical, gas, mechanical or plumbing systems for which the permit was issued is in violation of, or not in conformity with, the provisions of this chapter or the technical codes.

4. Unsafe buildings or systems.

a. All buildings, structures, electrical, gas, mechanical or plumbing systems which are unsafe, unsanitary, do not provide adequate egress, constitute a fire hazard, are otherwise dangerous to human life, or which in relation to existing use, constitute a hazard to safety or health, are considered unsafe buildings or service systems.

b. All such unsafe buildings, structures or service systems are hereby declared illegal and shall be abated by repair and rehabilitation or by demolition in accordance with the provisions of the most recent version of the Standard Unsafe Building Abatement Code.

5. Requirements not covered by codes.

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

6. Alternate materials and methods.

    a. The provisions of the technical codes are not intended to prevent the use of any material or method of construction not specifically prescribed by them, provided that any such alternate has been reviewed by the Building Official. The Building Official shall approve any such alternate, provided that the Building Official finds that the alternate for the purpose intended is at least the equivalent of that prescribed in the technical codes in quality, strength, effectiveness, fire resistance, durability and safety. The Building Official shall require that sufficient evidence or proof be submitted to substantiate any claim made regarding the alternate.

C. Violation and penalties.

1. Any person, firm, corporation or agent who shall violate a provision of the technical codes, or fail to comply therewith, or with any of the requirements thereof, or who shall erect, construct, alter, install, demolish, or move any structure, electrical, gas, mechanical or plumbing system, or has erected, constructed, altered, repaired, moved or demolished a building, electrical, gas, mechanical or plumbing system, in violation of a detailed statement or drawing submitted and permitted thereunder, shall be guilty of a misdemeanor.

2. Each such person shall be considered guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this chapter is committed or continued, and upon conviction of any such violation of any of the provisions of this chapter is committed or continued, and upon conviction of any such violation, such person shall be punished as provided in Article 15.

D. Findings of the existence of nuisances.

1. The governing authority of the County of Habersham, Georgia, find and declare that within the unincorporated areas of the County of Habersham there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with applicable state minimum standard codes as mandated by law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the County of Habersham or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of the County and the state; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.

2. It is further found and declared that in the County of Habersham where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the County and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. The governing authority of the County finds that there exist in the County dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and which are not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light,

or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structure unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the County, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, and private property exists constituting an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.

3. It is the intention of the governing authority that this section shall comply with and does comply with O.C.G.A. § 41-2-9(a) as a finding that conditions as set out in O.C.G.A § 41-2-7 exist within the County of Habersham, Georgia.

16.1.2 Enforcement Procedures.

A. In cases where a violation of this UDO has been found by the administrative officer, he/she shall notify the owner of the property on which such violation is found by certified mail sent to the address of the property owner as it appears in tax information. If the owner of the mobile/manufactured home is different from the property owner, the violation notice shall also be sent by certified mail to the owner of the mobile/manufactured home. In the case no valid mailing address can be obtained or if the certified mail is returned to the administrative officer, the notice of violation may be hand delivered to the person deemed responsible for said violation. The notice of violation shall clearly state the nature of the violation, including specific provision(s) of this article which have not been complied with and the date upon which said violation(s) will be remedied. Said date will be determined by the administrative officer based on the nature and extent of the violation but in no case shall exceed seven (7) business days from the date the certified mail was received. In cases where the notice of violation is hand delivered, the date upon which said violation(s) will be remedied shall not exceed seven (7) business days from the date of delivery.

B. Issuance of stop work orders: the administrative officer is authorized to issue stop work orders in any instance where a violation of this article is found. The procedure for issuance of stop work orders shall be the same as the notification procedure for violations as specified above.

C. Procedure for non-compliance: In cases where a violation has occurred and the violator has not remedied the violation within the specified time period or in cases where stop work orders have not been fully complied with, the code enforcement officer, upon written notification from the administrative officer of such violation or non-compliance, shall issue a citation requiring appearance in Habersham County Magistrate Court. Said citation shall include any and all violations found by the administrative officer.

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

Section 16.2 Enforcement and Violations

16.2.1Penalties for Violation.

A. Any person, firm or corporation violating, neglecting or refusing to comply with any of the provisions of this chapter shall be guilty of a misdemeanor and, upon conviction, shall be fined not less than $100.00 nor more than $500.00 for each offense or a sentence of imprisonment not exceeding sixty (60) days in jail or as determined by the court of proper jurisdiction.

B. With respect to violations of this Code that are continuous with respect to time, each day the violation continues is a separate offense. With respect to violations of this Code that are not continuous with respect to time, each act is a separate offense. The imposition of a penalty does not prevent revocation or suspension of a license, permit or franchise or other administrative sanctions. Violations of this Code that are continuous with respect to time are a public nuisance and may be abated by injunctive or other equitable relief and by such other means as are provided by law. The imposition of a penalty does not prevent equitable relief

16.2.2 Penalties for Continual Violations.

A. In this section, the term "violation of this Code" means:

1. Doing an act that is prohibited or made or declared unlawful, an offense or a misdemeanor by ordinance or by rule or regulation authorized by ordinance;
2. Failure to perform an act that is required to be performed by ordinance or by rule or regulation authorized by ordinance; or
3. Failure to perform an act if the failure is declared a misdemeanor or an offense or unlawful by ordinance or by rule or regulation authorized by ordinance.

B. In this section, the term "violation of this Code" does not include the failure of a County officer or County employee to perform an official duty.

Section 16.3 Nuisance.

16.3.1 Findings of the existence of nuisances.

A. The governing authority of the County of Habersham, Georgia, find and declare that within the unincorporated areas of the County of Habersham there is the existence or occupancy of dwellings or other buildings or structures which are unfit for human habitation or for commercial, industrial, or business occupancy or use and not in compliance with applicable state minimum standard codes as mandated by law or any optional building, fire, life safety, or other codes relative to the safe use of real property and real property improvements adopted by ordinance in the County of Habersham or general nuisance law and which constitute a hazard to the health, safety, and welfare of the people of the County and the state; and that a public necessity exists for the repair, closing, or demolition of such dwellings, buildings, or structures.

B. It is further found and declared that in the County of Habersham where there is in existence a condition or use of real estate which renders adjacent real estate unsafe or inimical to safe human habitation, such use is dangerous and injurious to the health, safety, and welfare of the people of the County

and a public necessity exists for the repair of such condition or the cessation of such use which renders the adjacent real estate unsafe or inimical to safe human habitation. The governing authority of the County finds that there exist in the County dwellings, buildings, or structures which are unfit for human habitation or for commercial, industrial, or business uses due to dilapidation and which are not in compliance with applicable codes; which have defects increasing the hazards of fire, accidents, or other calamities; which lack adequate ventilation, light, or sanitary facilities; or other conditions exist rendering such dwellings, buildings or structure unsafe or unsanitary, or dangerous or detrimental to the health, safety, or welfare, or otherwise inimical to the welfare of the residents of the County, or vacant, dilapidated dwellings, buildings, or structures in which drug crimes are being committed, and private property exists constituting an endangerment to the public health or safety as a result of unsanitary or unsafe conditions to those persons residing or working in the vicinity of the property.

C. It is the intention of the governing authority that this section shall comply with and does comply with O.C.G.A. § 41-2-9(a) as a finding that conditions as set out in O.C.G.A § 41-2-7 exist within the County of Habersham, Georgia.

16.3.2 Nuisance Abatement Procedures.

A. Continued use of other laws and ordinances. It is the intent of the Board of Commissioners that nothing in this section shall be construed to abrogate or impair the powers of the courts or of any department of the County to enforce any provisions of any local enabling Act, ordinance, or regulation nor to prevent or punish violations thereof; and the powers conferred by this section shall be in addition to and supplemental to the powers conferred by any other law or ordinance, legislation, or regulation.

B. Duties of owners' appointment of public officer procedures for determining premises to be unsafe or unhealthful.

1. It is the duty of the owner of every dwelling, building, structure, or property within the jurisdiction to construct and maintain such dwelling, building, structure, or property in conformance with applicable codes in force within the County, or such ordinances which regulate and prohibit activities on property and which declare it to be a public nuisance to construct or maintain any dwelling, building, structure or property in violation of such codes or ordinances;
2. The Board of Commissioners of the County of Habersham appoint or designate the Building Department Director, County fire marshal, County fire chief, County law enforcement, and his/her designees as public officers to exercise the powers prescribed by this section;
3. Whenever a request is filed with the public officer by a public authority or by at least five residents of the County of charging that any dwelling, building, or structure is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer shall make an investigation or inspection of the specific dwelling, building, structure, or property. If the officer's investigation or inspection identifies that any dwelling, building, structure, or property is unfit for human habitation or for commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or

constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the public officer may issue a complaint in rem against the lot, tract, or parcel of real property on which such dwelling, building, or structure is situated or where such public health hazard or general nuisance exists and shall cause summons and a copy of the complaint to be served on the owner and parties in interest in such dwelling, building, or structure. The complaint shall identify the subject real property by appropriate street address and official tax map reference; identify the owner of the parties in interest; state with particularity the factual basis for the action; and contain a statement of the action sought by the public officer to abate the alleged nuisance. The summons shall notify the owner and parties in interest that a hearing will be held before a court of competent jurisdiction as determined by O.C.G.A. § 41-2-5, at a date and time certain and at a place within the County where the property is located. Such hearing shall be held, not less that fifteen (15) days, nor more than forty-five (45) days, after the filing of said complaint in court. The owner and parties in interest shall have the right to file an answer to the complaint and to appear in person or by attorney and offer testimony at the time and place fixed for hearing;

4. If after such notice and hearing, the court determines that the dwelling, building, or structure in question is unfit for human habitation or is unfit for its current commercial, industrial, or business use and not in compliance with applicable codes; is vacant and being used in connection with the commission of drug crimes; or constitutes an endangerment to the public health or safety as a result of unsanitary or unsafe conditions, the court shall state in writing findings of fact in support such determination and shall issue and cause to be served upon the owner and any parties in interest that have answered the complaint or appeared at the hearing an order;
    a. If the repair, alteration, or improvement of the said dwelling, building, or structure can be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to repair, alter, or improve such dwelling, building, or structure so as to bring it into full compliance with the applicable codes relevant to the cited violation and, if applicable, to secure the structure so that it cannot be used in connection with the commission of drug crimes; or
    b. If the repair, alteration, or improvement of the said dwelling, building, or structure in order to bring it into full compliance with applicable codes relevant to the cited violations cannot be made at a reasonable cost in relation to the present value of the dwelling, building, or structure, requiring the owner, within the time specified in the order, to demolish and remove such dwelling, building, or structure and all debris from the property.
    c. For purposes of this section, the court shall make its determination of reasonable cost in relation the present value of the dwelling, building, or structure without consideration of the value of the land on which the structure is situated; provided, however, that costs of the preparation necessary to repair alter, or improve a structure may be considered income and financial status of the owner shall not be factor in the court's determination. The present value of the structure and the costs of repair, alteration, or improvement may be established by affidavits of real estate appraisers with a Georgia appraiser classification as provided in Chapter 39A of Title 41, of the O.C.G.A., qualified building contractors, or qualified building inspectors without actual testimony presented. Costs of repair, alteration, or improvement

of the structure shall be the cost necessary to bring the structure into compliance with the applicable codes relevant to the cited violations in force in the jurisdiction;

5. If the owner fails to comply with an order to repair or demolish the dwelling, building, or structure, the public officer may cause such dwelling, building, or structure, to be repaired, altered, and improved, to be vacated and closed, or demolished. The public officer shall cause to be posted on the main entrance of the building, dwelling, or structure a placard with the following words: "This building is unfit for human habitation or commercial, industrial, or business use and does not comply with the applicable codes or has been ordered secured to prevent its use in connection with drug crimes or constitutes and endangerment to the public health or safety as a result of unsanitary or unsafe conditions. The use or occupation of this building is prohibited and unlawful."
6. If the public officer has the structure demolished, reasonable effort shall be made to salvage reusable materials for credit against the cost of demolition. The proceeds of any moneys received from the sale of salvaged materials shall be used or applied against the cost of the demolition and removal of the structure, and proper records shall be kept showing application of sales proceeds. Any such sale of salvaged materials may be made without the necessity of public advertisement and bid. The public officer and the County are relieved of any and all liability resulting from or occasioned by the sale of any such salvaged materials, including, without limitation, defects in such salvaged materials;
7. The amount of the cost of demolition, including all court costs, appraisal fees, administrative costs incurred by the tax commissioner, and all other costs necessarily associated with the abatement action, including restoration to grade of the real property after demolition, shall be a lien against the real property upon which such cost was incurred.
    a. The lien provided for in paragraph (7) of subsection (c) of this section shall attach to the real property upon the filing of a certified copy of the order requiring repair, closure or demolition in the office of the clerk of superior court in Habersham County and shall relate back to the date of the filing of the lis pendens notice required under subsection (g) of O.C.G.A. § 41-2-12. The clerk of superior court shall record and index such certified copy of the order in the deed records of Habersham County and enter the lien on the general execution docket. The lien shall be superior to all other liens on the property, except liens for taxes to which the lien shall be inferior, and shall continue in force until paid. After filing a certified copy of the order with the clerk of superior court, the public officer shall forward a copy of the order and a final statement of costs to the County tax commissioner. It shall be the duty of the County tax commissioner to collect the amount of the lien in conjunction with the collection of ad valorem taxes on the property and to collect the amount of the lien as if it were a real property ad valorem tax, using all methods available for collection real property ad valorem tax, including specifically Chapter 4 of Title 48 of the O.C.G.A.; provided, however that the limitation of O.C.G.A. § 48-4-78 which requires twelve (12) months of delinquency before commencing a tax foreclosure shall not apply. The tax commissioner shall remit the amount collected to the governing authority of County of Habersham. Thirty (30) days after imposition of the lien, the unpaid lien amount shall bear interest and penalties in the same amount as applicable to interest and penalties on unpaid real property

ad valorem taxes.

b. The tax commissioner shall collect and retain an amount equal to the cost of administering a lien authorized by O.C.G.A. § 41-2-7 et seq. unless such costs are waived by resolution of Habersham County. Any such amount collected and retained for administration shall be deposited in the general fund of County to pay the cost of administering the lien.

c. The County may waive and release any such lien imposed on property upon the owner of such property entering into a contract with the County or municipality agreeing to a timetable for rehabilitation of the real property of the dwelling, building, or structure on the property and demonstrating the financial means to accomplish such rehabilitation.

d. Where the abatement action does not commence in the superior court, review of a court order requiring the repair, alteration, improvement, or demolition of a dwelling, building, or structure shall be by direct appeal to the superior court under O.C.G.A. § 5-3-29.

e. The public officers designated herein may issue citations for violations of state minimum standard codes, optional building, fire, life safety, and other codes adopted by ordinance, and conditions creating a public health hazard or general nuisance, and may seek to enforce such citation in court of competent jurisdiction prior to issuing a complaint in rem as provided in this section.

f. Nothing in this section shall be construed to impair or limit in any way the power of the County to define and declare nuisances and to cause their removal or abatement by summary proceedings or otherwise.

C. Determination by public officer that under existing ordinances dwellings, buildings, or structures are vacant and sample conditions of nuisances. The public officer may determine, under existing ordinances, that a dwelling, building, or structure is unfit for human habitation or is unfit for its current commercial, industrial, or business use if he/she finds that conditions exist in such building, dwelling, or structure which are dangerous or injurious to the health, safety, or morals of the occupants of such dwelling, building, or structure; of the occupants of neighborhood dwelling, buildings, or structures; or of other residents of the County. Such conditions include the following (without limiting the generality of the foregoing):

1. Defects therein increasing the hazards of fire, accidents, or other calamities;
2. Lack of adequate ventilation, light, or sanitary facilities;
3. Dilapidation;
4. Disrepair;
5. Structured defects;
6. Uncleanliness; and
7. Other additional standards which may from time to time by adopted and referenced herein by ordinance amendment. The public officer may determine, under existing ordinances, that a dwelling, building, or structure is vacant, dilapidated, and being used in connection with the commission of drug crimes based upon personal observation or report of a law enforcement agency and evidence of drug crimes being committed.(e)Powers of public officers.

D. The public officer(s) designated in this section shall have the following powers:

1. To investigate the dwelling conditions in the County in order to determine which dwellings, buildings, or structures therein are unfit for human habitation or are unfit for current commercial, industrial, or business use or are vacant, dilapidated, and being used in connection with the commission of drug crimes;
2. To administer oaths and affirmations, to examine witnesses, and to receive evidence;
3. To enter upon premises for the purpose of making examinations; provided however, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession;
4. To appoint and fix the duties of such officers, agents, and employees as he or she deems necessary to carry out the purposes of the section; and
5. To delegate any of his or her functions and powers under the section to such officers and agents as he or she may designate.

E. Service of complaints.

1. Complaints issued by a public officer pursuant to this section shall be served in the following manner. In all cases, a copy of the complaint and summons shall be conspicuously posted on the subject dwelling, building, or structure within three (3) business days of filing of the complaint and at least fourteen (14) days prior to the date of the hearing. See O.C.G.A. § 41-2-12 for current requirements.
2. If any owner or party in interest is a resident of this state but resides outside of the County, service shall be perfected by certified mail or statutory overnight delivery, return receipt requested, to the most recent address shown in the County tax filings and mailed at least fourteen (14) days prior to the date of the hearing.
3. Nonresidents of this state, whose mailing address is known, shall be served by certified mail or statutory overnight delivery, return receipt requested, mailed at least fourteen (14) days prior to the date of the hearing. For nonresidents whose mailing address is unknown, a notice stating the date, time, and place of the hearing shall be published in the newspaper in which the sheriffs advertisements appear in such County once a week for two consecutive weeks prior to the hearing.
4. In the event either the owner or any party in interest is a minor, estate, an incompetent person, or person laboring under disabilities, the guardian or other personal representative of such person shall be served and such guardian or personal representative resides outside the County or is a nonresident of this state, he or she shall be served as provided for in subsection (6) of this section. If such owner or party in interest has no guardian or personal representative, service shall be perfected by serving the judge of the probate court of the County wherein such property is located at least thirty (30) days prior to the date of the hearing which judge shall stand in the place of and protect the rights of such minor, estate, or incompetent person or appoint a guardian ad litem for such person.
5. In the event of unknown persons or unborn remaindermen who are likely to have any rights in the property or interest or the proceeds thereof, the judge of the probate court of the County wherein such property or interest is located shall be personally served at least thirty (30) days prior to the

date of the hearing, and it shall be the duty of the judge of the probate court to stand in the place of the protect the rights of such unknown parties or unborn remaindermen.

6. In the event the whereabouts of any owner or party in interest is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence or if any owner or party in interest cannot, after due diligence, be served as provided in this section, the public officer shall make an affidavit to that effect and serve by publication in the manner provided in subsection (f)(3), and such publication shall be sufficient proof that service was perfected.
7. A notice of lis pendens shall be filed in the office of the clerk of superior court in the County in which the dwelling, building, or structure is located at the time of filing the complaint in the appropriate court. Such notice shall have the same force and effect as other lis pendens notices provided by law.
8. Orders and other filings made subsequent to service of the initial complaint shall be served in the manner provided in this section on the owner and any party in interest who answers the complaint or appears at the hearing. Any party who fails to answer or appear at the hearing shall be deemed to have waived all further notice in the proceedings.

Section 16.4 Nonconformities.

16.4.1 Purpose.

Within the districts established by the Habersham County UDO and in other provisions and amendments thereto, there exist lots, uses of land, structures, and development features that were lawfully established before the UDO was adopted or amended, but that would be prohibited under the terms of this Ordinance or future amendment. They are collectively referred to herein as “nonconforming situations.”

16.4.2 Determination of Nonconforming Situations.

A. Nonconforming structures include nonconforming buildings. An example of a nonconforming structure would be a building that was legally permitted prior to the enactment of this ordinance that now fails to meet the regulations established in this UDO.
B. An example of a nonconforming use of land would be a food processing plant that is located in a RR District. It was legally permitted in the RR district in 1992; however, the use is not permitted in the current RR district.
C. Common examples of nonconforming development features are off-street parking areas that contain fewer spaces than required by current regulations and sites that do not comply with current landscaping or screening requirements.
D. Nonconforming situations are hereby declared to be incompatible with authorized and permitted uses and regulations within the district(s) involved. It is the intent of the County to require the cessation of certain of these nonconforming situations and to allow others to continue on a limited basis until they are otherwise removed or cease. Furthermore, the County intends that nonconforming situations not be used as grounds for adding other buildings, structures, or uses of land prohibited by this UDO, and that such nonconforming situations not be enlarged, expanded, moved, or otherwise altered in any manner that increases the degree of nonconformity.

E. The ability to maintain nonconforming situations pursuant to this section shall only apply to existing features. For any new or altered development features or building additions, the provisions of each applicable section of this code apply, unless otherwise stated in this chapter. For example, additional parking spaces shall comply with all parking lot landscaping requirements, and a new dumpster shall comply with all dumpster setback and screening requirements.
F. Any replacement of a preexisting manufactured home or mobile home with a new manufactured or mobile home shall be permitted in accordance with O.C.G.A § 36-66-7 et seq.

16.4.3 Increase of Nonconformity Prohibited.

Unless otherwise specifically authorized, no nonconforming situation shall be enlarged, expanded, moved, or otherwise altered in any manner that increases any aspect of the existing degree of nonconformity.

16.4.4 Burden of Nonconforming Status.

A. The burden of proving a nonconformity was lawfully established rests entirely with the subject landowner.
B. A preponderance of evidence shall be provided by the subject landowner and be sufficient to show that the nonconformity was lawfully established before adoption of the subject regulations. Evidence shall also indicate that the nonconformity has been continuous and that the situation has not lost its nonconforming status. Examples of reliable evidence include: occupational tax certificates; building permits; zoning verification letters; County billing records; utility billing records; assessment, tax or rent records; and directory listings.
C. The Planning and Development Director shall determine whether adequate proof of nonconforming status has been provided by the subject landowner or applicant.

16.4.5 Nonconforming Lots of Record.

A. An undeveloped lot that has an area, frontage, or other characteristic that does not conform to the requirements of the district in which it is located but was legally subdivided as a lot of record at the time it was permitted may be used for any use allowed in the zoning district in which it is now located; however, any use or structure built on this lot subsequent to the enactment of this UDO and any further subdivision of this lot or combination of this lot with another lot shall conform to all other standards of this Ordinance.
B. Where land is taken for public purposes from a lot of record that was conforming at the time of such taking but becomes nonconforming due to said taking, the lot remaining shall be construed as a nonconforming lot of record.

16.4.6 Nonconforming Uses.

A. A nonconforming use of land may be continued so long as it is and remains otherwise lawful, subject to the following provisions:
   1. No nonconforming use of land shall be enlarged or increased, nor extended to occupy a greater area of land or floor area than was occupied prior to the date of adoption or amendment of the UDO making such use nonconforming.

2. Unless otherwise specifically authorized, no nonconforming use of land shall be moved, enlarged, or extended, in whole or in part, onto any portion of the lot or parcel other than that portion occupied by such use prior to the date of adoption or amendment of the UDO making such use nonconforming.
3. If any nonconforming use of land is discontinued for any reason for six (6) months, any subsequent use of land shall conform to the regulations specified by this UDO for the district in which such land is located.

B. A nonconforming structure may be continued so long as it is and remains otherwise lawful subject to the following provisions:
   1. No nonconforming structure may be enlarged or altered in a way which increases any aspect of its existing degree of nonconformity, but any structure or portion thereof may be enlarged or altered if the degree of its nonconformity remains the same or is decreased, provided such structure is used for a permitted use.
   2. Should any nonconforming structure or nonconforming portion of structure be destroyed by any means except through a willful act of the owner or tenant, to an extent of more than 50 percent (50%) of its replacement cost at the time of destruction, it shall not be reconstructed except in conformity with the provisions of this UDO. Should such structure or portion thereof be so destroyed to an extent of 50 percent (50%) or less of its replacement cost at the time of destruction, it may be reconstructed, provided said reconstruction does not increase any aspect of the previously existing aspect of nonconformity; said reconstructed structure is used for a permitted use.
   3. A nonconforming structure may be moved on its own lot only if such movement reduces the degree of nonconformity or eliminates such nonconformity.
   4. Where a nonconforming structure is moved off its previous lot, it shall thereafter conform to the regulations for the district in which it is located after it is moved.
   5. In cases where land is taken for public purposes from lots of record that are conforming at the time of such taking in such manner as to reduce setback(s) previously provided in relation to a portion of a structure below setback requirements applicable within the district, the portion of the structure involved shall be construed to be nonconforming.

C. Unsafe buildings. Nothing in this UDO shall prevent the maintenance, strengthening, or restoring to a safe condition of any part of any building or structure declared unsafe by the Planning and Development Director or other proper authority.

16.4.7 Nonconforming Development Features.

A. Nonconforming development features may remain except as otherwise expressly stated in this Ordinance, but the nature and extent of nonconforming development features shall not be increased except as otherwise expressly stated in this Ordinance.

B. No change to any nonconforming development feature shall be made which increases the degree of nonconformity with the requirements of the Ordinance, but changes may be made which result in the same or a lesser degree of nonconformity. In cases where land is taken for public purposes in such a manner as to reduce existing off-street parking, loading or other development features that is required by the regulations for the current district, the deficiency thus created shall be construed as a nonconforming development feature.