

ORDINANCE 10-06

AN ORDINANCE AMENDING THE BURKE COUNTY CODE OF ORDINANCES, CHAPTER 26 LAND DEVELOPMENT CODE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Section 1. BE IT ORDAINED by the Burke County Board of Commissioners that the Burke County Code of Ordinances, Chapter 26 Land Development Code is hereby amended to read as follows:

ARTICLE I. IN GENERAL

Sec. 26-1. 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. The word "used" or "occupied" as applied to any land or building shall be construed to include the words "intended, arranged, or designed" to be used or occupied.

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

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

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

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

Airport means a tract of land maintained for the landing and takeoff of airplanes, including facilities for the shelter, parking, supply and repair of airplanes.

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

Building line means a line fixed at a certain distance from the front and/or sides of a lot, beyond which the building may not project.

Building official means the person appointed, employed or otherwise designated as the director of planning, permits and inspections; the county building official.

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

Clerk of the superior court means the clerk of the superior court of Burke County, Georgia.

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

Commercial building means any type of building other than residential.

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

County means the unincorporated area of Burke County, Georgia.

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

County board of health means the Board of Health of Burke County, Georgia.

County commission means the Burke County Board of Commissioners.

County health officer means the person appointed, employed or otherwise designated as the county sanitarian by the Burke County Board of Health.

County road superintendent means the person appointed, employed or otherwise designated by the board of commissioners as the county road superintendent.

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

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

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

Customary home occupation means an occupation, profession or trade customarily carried on by an occupant in a dwelling unit as a secondary use that is clearly incidental to the dwelling unit for residential purposes and that meets with the following conditions:

- (1) The occupation, profession or trade is carried on wholly within the principal building.
- (2) No merchandise or articles are displayed in such a way as to be visible from outside the dwelling.
- (3) There is no alteration of the residential character of the building or premises.
- (4) No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in a required front yard.
- (5) No sign or advertising device shall be erected that exceeds six square feet, is illuminated, or is closer than five feet to any road right-of-way line.

Dwelling means a building designed for dwelling purposes. The term "dwelling" or any combination thereof shall be deemed to include hotel, roominghouse or boardinghouse, motel, clubhouse, hospital or other accommodations used for transient occupancy.

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

Easement means a strip of land on which the property owner has granted a person the right to use such land for specific purposes.

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

(1) Wholesale trade and warehousing of goods sold at retail (but not in hides, skins, raw furs, livestock, live poultry, or other odor-producing animal products); sales and storage of lumber, metal and wood fencing, ornamental grill work, and building, electrical, heating, plumbing, welding and similar contractors and industrial supplies (including sale of sand and gravel but excluding sales of asphalt and concrete from batch plant or transit-mix plant); sales and tank storage of bulk fuel or motor oil, gasoline, heating, and illuminating gas, and the like (but not the refining or processing thereof), and sales and storage of coal; cold storage services; sale and service of physician/surgeons, barber/beauty and restaurant/hotel food service supplies and equipment; catering services, amusement and vending machines sales and service; uniform supply service; laundry plant (without individual patron service desk); manufacture, sale and service of electric and neon signs and advertising structures; and monument sales (but not manufacture).

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

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

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

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

Filling station, including convenience store with gasoline pumps means the use of land and structures for services that primarily involve the retail sale of gasoline and related vehicular fuel and additives, oil and related lubricants and additives, and minor accessories, batteries, packaged supplies, tires, tubes and the like and minor services such as lubrication, engine adjustments, minor parts adjustments, repair, replacement, polishing, tire and tube balancing, repair and replacement; washing, waxing, and the like for individual passenger vehicles and other vehicles of three-quarter ton or less rated capacity, but excluding steam cleaning, spray painting, engine overhaul; overnight vehicular storage; commercial parking, wrecker operation, and vehicular repairs where

such repair includes metal bumping, grinding or hammering or other noisy operations, or removing the head of engines.

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

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

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

- (1) Sales and service not involving vehicular drive-in, and of frequent and regular use to local residents.
- (2) Offices of medical services not involving resident human or animal patients.
- (3) Offices of business services, but excluding on-site stock storage, sales, or rental or rental goods, and the warehousing, maintenance, rental, sales, and storage of vehicles and equipment.

General industry means the use of land and structures for manufacturing involving indoor and outdoor industrial operations characterized by some emissions, but are not inherently offensive, dangerous or hazardous to abutting property or operations or to the general public, including:

- (1) Brick, tile or terracotta manufacture.
- (2) Furniture, feed, flour or other mill.
- (3) Manufacturing, compounding, processing, packaging or treatment of bakery goods, beverages, candy, dairy products, feed, flour, and food products.
- (4) Laundry plant (steam or wet wash).
- (5) Barging, freight, or trucking yard or terminal.
- (6) Manufacture of nongaseous or nontoxic or nonnoxious chemicals.
- (7) Manufacture of concrete products (but not manufacture of cement).
- (8) Fabrication plant, foundry, machine shop, or metal working plant for light nonferrous metals (not involving the use of machines for stamping, pressing, or punching weighing in excess of five tons).
- (9) Blacksmith shop.
- (10) Vocational or trade schools in which the above activities are taught or performed.

Group quarters means the use of land and structures for human occupancy involving group occupancy predominately by unrelated individuals in apartments, apartment complexes rooming houses and boarding houses, membership and religious group lodging houses, residence halls, or dormitories; residential hotels, motels and tourist courts; or retirement, rest or nursing home, orphanage, personal care homes, assisted living, independent living, nursery or day care center.

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

Indoor activity use means the use of land structures for generally quiet, predominately indoor activities of a public service, religious, cultural or educational nature including auditorium, community houses, exhibit halls, gymnasiums, theaters (except drive-in outdoor types), libraries, art galleries, museums, billiard parlors, bowling alleys, penny

arcades, skating rinks or other recreation centers, hospitals for in-patient treatment and schools of general or special education.

Industrial use means any use of land or structures involving the manufacturing and/or processing of any material.

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

Jurisdictional control means the primary responsibility for regulatory control by a unit of government.

Jog, road means the physical condition created when the centerline of a road, or two roads having approximately the same horizontal alignment, intersects the centerline of another road at more than one location.

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

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

Manufactured home means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and 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 after June 15, 1976.

Mining means the use of land and structures for the excavation of minerals, rock, dimension stone, gravel, topsoil or fill dirt for purposes of removal from the site on which extracted (not including the preparation of a site for a nonextractive use).

Mobile home means a structure, transportable in one or more sections, which, in the traveling mode, is eight body feet or more in width or 40 body feet or more in length or, when erected on site, is 320 or more square feet and 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**.

Manufactured home park means any lot, parcel, or tract of land designed to accommodate six or more manufactured homes on individual lots with a minimum size of one-half acre, including all buildings, structures, tents, vehicles, accessories or appurtenances used or intended as equipment of such manufactured home park, whether or not a charge is made for use of the park and/or its facilities. A manufactured home park does not include automobile, manufactured home or RV sales lot, on which unoccupied manufactured homes or trailers are parked for inspection and sale.

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

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

- (1) Kennels, pet boarding, schooling or hospitalization, horseback riding stables.
- (2) Cemeteries, mausoleums, memorial gardens.
- (3) Golf and country club courses, golf driving range.
- (4) Playground, playfield, swimming, golf, tennis courts, archery course, miniature golf, trampoline or other novelty area.
- (5) Arboretum, botanical garden, ornamental park, historical area, monument or sculpture.

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

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

Pre-owned manufactured home means any manufactured home that has been previously used as a residential dwelling.

Private road means a road, or any designated right-of-way or easement therefor, or vehicular access routes from public rights-of-way to private property, not under the jurisdictional control of the county or the state, nor intended or acceptable for such control, and is not owned and maintained or intended to be owned and maintained by the county as a public road. (see section 26-148)

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

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

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

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

Registered engineer means a person licensed by the state to perform the duties of an engineer.

Residential means any building, structure or unit thereof intended for occupancy as a dwelling, but not including a hotel, motel or institution. Portable storage buildings, office trailers, or classrooms shall not be used as dwelling units

Residential land service road means a public road or right-of-way therefor not under the jurisdictional control of the state, nor intended for such control, and is not considered to be significant to intracounty vehicular travel, and which provided or is intended to provide vehicular access to land in use or intended for use primarily for residential purposes. (see section 26-300)

Restaurant means the use of land and structures for on-premises sales and consumption of food and beverages.

Setback line means the distance from the curb or other established line within which no buildings may be erected.

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

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

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

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

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attached to something having a permanent location on the ground.

Subdivider means a person who subdivides or causes land to be subdivided.

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

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

Tourist accommodations will be the same as that found in Chapter 290-5-18 (Tourist Accommodations) of the department of human resources with the exception of trailer parks or trailer courts. Trailers will be regulated under Section 6-405, Installation of Manufactured Homes.

Tourist services means the use of land and structures for services and trades that cater to a specialized clientele, deal in specialized services, and are of otherwise independent or unique characteristics, including tourist information center, souvenir/curio/gift shops, hunting/fishing/boating/camping supply shop, ambulance or other emergency service, establishments for rental (but not sales), of passenger motor vehicles, other vehicles of three-quarter ton or less rated capacity, self-haul equipment, travel trailer, pickup camper, pleasure boats and similar and related travel or recreational equipment and the like.

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

Use means the purpose for which a building or other structure or a tract of land is designed, arranged, intended, maintained, or occupied; the activity, occupation, business

or operation carried on or intended to be carried on in a building or other structure or on a tract of land.

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

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

Wearing surface means that portion of a road designed and improved for the purpose of conveying vehicles.

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

Sec. 26-2. Amendments; public hearings.

The board of commissioners may amend, delete, supplement, or change by resolution the provisions of this chapter. However, before enacting a resolution to amend, delete, supplement, or change this chapter, the board of commissioners shall first hold a public hearing regarding the proposed amendment, deletion, supplement or change. Notice of the time, place and purpose of the hearing shall be published in the official organ of the county at least 15 days prior to the date of the hearing.

ARTICLE II. ENFORCEMENT

Sec. 26-36. Enforcing official.

(a) The provisions of this chapter shall be administered and enforced by the building official. This official or his designee or subordinate shall have the right to enter upon any premises for the purpose of making inspections of buildings or premises necessary to carry out his duties in the enforcement of this chapter. In addition, he shall issue all permits called for by this chapter and make and maintain records thereof, issue all certificates of occupancy and make and maintain records thereof, and conduct inspections as prescribed by this chapter and other such inspections as are necessary to ensure compliance with this chapter.

(b) The building official or his designee or subordinate shall have the right to issue citations to any person in violation of any provision of this chapter.

Sec. 26-37. Violations.

Any person who violates any provision of this chapter or fails to comply with the requirements thereof shall, upon conviction, be punished as provided in section 1-11, and in addition shall pay the cost of such action. Each day such violation continues shall be considered a separate offense. The owner or tenant of any building, structure, premises or part thereof; and any architect, builder, contractor, agent or other person who commits, participates in, assists in or maintains such violation may each be found guilty of a separate offense and suffer the penalties provided in this section.

Sec. 26-38. Injunction or mandamus.

If any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is or is proposed to be used in violation of this chapter, the building official, county attorney or other appropriate authority of the county or any adjacent or neighboring property owner who would be specially damaged by such violation, in addition to other remedies, may institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance or use; or to correct or abate such violation; or to prevent the occupancy of the building, structure or land.

ARTICLE III. APPEALS

Sec. 26-71. Authority.

The planning commission shall have the authority to hear and decide appeals and authorize variances in the terms of this chapter and in the decisions and orders of the building official in the administration of this chapter.

Sec. 26-72. Duties and power.

(a) The planning commission shall have the power and exercise of duty to hear and decide the following types of appeals and applications, and to such end shall have the necessary authority to ensure continuing compliance with its decision.

(1) *Interpretation.* To render an interpretation of this chapter and the manner of its application where it is alleged that there is an error in any order, requirement or determination made by the building official in the administration of such provisions.

(2) *Variance.* To authorize upon an appeal in specific cases such variance from this chapter as will not be contrary to the interest of this chapter, nor detrimental to the public interest and welfare. Variances from the terms of this chapter may be granted on appeal by the planning commission if it finds that:

a. The literal enforcement of this chapter will create an unnecessary hardship or practical difficulty in the development of the affected property, except mere loss in property value shall not justify a variance; there must be a deprivation of a reasonable, beneficial use of land.

b. The situation causing the hardship or difficulty is neither self-imposed nor generally affecting all or most properties within the general vicinity.

c. The relief sought will not injure the permitted use of adjacent conforming property.

d. The granting of the variance will be in harmony with the spirit and purposes of this chapter.

(b) In reviewing an appeal for variance, the burden of showing that the variance should be granted shall be the responsibility of the party applying for the variance. Any variance granted by the planning commission shall terminate automatically when the use ceases to be in full compliance with any conditions imposed by the planning commission, when the use has been abandoned, when the building permit shall have expired or if the variance has not been acted upon within one year.

Sec. 26-73. Application for appeal.

(a) A request for an interpretation of this chapter or an appeal for variance from its terms may be taken by any person aggrieved, or by any officer, department or board of the county affected by a decision or order of the building official. Such appeal shall be taken within 15 days time after the decision has been rendered, by filing with the building official a notice of appeal. The appeal shall be filed on forms provided by the building official and upon deposit of a fee as set forth in the schedule of fees and charges. The building official shall forthwith transmit to the planning commission all papers constituting the record regarding the action appealed.

(b) Any appeal or application may be withdrawn upon written notice to the building official, but no appeal shall be withdrawn after a notice of public hearing has been posted without the written consent of the planning commission.

Sec. 26-74. Public hearing.

(a) Upon receipt of a request for appeal proceedings, the planning commission shall fix a reasonable time for the hearing of an appeal and shall give, or cause to be given, a public notice thereof by means of a notice in a newspaper of general circulation within the county at least 15 days prior to the scheduled date of the hearing.

(b) The notice shall contain the time, date and place of the hearing and a general statement as to the nature of the appeal request as well as the name of the appellant.

(c) A sign, no less than four feet by four feet, shall be posted on the property containing the same information contained in the notice provided for in this section.

Sec. 26-75. Decision of planning commission.

The planning commission shall decide upon an appeal request within 30 days after the date of the public hearing. The building official shall advise the board of commissioners of the decision of the planning commission and the reasons therefor.

Sec. 26-76. Appeals to the board of commissioners.

Any person may appeal the decision of the planning commission to the board of commissioners.

ARTICLE IV. PLANNING COMMISSION AND PLANNING DIRECTOR*

Sec. 26-111. Planning commission.

There is hereby created the Burke County Planning Commission, referred to throughout this article as the planning commission, which shall consist of five members appointed by the board of commissioners in the following manner and for the following terms:

(1) Each member of the board of commissioners shall nominate one member to the planning commission, who shall be residents of the district of residence of the appointing county commissioner.

(2) The board of commissioners shall vote upon the nominations and appoint the five members of the planning commission.

(3) Commission members appointed from districts 1, 3, and 5 shall be appointed for an initial term of two years. Commission members appointed from districts 2 and 4 shall be appointed for an initial term of four years.

(4) After the initial terms, each member of the planning commission shall be appointed for a term of four years.

(5) Each member shall serve until his successor has been appointed and taken office. Members of the planning commission shall be eligible to succeed themselves and may be removed for good cause shown.

(6) Any member of the planning commission who does not attend three successive meetings without reasonable cause shall be deemed to have resigned from the commission, and the board of commissioners shall accept nominations pursuant to subsection (1) of this section and appoint a new member to serve the balance of the term of the member who resigned.

Sec. 26-112. Chairman and vice-chairman.

The planning commission shall, at its initial meeting and annually thereafter, elect one of its members as chairman and one of its members as vice chairman, each of whom shall serve for a term of one year. The chairman and vice-chairman shall be eligible to succeed themselves.

Sec. 26-113. Meetings.

The planning commission shall meet at least monthly, and notice of each meeting shall be given to each member of the planning commission at least 72 hours prior to any meeting.

Sec. 26-114. Voting.

Official action may not be taken by the planning commission unless a majority of the members are present. Official action may be taken by the planning commission by a majority vote of those present. The chairman and vice-chairman shall be eligible to vote on all issues pending before the planning commission.

Sec. 26-115. Records.

The planning commission shall adopt bylaws for conducting its affairs and keep accurate minutes and records of its activities. The building official shall serve as secretary of the planning commission.

Sec. 26-116. Duties and responsibilities of the planning commission.

The planning commission is hereby charged with the duties and responsibilities created by this chapter and shall proceed to implement and carry out those duties and responsibilities. The planning commission shall have the authority to institute such action as may be necessary to implement the operation of this chapter.

Sec. 26-117. Department of planning, permits and inspections; director.

There is created the department of planning, permits and inspections and the office of building official, the director of the department. The building official shall be employed by the board of commissioners and shall report directly to the board of commissioners.

Sec. 26-118. Duties of the building official.

(a) The building official is authorized and directed to implement the terms, conditions and operations of this chapter and to undertake such activities as may be necessary to fulfill the duties and responsibilities imposed by this chapter on the department of planning, permits and inspections.

(b) The building official shall annually prepare and submit to the board of commissioners a proposed budget for the operation of the department of planning, permits and inspections, including the operation of the planning commission. In addition, the building official shall prepare and submit to the planning commission and the board of commissioners an annual report of the operations and activities of the department of planning, permits and inspections.

(c) The building official shall serve as secretary of the planning commission.

ARTICLE V. SUBDIVISIONS

DIVISION 1. GENERALLY

Sec. 26-142. Scope and exclusions.

The provisions of this article shall apply to any division or redivision of a tract or parcel of land into two or more lots, parcels, building sites, or other divisions or redivisions for the purpose, whether immediate or future, of sale, lease, legacy, or building development; except the following is exempt from the platting requirements of this article:

(1) The combination or recombination of previously platted and recorded lots, parcels or building sites or portions thereof where the total number of lots, parcels or building sites is not increased and where the resultant lots, parcels or building sites are equal to the standards prescribed in this chapter.

(2) The division of land into lots, parcels or building sites where no new public or private roads nor an extension of any existing public or private road is involved. Existing roads are those roads listed on the official map of the county and that have been issued a state department of transportation county road number.

Sec. 26-142.1. Subdivisions encompassing existing county roads.

A proposed subdivision that encompasses an existing county road that does not have an established 80 foot right-of-way shall allow 80 feet of right-of-way for such roads on the subdivision plat. For proposed lots abutting such road, this allowance shall be exclusive of the minimum lot size requirement of section 26-401. The additional property required shall be deeded to the county prior to approval of the subdivision plat.

Sec. 26-143. Approval authority.

The building official may review and approve or disapprove subdivision containing 5 or less tracts provided that no new roads area created and that the divisions meet all requirements of the Burke County Land Development Code. The planning commission shall review and approve or disapprove all subdivision plats of 6 or more tracts or any subdivisions creating new roads.

Sec. 26-144. Recording of plats.

(a) No plat of a subdivision shall be filed or recorded in the office of the clerk of the superior court until it shall have been submitted to and approved by the planning commission and such approval entered in writing and certified by the chairman and the building official on the plat.

(b) Plats shall be recorded in the office of the clerk of the superior court no later than 180 days from date of approval by the planning commission.

(c) The clerk of the superior court shall not file or record a plat of a subdivision that does not include a statement of approval by the planning commission certified by its chairman and the building official.

Sec. 26-146. Platting procedures.

Persons desiring to subdivide land within the county shall seek the approval of the planning commission according to the following procedures:

(1) The prospective subdivider should consult with the building official and county health office to obtain advice and assistance prior to his preparation of a subdivision plat. The subdivider should submit subdivision design sketches, a property boundary survey, and other general information as necessary to communicate his intentions regarding land subdivision.

(2) Prior to his making any improvements, including site grading or clearing, road construction, or utilities installation, the subdivider shall submit to the planning commission a subdivision plat, as provided for in division 2 of this article unless exempted by the planning commission as provided for in section 26-142.

(3) Approval of a preliminary subdivision plat by the planning commission shall constitute authorization for the subdivider to subdivide the land and make improvements thereto in accordance with the approved plat.

(4) After the land has been subdivided, roads or other improvements completed, or a surety bond posted therefor, the subdivider shall submit the subdivision plat to the planning commission for final approval.

(5) Upon final approval of a subdivision plat, the subdivider shall record the subdivision plat in the office of the clerk of the superior court no later than 180 days after final approval. Thereafter, the subdivider may transfer by sale, lease, legacy or agreement all subdivided lots, parcels or building sites, or may apply for permits to erect structures.

Sec 26-147. Lot Access and Ingress or Egress Easements

Access to each lot resulting from the subdivision is provided by frontage on a public or private road meeting the requirements set forth in section 26-148 and 26-401 or by fee simple title. An access corridor may be used in lieu of requirements listed above. Access corridors must meet the following conditions:

(1) The designated land strip must be a minimum of 80 feet in width.

(2) The designated access corridor must be located a minimum of 680 feet from any other access corridor.

(3) Any access corridor may only be utilized for ingress and/or egress for one residential building.

(4) The designated access corridor must be shown and included on the plat recorded in the office of the clerk of the superior court.

- (5) Prior to further division of land or the issuance of any building permit for the construction of additional residences on lots which accesses a public or private road by access corridor, a road conforming to the requirements of this Land Development Code must be constructed through the access corridor and service all further divisions or development.
- (6) Lots with less than 680 feet of frontage shall be allowed one access corridor, provided that the minimum 680 feet distance between adjacent corridors is maintained.
- (7) All lots with a designate access corridor must meet the requirements established by Sec. 26-401

Sec. 26-148. Subdivisions with private roads.

The subdivision of land creating lots abutting on private roads shall be permitted provided that:

- (1) The private roads and the rights-of-way therefor are constructed and maintained in accordance with the requirements of section 26-300, and fee simple title to the rights-of-way for the roads are vested in a nonprofit state corporation of which all owners of lots having a right to use the roads are required by covenants running with the land to be members (hereinafter referred to as the "owners association"). The owners association shall, by covenants running with the land recorded in the office of the clerk of the superior court, have the obligation to maintain the private roads and rights-of-way therefor in a good, safe and well-kept condition, and shall be required to levy annual assessments on lots in the subdivision to pay the cost thereof and to establish and maintain reserves for future significant repair, rebuilding, repaving and maintenance of those roads not required on an annual basis, which assessments if unpaid when due become and continue to be a lien on the lot against which they were levied until they are paid.
- (2) A subdivision of land creating lots fronting on private roads shall require approval of a preliminary plat and a final plat as set forth in this article for subdivisions using public roads, which shall be filed with the building official for processing by him and consideration by the planning commission. At the time of the filing of the plat for preliminary approval, the owner of the land shall also file all legal instruments, including but not limited to grants of easements, declarations of covenants and articles of incorporation and bylaws of the owners association to be reviewed by the planning commission to determine if all of the requirements of subsection (1) have been met. At the time of requesting final plat approval, a copy of the signed documents with all exhibits attached, along with a certificate of incorporation for the owners association from the secretary of state must be furnished to the planning commission for review.
- (3) An appropriate permanent sign identifying the roads in the subdivision as private roads must be erected by the developer and maintained in good condition by the owners association or the developer at all locations where the private roads intersect with a public road.
- (4) Subdivisions developed with the use of private roads must, except as specifically provided otherwise in this article, comply with all other requirements of this article dealing with or relating to the subdivision of land and the construction of improvements thereon.

- (5) Each deed conveying a lot or lots in a subdivision with private roads shall contain a recitation in the deed that the property being conveyed is not served by a public road or public access.
- (6) Private road subdivisions shall file in recordable form, in the office of the clerk of the superior court, covenants running with the land in perpetuity providing that the roads within such subdivision shall not be dedicated or deeded to the county unless they are improved to meet the public road requirements of this chapter and are accepted by the board of commissioners.
- (7) No plat of a subdivision of land utilizing private roads for ingress and egress to the lots contained in the subdivision shall be approved unless it is in full compliance with the requirements of this chapter or unless a variance from any such requirement is granted.
- (8) A minimum lot size of 3.5 acres shall be required for subdivisions with private roads.

DIVISION 2. PRELIMINARY PLAT APPROVAL

Sec. 26-171. Request procedure.

The subdivider or his agent shall submit to the planning commission, at least ten days prior to its next regular meeting, the following:

- (1) A letter requesting the planning commission's review of a subdivision plat and giving the name and address of a person to whom a notice may be sent specifying the date, time and place of meeting of the planning commission when it will act on the plat;
- (2) Three copies of the plat of the proposed subdivision prepared in accordance with section 26-172; and
- (3) A check payable to the order of the county in appropriate amount based on a review fee of \$10.00 per each lot, parcel or building site shown on the subdivision plat.

Sec. 26-172. Specifications and content.

The subdivision plat shall be drawn to a scale of not less than one inch = 200 feet and shall show the following information:

- (1) All dimensions to the nearest tenth of a foot and all bearings and angles to the nearest minute;
- (2) The name, location and acreage of the proposed subdivision; the name and address of the owner; the name of the subdivision designer;
- (3) The date prepared, north point, and graphic scale;
- (4) The location of existing property lines, topography contours, streets, streams, rivers, lakes, ponds, railroads, sewer lines, water lines, septic tanks, filtration fields, wells, bridges and drainage structures within the subdivision. If any land disturbance will result from the construction of the subdivision, the plat shall reflect the resulting topographic conditions and to be constructed drainage plans and easements;
- (5) The names of the owner of adjoining properties and the names of any adjoining subdivisions;
- (6) The proposed names, locations, widths and other dimensions of streets, easements, recreational areas, drainage plan, topographical plan and rights-of-way; All utilities easements shall be located along side and rear property lines. Plats shall also contain on

all side and rear property lines a dedicated right-of-way of at least 15 feet. Note: All utilities shall be ran underground.

- (7) The arrangement and dimensions of proposed lots;
- (8) The limits of any area subject to flooding;
- (9) Sufficient data to readily determine and reproduce on the ground the location, bearing and length of every street, lot line, block line or boundary line;
- (10) A location sketch map showing relationships of the proposed subdivision to the surrounding area (within one mile of the subdivision site); and
- (11) A statement inscribed on the plat and signed by a registered engineer or qualified surveyor certifying the accuracy of the dimensions and bearings shown on the plat.

Sec. 26-173. Public health certification.

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

Sec. 26-174. Road development certification.

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

Sec. 26-175. Approval.

- (a) Upon submission of a preliminary subdivision plat, the planning commission shall conduct its review and disapprove or approve the plat.
- (b) Whenever a subdivision plat shall have been granted preliminary approval by the planning commission, the chairman shall inscribe and verify by his initial on each sheet of three copies of the plat the following notation:
"Preliminary Approval of the Plat granted by the Planning Commission on (date) ."
Commission action granting such preliminary approval shall be entered into the official record of the meeting at which such action was taken.

(c) Preliminary approval is valid for a period of 180 days from the date of approval. If construction has not begun or is not complete, an extension application must be made with the planning commission. The planning commission may grant an extension for a term not more than 180 days from the original termination date.

Sec. 26-176. Stipulations to preliminary approval.

As a part of its preliminary approval of a subdivision plat, the planning commission may stipulate modifications in subdivision design, required improvements, or subdivision plat as it may deem necessary to ensure compliance with the provisions of this chapter; however, such modifications shall be included in the official action of the commission granting preliminary approval.

Sec. 26-177. Exclusion of property transfer.

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

Sec. 26-178. Distribution of notice of preliminary approval.

After a subdivision plat shall have received preliminary approval, copies of the approved plat, bearing the required inscription and verification, and statements of any stipulations of preliminary approval, shall be distributed as follows:

- (1) One copy of each returned to the subdivider together with a written notice of such action;
- (2) One copy of each forwarded to the county health officer; and
- (3) One copy of each retained in the files of the planning commission.

Sec. 26-179. Interim modifications to preliminary subdivision plat.

(a) Modifications to an approved preliminary subdivision plat may be authorized by the planning commission at the request of the subdivider when the subdivider shows to the satisfaction of the commission that extraordinary and exceptional conditions encountered in the development of the approved subdivision necessitate such modifications.

(b) No modification to an approved subdivision shall be made by the subdivider until approved in writing by the planning commission.

(c) The county shall not grant a modification to an approved subdivision that would be detrimental to the public safety, convenience or welfare, or contrary to the purposes and intent of this chapter.

Sec. 26-180. Inspections and notice to comply.

(a) The planning commission shall have the authority to inspect subdivision development and site preparation to determine if such activities are in accordance with an approved plat or stipulated conditions or modifications approved thereto.

(b) Whenever it has been determined that such activities are not being conducted in such accord, a written notice to comply, bearing the signature of the chairman of the planning commission, shall be sent to the subdivider by registered or certified mail.

(c) The notice required in subsection (b) shall set forth the violations cited as the result of the inspection, measures to be constituted by the subdivider to remedy the violations cited, and time period within which such measures are to be completed.

Sec. 26-181. Denial of preliminary approval.

(a) The planning commission may deny preliminary approval of a subdivision plat on any of the following grounds:

(1) The subdivision plat, together with the required certifications, letters or fees, are not submitted in complete and required form;

(2) The planning commission determines that the land proposed for subdivision is unsuitable for subdivision because of flood hazard or other conditions that could endanger public health; or

(3) The planning commission determines that a proposed subdivision is premature because of inadequate utilities, public schools, transportation facilities, law enforcement or public maintenance funds, and because such subdivision development would necessitate excessive expenditure of public funds for the provisions and maintenance of such services.

(b) Whenever a plat shall have been disapproved, the planning commission shall state the grounds for disapproval in the official record of the meeting at which such action was taken.

(c) The subdivider shall be notified in writing of such action, including grounds for the action, with a copy of such notice forwarded to the clerk of the superior court and the county health officer.

DIVISION 3. FINAL PLAT APPROVAL

Sec. 26-201. Request procedure.

After a subdivision plat has received preliminary approval by the planning commission and the required improvements have been made by the subdivider or a surety bond posted in lieu thereof, the subdivider shall submit to the planning commission the following:

(1) A letter requesting the planning commission to consider the subdivision plat for final approval and giving the name and address of a person to whom a notice shall be sent specifying the date, time and place of the meeting of the planning commission when it will act on the request;

(2) The original drawing of the subdivision plat, corrected to show any modifications in subdivision design and development as may have been stipulated by the planning commission as part of its preliminary approval of the plat or as may have been necessary due to the topography or other conditions peculiar to the land subdivided and as may have been approved by the planning commission;

(3) A copy of the terms of any surety bond as may have been posted by the subdivider guaranteeing any required improvements; and

(4) A check payable to the county in the amount of \$25.00.

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

Sec. 26-202. Time limitations on planning commission action.

(a) Upon submission of a final plat, the planning commission shall have 45 days in which to review the plat and grant its final approval or disapproval of the subdivision plat.

(b) Failure by the planning commission to grant final approval or disapproval of a plat within 45 days from date of submission is hereby deemed to constitute approval, and certification of approval shall be issued by the chairman of the commission on demand; however, the subdivider may waive this requirement and consent to an extension of the review period.

(c) Whenever a subdivision plat shall have been granted final approval, the chairman of the planning commission shall inscribe and verify by his signature on each sheet of the original drawing of the plat, the following notation:

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

TABLE INSET:

_____ Building Official	_____ Chairman, Planning Commission
	_____ Date

(d) Prior to the submission of a subdivision plat for final approval, the plat shall be submitted to the board of commissioners for dedication of the roads, rights-of-way and drainage easements shown on the plat.

(e) The dedication to and acceptance by the county of the roads, rights-of-way and drainage easements within the subdivision shall be shown by the following inscribed on the plat:

The roads, rights-of-way and drainage easements shown on this plat have been dedicated to and accepted by Burke County, Georgia.

TABLE INSET:

_____ County Administrator	_____ Chairman, Board of Commissioners
	_____ Date

(f) Commission action granting final approval of a subdivision plat shall be entered into the official record of the meeting at which such action was taken.

Sec. 26-203. Distribution and recording.

After a subdivision plat shall have received final approval and the required inscription and verification entered on the original drawing of the plat, the building official shall require the developer to submit three copies with the original and shall distribute the original drawing and copies thereof as follows:

- (1) The original drawing of the plat shall be returned to the subdivider;
- (2) One of the copies of the plat transmitted to the clerk of the superior court, within 180 days from the date of approval from the planning commission, together with written authorization from the chairman of the planning commission, for the clerk to record the plat in the county's register of deeds and property transactions;
- (3) One copy forwarded to the county health officer; and
- (4) One copy retained in the files of the planning commission.

Sec. 26-204. Denial of final approval.

(a) The planning commission may deny final approval of a subdivision plat on any of the following grounds:

- (1) When the plat, together with required accompanying information, fees and letters are not submitted in complete and proper form.
- (2) Where the plat does not conform to the approved preliminary plat, including any modifications as may have been granted.
- (3) Where the plat does not reflect the required minimum standards of improvement.
- (4) Where the preliminary approval of a plat shall have been declared void by the planning commission; or
- (5) Where the plat shall have been previously disapproved by the planning commission.

(b) Whenever a plat has been disapproved, the planning commission shall state the grounds for such action in the official record of the meeting at which such action was taken.

(c) The subdivider shall be notified in writing of such action, including grounds therefor, with a copy of such notice forwarded to the clerk of the superior court and the county health officer.

ARTICLE VI. DEVELOPMENT STANDARDS FOR PUBLIC AND PRIVATE ROADS

DIVISION 1. GENERALLY

Sec. 26-236. Scope.

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

Sec. 26-237. Acceptance of proposed public roads.

The planning commission shall have the authority to review and recommend to the board of commissioners approval or disapproval of the location and character of all new roads, rights-of-way, and drainage facilities to be constructed in new subdivisions and intended for public ownership and maintenance and to recommend acceptance or rejection of such facilities, roads and rights-of-way for public ownership and maintenance.

Sec. 26-238. Transfer of roads to county system.

No deed for land designated as or containing the right-of-way of any new or proposed public road or extension thereto shall be filed or recorded in the office of the clerk of the superior court until approval has been recommended by the planning commission and the board of commissioners has agreed to accept same into the public road system. The clerk of the superior court shall not file or record a property deed for land designated as or containing such a right-of-way that has not been approved and accepted by the county.

Sec. 26-239. Misrepresentation.

No person shall represent, for the purpose of transferring by lease, sale or bequest, or by agreement or negotiation for such transfer, that a road or right-of-way is a public road or right-of-way until the road or right-of-way shall have been classified, approved and accepted as a public road or right-of-way by the county and property deeds to that effect have been properly and lawfully recorded in the office of the clerk of the superior court.

Sec. 26-240. Road classifications.

By function. Roads within the county are classified according to their inherent and relative function. *See definitions* of residential land service road, nonresidential land service road, County vehicular, state route, and private road.

DIVISION 2. STANDARDS FOR PUBLIC ROAD DESIGN

Sec. 26-261. Generally.

The standards given in this division shall apply to the design and construction of all new or extended public roads within the county.

Sec. 26-262. County road system.

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

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

Sec. 26-263. Width of roads and rights-of-way.

The minimum width of new or extended public road rights-of-way, wearing surfaces, and shoulders shall be as follows:

- (1) *Residential land service road.* Right-of-way width of 60 feet, wearing surface width of 22 feet, and shoulder width of five feet each.
- (2) *Nonresidential land service road.* Right-of-way width of 80 feet, wearing surface width of 24 feet, and shoulder width of five feet each.
- (3) *County vehicular service road.* Right-of-way width of 80 feet, wearing surface width of 24 feet, and shoulder width of five feet each.
- (4) *State route.* As required by the state department of transportation.
- (5) *Private road.* Right-of-way width of 60 feet, wearing surface width of 22 feet, and shoulder width of five feet each.

Sec. 26-264. Vertical alignment of roads.

In no case shall roadway grades exceed ten percent nor be less than one-half of one percent. The board of commissioners may reduce the maximum gradient for nonresidential land service roads.

Sec. 26-265. Horizontal alignment of roads.

- (a) The radius of road curvature shall be not less than 90 feet, except the board of commissioners may increase this minimum radius for nonresidential land service roads. Curve radii shall be measured from the road centerline.
- (b) A tangent of at least 200 feet shall be provided between reverse curves.

Sec. 26-266. Intersections.

- (a) All roads shall intersect at right angles unless prevented by unusual site characteristics. In such cases, the board of commissioners may approve a lesser intersecting angle or require the relocation of the intersection.
- (b) Road jogs with centerline offsets of less than 150 feet shall not be permitted.

Sec. 26-267. Street access control.

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

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

DIVISION 3. CERTIFICATION OF DESIGN

Sec. 26-291. Minimum requirements.

The design, plans and specifications of all roads to be, or intended to be, dedicated to the county shall be prepared and sealed by a professional engineer or land surveyor licensed by the state and shall meet the minimum requirements of the applicable portions of the then current edition of the Standard Specifications for Road and Bridge Construction, Department of Transportation, State of Georgia.

Sec. 26-292. Preparation of right-of-way.

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

Sec. 26-293. Embankments and erosion control.

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

Sec. 26-294. Ditches and drains.

- (a) Each road and road right-of-way shall have a drainage system adequate to provide for the proper drainage of all surface water.
- (b) Cross drains shall be provided to accommodate all natural water flow and shall be of sufficient length to permit the full width of the required roadway, including shoulders and ditch slopes. Size and openings of all cross drains shall be as required by the county road superintendent. Cross drains shall be built on straight line and grade, and shall be laid on a firm base, but not on rock. Pipes shall be laid with spigot ends pointing in the direction of the water flow. Ends shall be properly fitted and matched to provide tight joints and a

smooth, uniform invert. Drains shall be placed at sufficient depth below the road bed to avoid dangerous pressure of impact, and in no case shall the top of the drain pipe be less than one foot below the roadway base.

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

(d) Concrete side drains with size openings of not less than 15 inches shall be installed to provide for surface water drainage under all driveways. Installation shall be as required for cross drains.

Sec. 26-295. Roadway base and shoulder.

(a) The minimum type of roadway base and shoulder material allowed shall be topsoil, sand-clay or chert, which shall have physical properties equivalent to that required for class B material gradation contained in the applicable state department of transportation specifications.

(b) Base material shall be spread in a manner such that right-of-way slopes and ditches will not be damaged, such that a smooth and uniform surface will be produced.

(c) Base material shall be applied consistent with the procedures set forth in the applicable state department of transportation specifications.

(d) For residential land service roads the roadway and shoulder base shall have a minimum compacted depth of six inches. For nonresidential land service roads the corresponding minimum compacted depth shall be eight inches.

Sec. 26-296. Prime coat.

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

(b) The prime coat shall be applied at the rate of 0.25 gallon per square yard of base. Application of the prime coat shall be consistent with the applicable state department of transportation specifications.

Sec. 26-297. Surface treatment.

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

(b) For residential land service roads, the minimum acceptable wearing surface shall consist of a type I bituminous treatment using stone, size 5, aggregate with a bituminous seal using stone, sizes 7 and 89, aggregate. All materials and construction methods shall conform to the provisions of the applicable state department of transportation specifications.

(c) In lieu of this bituminous treatment, the wearing surface of residential land service roads may consist of hot mix asphaltic concrete, type E or F, including bituminous material, rolled and compressed to a thickness of not less than 1 1/2 inches. All materials and construction methods shall conform to the provisions of the applicable state department of transportation specifications.

(d) For all nonresidential land service roads, the minimum acceptable wearing surface shall consist of a type I bituminous surface treatment using stone, size 6, aggregate with a seal of hot asphaltic concrete, type E, including bituminous material, rolled and compressed to a minimum thickness of 1 1/2 inches. All materials and construction methods shall conform to the applicable provisions of state department of transportation specifications.

Sec. 26-298. Control of work and inspections.

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

Sec 26-299. Guarantee of completed improvements

(a) No new or extended residential or nonresidential land service road shall be approved and accepted by the county for public ownership and maintenance, and no subdivision plat containing such a road shall be given final approval until the following conditions shall have been met:

(1) All roads, rights-of-way and drainage facilities are designed and constructed consistent with the provisions of this article and so approved by the county road superintendent.

(2) The professional engineer who designed the roads and rights-of-way shall opine to the county that the improvements were constructed in accordance with the plans and specifications therefor.

(b) The planning commission shall require a surety bond in an amount equal to 150% of the estimated cost of all required road, right-of-way and drainage facility improvements, such that in the event of default by the owner or developer, the required improvements may be made by the board of commissioners. See also Section 26-174.

(c) The owner or developer shall remain liable to the county for any repairs or maintenance of such road and drainage facilities for a period of one year from date of acceptance by the county.

Sec. 26-300. Subdivisions with private roads.

The roads in private road subdivisions shall be constructed with the following minimum design criteria:

(1) A 60-foot right-of-way.

(2) A minimum of 18 inches of mixed and compacted subbase to 95 percent modified proctor.

(3) Four inches of graded aggregate compacted at 95 percent modified proctor.

(4) Slope of road surface from the centerline shall be one-quarter inch per foot.

- (5) Open ditch sections shall be within the right-of-way of the road and designed with criteria for 25 year flood.
- (6) The design and construction of the roads shall be approved by the planning commission and the county road superintendent.

ARTICLE VII. BUILDING REGULATIONS

Sec. 26-331. Building standards.

There are hereby adopted, for the purpose of establishing rules and regulations for the construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, area and maintenance of buildings or structures in the unincorporated area of the county, including permits, the following state minimum standard codes, all and future amendments and future additions to those codes to the same extent and effect as if set forth verbatim in this article:

Mandatory Codes:

- Georgia State Minimum Standard Building Code (International Building Code with Georgia State Amendments)
- Georgia State Minimum Standard One and Two Family Dwelling Code (International Residential Code for One- and Two-Family Dwellings with Georgia State Amendments)
- Georgia State Minimum Standard Fire Code (International Fire Code with Georgia State Amendments)
- Georgia State Minimum Standard Plumbing Code (International Plumbing Code with Georgia State Amendments)
- Georgia State Minimum Standard Mechanical Code (International Mechanical Code with Georgia State Amendments)
- Georgia State Minimum Standard Gas Code (International Fuel Gas Code with Georgia State Amendments)
- Georgia State Minimum Standard Electrical Code (National Electrical Code with Georgia State Amendments)
- Georgia State Minimum Standard Energy Code (International Energy Conservation Code with Georgia State Supplements and Amendments)
- Life Safety Code (NFPA 101)

Permissive Codes:

- International Property Maintenance Code
- International Existing Building Code

All land disturbing activities shall be conducted in accordance with the Georgia Soil Erosion and Sedimentation Act of 1975. Contact Environmental Protection Division, East Central District in Augusta. (706) 792 7744

Sec. 26-332. Remedial nature of article.

The provisions of this article are remedial and shall be construed to secure the beneficial interest and purposes of this article, which are public safety, health and general welfare, through structural strength, stability, sanitation, adequate light and ventilation, and safety to life and property from fire and other hazards incident to the construction,

alteration, repair, removal, demolition, use and occupancy of buildings, structures or premises.

Sec. 26-333. Compliance with technical codes and state laws.

(a) All construction, enlargement, alteration, repair, moving, removal, conversion, demolition, occupancy, equipment, use, height, location, area, maintenance of buildings, structures, and any appurtenances, mechanical, gas, plumbing and electrical, shall be performed in compliance with the codes adopted in section 26-331.

(b) All work performed which by law requires a state license (including but not limited to electrical, low-voltage electrical, plumbing, mechanical and installation of manufactured housing) shall be accomplished only by those individuals so licensed; except the owner of a residence (excluding manufactured housing) may accomplish such work in or on his residence subject only to the requirements of permitting and inspection.

Sec. 26-334. Completion of prior permitted construction.

Nothing contained in this article shall require any change in the plans, construction, designated use, or occupancy of a building or structure for which:

(1) There is physical evidence that construction had commenced prior to the effective date of the ordinance from which this section derives and where the entire building or structure shall be completed within one year from the effective date of the ordinance from which this section derives; or

(2) A building permit had been issued pursuant to the requirements of previous development regulations as may have been modified or repealed by the ordinance from which this section derives and where the entire building or structure shall be completed within six months from the effective date of the ordinance from which this section derives.

Sec. 26-335. Enforcing official.

(a) The provisions of this article shall be administered and enforced by the building official. The building official shall have the right to enter upon any property or into any building or structure for the purpose of making inspections as necessary to carry out his duties in the enforcement of this article.

(b) The building official shall issue all building permits and make and maintain records of permits issued or denied, or inspections made, of any violations cited and remedies ordered, and of any appeal proceedings and of certificates of occupancy issued.

(c) The building official shall not issue a building permit until he has determined that the proposed activity is in conformity with this article.

Sec. 26-336. Building permit requirement.

(a) Any person who desires to construct, enlarge, alter, repair, move or demolish any building or structure, or to erect, install, alter, remove, repair, convert or replace any electrical, gas, mechanical or plumbing system, where the cost of such work exceeds \$1500.00, shall first obtain the required permit from the building official. Also, any person who desires to change the use of a building or structure or of land or install a manufactured home, regardless of cost, shall first obtain the required permit from the building official.

(b) Application for a building permit shall be made to the building official in accordance with the administrative regulations of the Standard Building Code.

Sec. 26-337. Fees for permits and plan review.

The permit and inspection fees shall be as set forth in the following schedule of fees.

Burke County Fee Schedule	
General Building Permit	Fee
Single and Multi-Family Site Built Dwellings	\$100.00 for 1st \$1000.00 of construction costs. \$5.00 each additional \$1000.00
Manufactured Housing	
Addition, Alteration, & Repair	
Commercial Structures	
Barns, Carports, Sheds, & Storage Buildings	
Educational, Government, & Religious	
Agricultural Irrigation Systems	
Pool or Spa	
** The General Building Permit includes plumbing, temporary & permanent electrical, & mechanical permits, & CO for residential applications only. Other types of construction (commercial, light commercial, institutional,etc) will be permitted by each discipline.**	
Miscellaneous Permits & Fees	Fee
Electrical Permit	\$100.00 for 1st \$1000.00 of construction costs. \$5.00 each additional \$1000.00
Mechanical Permit	
Plumbing Permit	
Plan Review (per sqft. of conditioned space)	.05
Miscellaneous Fees	Fee
Copies of construction code reference materials (per page)	\$0.25
Demolition Permit (Required so that structures can be removed from the Tax Digest)	\$5.00
Emergency Inspections outside normal business hours or less than 24 hour notice	\$75.00
Land Development Code copies	\$10.00
Miscellaneous Inspections (any inspection not included in the above listing)	\$50.00
Manufactured Home "Guarantee of Condition Bond" (refundable upon CO)	\$1,000.00
Personal Care Facilities (< 6 beds)	\$100.00

Re-inspections (NO RE-INSPECTIONS WILL BE SCHEDULED UNTIL FEE IS PAID)	\$50.00
Service meter inspections (irrigation systems, rv, storage buildings, etc)	\$50.00
Variance filing (including newspaper ad & sign posting)	\$100.00
Variance mailings (per landowner within 1500 ft of concerned property)	\$6.00
Work commenced without Permit	Double permit fee

** All inspections must be scheduled through the Building Inspections Department.

** Inspections needed with less than 24 hour notice will be charged as a "Emergency Inspection"

Sec. 26-338. Insurance.

Prior to approval of a permit for any person, evidence shall first be shown of a minimum of \$100,000.00 general liability insurance coverage, except for permits for change of use, or for individuals performing work on their own residence.

Sec. 26-339. Public health certification.

The building official shall not issue a building permit where the proposed building, structure or use involves on-site means of sewage disposal until the applicant shall have first obtained the written certification of the county health officer that on-site sewage disposal means can satisfactorily accommodate the expected sewage discharge from the proposed use, and that the site on which the proposed use is located or is to be located contains sufficient land area to accommodate the on-site disposal of the expected discharges without adversely affecting groundwater or surface water supplies.

Sec. 26-340. Certificate of occupancy.

(a) No land or structure for which a building permit has been issued shall be occupied or used until the building official shall have issued a certificate of occupancy.

(b) A certificate of occupancy shall be issued only when the building, structure and/or land is determined to be in conformity with the provisions of this article. No certificate of occupancy shall be issued for any use of land or structure where on-site means of sewage disposal are employed until the county health officer shall have certified in writing his approval of the installation and operation of such on-site disposal means.

(c) If a certificate of occupancy is not granted upon request, the building official shall state in writing the reasons for such action and shall identify any corrections or modifications necessary for compliance certification.

Sec. 26-341. Exemptions from state law.

The board of commissioners, pursuant to 1996 Ga. Laws, page 1632, does hereby exempt the county from the provisions of O.C.G.A. § 8-2-26(d).

ARTICLE VIII. LAND USE REGULATIONS; SPECIAL USE PERFORMANCE STANDARDS AND NONCONFORMING USES

DIVISION 1. GENERALLY

Sec. 26-376. Intent, interpretation and variances.

(a) This article is intended to protect property owners and citizens of the county from adverse environmental and economic impact, from adverse health conditions, and from noxious, toxic or other substances or uses that could affect adjoining property owners or those in close proximity.

(b) This article is intended to permit uses of land that will not have an adverse economic or environmental impact on adjoining property or property within close proximity thereto. In addition, the intent of this article is to protect and preserve public health, safety, convenience, order and the general welfare of the people of the county. These standards and uses are adopted to allow uses of property consistent with these propositions and to allow users to perform particular functions compatible with adjoining property and property in close proximity thereto without adversely affecting same.

(c) Unless modified by grant of hardship variance, these standards shall apply, in addition to those of section 26-331 and are hereby declared to be the minimum requirements for designated uses of land and structures within the county. No variance from these standards will be permitted unless authorized by the planning commission as provided for in article III of this chapter.

DIVISION 2. GENERAL LAND USE REGULATIONS

Sec. 26-401. Minimum lot size.

(a) No building or other structure designed or used for human occupancy, congregation, or employment or otherwise requiring on-site means of sewage disposal, may be used or constructed on any lot, parcel, or tract of land which does not contain at least one acre. **The property must front along a public or private road for a distance of at least 150 feet and/or front along a cul-de-sac for a distance of 70 .** A minimum lot width of at least 150 feet at the building line is required, except that where such building or structure shall be connected to an off-site central public water supply, the minimum lot size shall be one-half acre, with a width of at least 100 feet at the building line.

(b) The central public water supply system must meet all Burke County requirements.

EXCEPTION: Manufactured home park (See section 26-431). Required area for the lots shall be exclusive of any driveway or roadway easement or right-of-way, but may include utility easements.

(b) No more than one residential dwelling unit may be allowed on any single lot.

EXCEPTION(S): Group Quarters (see section 26-432).

Medical hardship or Caretaker: The planning commission shall review all caretaker or medical hardship or caretaker applications.

Sec. 26-402. Lot modifications for sanitary purposes.

(a) Where individual septic tanks or other such on-site disposal facilities are to be used as a means of sewage disposal, the county health officer may require increases in the minimum lot size as necessary to conform to rules and recommendations of the state department of public health.

(b) In no case, however, shall the lot size be reduced to less than the required minimum as established in section 26-401.

(c) Where extreme health hazards are indicated by site characteristics, the county health officer may disapprove the intended use of the lot or require special types of sewage disposal to be constructed as a prerequisite to a lot's being used.

Sec. 26-403. Building setbacks.

No building or structure shall be located:

(1) Closer than 50 feet from the right-of-way line nor 100 feet from the centerline, whichever is greater, of a residential, nonresidential land service, private road, county vehicular service road, or state route.

(2) Fifteen feet from side or rear of property lines for residences and ancillary buildings on residential lots. Side and rear setbacks for all other buildings are included in their special use performance standard listed in this article.

Sec. 26-404. Sewage disposal facility limitations.

No more than one single-family residence may be served by a septic tank.

Sec. 26-405. Installation of manufactured homes.

(a) All manufactured housing shall be erected, tied down, underpinned and have utilities connected thereto in accordance with the rules and regulations promulgated by the office of the state fire marshal, as amended or modified from time to time. A permit for a manufactured home will be issued only if the home meets the minimum standards, as set forth in subsection 26-405(b) and approved by the following method:

Manufactured Homes located within Burke County:

Shall be inspected by the building inspector and found to meet the minimum standards (subsection (b) below). The building inspector will create a report of deficiencies prior to permitting. Major deficiencies of these standards may be required by the Building Official to be repaired prior to the relocation of the home. After the initial inspection, applicants requesting a permit for a manufactured home must provide the building inspector the following:

- Signed affidavit of condition.
- Signed land owner permission letter
- Verification of current Burke County tax registration
- Current year's receipt of paid taxes (both *land and home if applicable*)
- Valid relocation permit (moving permit)
- Written certification of on-site sewage disposal by county health inspector
- Guarantee of Condition Bond in the amount of \$1000.00. **(Bond may be in the form of cash, cashiers check, or money order. Personal checks will not**

be accepted.) Bonds are Refundable upon final inspection and issuance of the Certificate of Occupancy.

If the manufactured home does not meet these standards according to the building inspector, power will not be approved until the standards have been met. The "guarantee of condition" bond will be forfeited if these standards are not met within 90 days issuance of the permit. A re-inspection fee will be required for any subsequent inspection

Manufactured Homes located outside of Burke County:

A collection of photographs may be submitted to the Building Official in-lieu of inspection. The building official may require any and/or all deficiencies of the standards (noted below) to be repaired prior to the relocation of the home. After the building official has deemed the house acceptable to be relocated into Burke County, applicants requesting a permit for a manufactured home must provide the building inspector the following:

- Signed affidavit of condition.
- Signed land owner permission letter
- Verification of current Burke County tax registration
- Current year's receipt of paid taxes (both *land and home if applicable*)
- Valid relocation permit (moving permit)
- Written certification of on-site sewage disposal by county health inspector
- Guarantee of Condition Bond in the amount of \$1000.00. **(Bond may be in the form of cash, cashiers check, or money order. Personal checks will not be accepted.)** Bonds are Refundable upon final inspection and issuance of the Certificate of Occupancy.

If the manufactured home does not meet these standards according to the building inspector, power will not be approved until the standards have been met. The "guarantee of condition" bond will be forfeited if these standards are not met within 90 days issuance of the permit. A re-inspection fee will be required for any subsequent inspection

(b) Manufactured home minimum standards:

- (1) **Exterior.** All components of the exterior, including siding, windows and exterior doors of the manufactured home shall be aesthetically uniform in appearance and free of any condition that may hinder operation as originally intended or might admit moisture.
- (2) **Roof.** The roof of the manufactured home shall be in sound condition with no obvious defects.
- (3) **Interior.** The flooring, interior wall and ceiling shall be in sound condition and appearance.
- (4) **Egress windows.** Each bedroom of a manufactured home shall have at least one operable escape window.
- (5) **Ventilation.** Bathrooms and kitchens without a window must have an operable ventilation device.
- (6) **Smoke detectors.** Each manufactured home shall contain one operable battery-powered smoke detect in each bedroom and in the kitchen area. The smoke detectors must be installed in accordance with the manufacturer's

recommendations. If smoke alarms are older than 10 years old, these units must be replaced.

(7) **Sanitary facilities.** Each manufactured home shall contain a kitchen sink. Each bathroom in the manufactured home shall contain a lavatory and water closet; at least one bathroom shall contain a tub and/or shower facilities. Each of these fixtures shall be checked when properly connected to ensure they are in good working condition.

(8) **Electrical.** The distribution panels of each manufactured home shall be in compliance with the approved listing, complete with required breakers, with all unused openings covered with solid covers approved and listed for that purpose. Connections shall be checked for tightness. The electrical panels shall be accessible. All electrical switches, receptacles and fixtures shall be properly and securely installed. All GFCI devices and over current protection devices shall be replaced if they are older than 10 years old.

(9) **Hot water supply.** Each manufactured home shall contain a water heater in safe and working condition.

(10) **Heating source.** Each manufactured home shall have a safe central heating system in working condition. Un-vented heaters shall be prohibited.

(11) **Skirting.** Installation of skirting shall be required. Installation shall be in accordance with the building inspector. Acceptable materials may include masonry, stone, metal or other materials manufactured for the purpose of skirting. Vinyl is prohibited.

(12) **HUD Regulations.** The home must meet HUD's Manufactured Home Construction and Safety Standards.

(13) **Vapor barrier.** All manufactured homes shall have a minimum 6 mil. Polyethylene vapor barrier applied directly to 90% minimum of exposed earth beneath the home.

(14) **Address.** The 911 physical address must be posted at the service road and on the home if there is more than one structure on the property.

Sec 26-405.5. Cemeteries, mausoleums and memorial gardens.

(a) Any person or persons establishing a cemetery or mausoleum or a combination thereof for the purpose of selling any grave space, lot or crypt shall do so in accordance with The Georgia Cemetery and Funeral Services Act of 2000.

(b) Any person or persons establishing a private cemetery, mausoleum or family burial plot shall comply with the following provisions:

- No cemetery, mausoleum or burial plot shall be located closer than 250 feet to any side or rear property line.
- No cemetery, mausoleum or burial plot shall be located closer than 150 feet to and private water supply system.
- The cemetery, mausoleum or burial plot shall be platted, approved by the planning commission and recorded in the office of the clerk of superior court.
- All new grave sites in newly created private cemeteries shall be marked with a grave marker.
- The cemetery, mausoleum or burial plot shall be enclosed within a fence of chain link, masonry or other material as approved by the planning commission.

- The cemetery, mausoleum or burial plot shall be named and posted on the recorded property

Sec. 26-406. Multiple use of land and structures.

- Where a lot or parcel contains or is intended to contain more than one use and such uses are not located within the same structure, the provisions of this article shall be applied to each use as though each were developed or constructed independently of the other uses.
- Where a structure contains or is designed to contain more than one use, the provisions of this article applicable to the use having the greater performance standards shall apply to the location and placement of the structure.

DIVISION 3. SPECIAL USE PERFORMANCE STANDARDS

Sec. 26-431. Manufactured home park.

- Land subdivided and subsequently sold for the purpose of siting manufactured homes is not considered a manufactured home park by this article. Such subdivision of land is subject to the provisions of article V of this chapter.
- This article does not apply to manufactured home parks in existence prior to the effective date of the ordinance from which this section derives except that all manufactured homes placed or replaced in grandfathered manufactured home parks after the effective date shall comply with all applicable provisions with the exception of the spacing and setback requirements.
- In the event of expansion, enlargement or establishment of additional lots in grandfathered manufactured home parks, all of the terms and conditions of this chapter shall apply to the additional lots thereby created.
- Manufactured home park shall be on individual lots with a minimum size of one-half acre each. *The individual lots shall be exclusive of space required for access roads and the water supply system.*
- Interior roadways shall be paved and constructed in accordance with the requirements of article VI of this chapter except for the following:
 - Wearing surface width shall be 20 feet.
 - Shoulder width shall be five feet.
 - Total right-of-way to be determined by accommodating the storm drainage system with criteria for 25-year flood.
 - Required property for interior roadways will be exclusive of the area required to provide one-half acre for each manufactured home.
- Manufactured homes shall be installed in accordance with section 26-405.
- Each manufactured home or site designed to accommodate a manufactured home shall have an individual connection to a central water supply system. Written certification must be obtained from the county health officer that the proposed location can satisfactorily accommodate the central water system and the on-site sewage disposal.
- Each manufactured home within a park shall be provided with an individual electric power connection.
- Manufactured homes on lots adjoining public roads shall conform to the building setback requirements of section 26-403. No manufactured home shall be closer to side or

rear property lines than 15 feet and no closer to an adjoining manufactured home or portion thereof than 30 feet.

(j) The planning commission shall have the authority to review and approve or disapprove plans for manufactured home parks. Persons desiring to establish a manufactured home park shall seek approval of the planning commission according to the following procedures:

(1) The prospective manufactured home park owner should consult with the building official and the county health office to obtain advice and assistance prior to preparation of a development plan. The owner should provide a property plat and sketches of the proposed layout.

(2) Submit a letter requesting the planning commission's approval of the proposed park. Submittal should include two copies of a plat (drawn to scale at no less than one inch = 100 feet) drawn in enough detail to show conformance to subsections (d)--(i) above and a check payable to the order of the board of commissioners in appropriate amount based on a review fee of \$5.00 per each lot in the proposed manufactured home lot.

(k) The planning commission shall have 30 days in which to approve or disapprove the proposed manufactured home park home park plan.

Sec. 26-432. Group quarters.

Except for rooming houses and boardinghouses, no building or structure used in connection with any group quarters use shall be located closer than 100 feet to any side or rear property line.

Sec. 26-433. Indoor activity use.

No building or structure used in connection with any indoor activity use shall be located closer than 150 feet to any side or rear property line, except that for hospital and school uses this distance shall be not less than 250 feet.

Sec. 26-434. Outdoor activity use.

Except for the public parks, no building or structure used in connection with any outdoor activity use shall be located closer than 100 feet to any side or rear property line.

Sec. 26-435. Outdoor amusement use.

No building or structure, including a racetrack or strip, used in connection with any outdoor amusement use shall be located closer than 500 feet to any property line; except for a rifle or other gun firing range, this distance shall be not less than 800 feet.

Sec. 26-436. Airport.

No building or structure, including runway surfaces, used in connection with any private airport shall be located closer than 500 feet to any property line; and no part of a clear zone or transitional surface shall extend beyond the boundaries of the property on which the runway is located.

Sec. 26-437. Zoological park.

No building or structure used in connection with a zoological park and housing any animal species shall be located closer than 300 feet to any property line.

Sec. 26-438. Utility towers.

Broadcasting and communications towers and antennas shall be permitted provided that the tract of land on which they are located is sufficient in size to have a lineal dimension from the base of the tower or antennas, or any structure on which the tower or antennae are located, to all property lines equal to or greater than the height of the tower or antenna.

Sec. 26-439. General business use.

No building or structure used in connection with any general business use shall be located closer than 150 feet to any side or rear property line.

Sec. 26-440. Extensive business use.

No building or structure, including any equipment or materials storage or processing yards or areas, used in connection with any extensive business use shall be located closer than 250 feet to any side or rear property line.

Sec. 26-441. Filling station or convenience store with gasoline pumps.

- (a) No building or structure, including gasoline pumps, used in connection with any filling station shall be located closer than 100 feet to any side or rear property line.
- (b) In no case shall more than two inoperable vehicles be stored on the property unless stored wholly within the building.

Sec. 26-442. Funeral home, restaurant, tourist services use.

No building or structure, including any equipment or materials storage yards, used in connection with any funeral home, restaurant or tourist service use shall be located closer than 100 feet to any side or rear property lines.

Sec. 26-443. Truck stop.

- (a) No building or structure, including gasoline pumps, used in connection with any truck stop shall be located closer than 200 feet to any side or rear property line.
- (b) Not more than two inoperable vehicles may be stored on the property.

Sec. 26-444. Agricultural industry.

No building or structure used in connection with any agricultural industry shall be located closer than 400 feet to any side or rear property line.

Sec. 26-445. Light industry.

No building or structure used in connection with any light industry use shall be located closer than 300 feet to any property line unless the industry is located in a designated industrial park.

Sec. 26-446. General industry.

No building or structure used in connection with any use in the general industry subgroup shall be located closer than 400 feet to any side or rear property line unless the industry is located in a designated industrial park.

Sec. 26-447. Special industry, extractive industry, mining.

No building or structure used in connection with any special industry, extractive industry or mining use, nor any portion of the property, where activity essential to the principal function of such use is conducted, shall be located closer than 500 feet to any property line.

Sec. 26-448. Storage of inoperable vehicles.

No more than two inoperable vehicles may be parked, stored, or maintained on any property which is used for residential purposes. The parking or storage of more than two inoperable vehicles at filling stations (see section 26-441), truck stops (see section 26-443) or any other business or industrial use is declared to be a junkyard.

Sec. 26-449. Junkyard.

The storage, processing or parking of more than two inoperable vehicles out-of-doors on residential property, and more than two inoperable motor vehicles out-of-doors at filling stations, truck stops or any other business or industrial use is declared to be a junkyard. The placing, storing, or processing of appliances, machinery, or equipment, or parts thereof, or any other junk out-of-doors upon public or private land within the county is also declared to be a junkyard. The storage, placing or processing of inoperable vehicles or any other junk within a junkyard shall be no closer than 350 feet to any property line. All junkyards shall be fully enclosed by an opaque wall or fence not less than eight feet in height. The materials and design of such fence shall be approved by the planning commission and shall be compatible with the use of the adjoining and neighboring property.

Sec. 26-450. Customary home occupations.

Any home occupation meeting the definition of "Customary home occupation" in section 26-1 shall be allowed in a residence that meets all other requirements of this chapter.

Sec. 26-451. Signs and advertising devices.

The use and placement of signs, billboards and other outdoor advertising devices shall be in accordance with the following:

- (1) No sign or other advertising device shall be erected or maintained whereby reason of its position, working, illumination, size, shape or color it may obstruct, impair, obscure or interfere with the view of or be confused with any authorized traffic control sign, signal or device.
- (2) No billboard or ground sign shall be erected to exceed 30 feet above the ground level or 50 feet in length. The bottom coping of every ground sign shall be at least three feet above the ground or roadway level.
- (3) Billboards and other permanent outdoor advertising devices shall be erected or placed in conformity with the side, front and rear building setback requirements.
- (4) Real estate sales signs, rental signs, election signs or similar temporary signs may not be located on any road right-of-way.

(5) Flashing or intermittently illuminated signs shall be located not closer than 200 feet to any residential dwelling or closer than 50 feet of the right-of-way line of any public road. All such signs must be approved by the building official, must not conflict with any traffic control device, nor interfere with vehicular traffic.

(6) On-premises signs may be installed within the required front yard setbacks. No portion of the sign shall overhang any public right-of-way.

Sec. 26-452. Tourist accommodations.

Tourist accommodations will be regulated in accordance with Chapter 290-5-18 of the rules of the Department of Human Resources.

Sec. 26-453. Commercial Campgrounds.

(a) Campgrounds shall be constructed in accordance with the rules of the department of human resources Chapter 290-5-18, Tourist Accommodations, with the addition of the following:

(1) Driveways shall be constructed with the following minimum design criteria:

- a. sixty-foot right-of-way.
- b. A minimum of 18 inches of mixed and compacted subbase to 95 percent modified proctor.
- c. Four inches of graded aggregate compacted at 95 percent modified proctor.
- d. Slope of road surface from the centerline shall be one-quarter inch per foot.
- e. Open ditch sections shall be within the right-of-way of the road and designed with criteria for 25-year flood. The planning commission may accept a site analysis from an independent third party registered Professional Engineer, soil engineer, or equivalent in lieu of the 25 year flood design. This analysis must show that the soils on the property are capable of absorbing the water from a 25 year rain event.
- f. The design and construction of the roads shall be approved by the planning commission and the county road superintendent.

(2) The planning commission shall have the authority to review and approve or disapprove plans for campgrounds. Persons desiring to establish a campground shall seek approval of the planning commission according to the following procedures:

- a. The prospective campground owner should consult with the building official and the county health office to obtain advice and assistance prior to preparation of a development plan. The owner should provide a property plat and sketches of the proposed layout.
- b. Submit a letter requesting the planning commission's approval of the proposed campground. Submittal should include two copies of a plat (drawn to scale at no less than one inch equals 100 feet) drawn in enough detail to show conformance to subsections c. through e. below and a check payable to the order of the board of commissioners in appropriate amount based on a review fee of five (\$5.00) dollars per each space in the proposed campground.
- c. Each campground site designed to accommodate a camper shall have an individual connection to a central water supply system. Written certification must be obtained from the county health officer that the proposed location can satisfactorily accommodate the central water system and the on-site sewage disposal.
- d. Each camper site within a park shall be provided with an individual electric power connection.

e. Camper sites on lots adjoining public roads shall conform to the building setback requirements of section 26-403. No camper shall be closer to side or rear property lines than 15 feet and no closer to an adjoining camper or portion thereof than 20 feet.

(3) The planning commission shall have 30 days in which to approve or disapprove the proposed campground plan.

Sec. 26-453. Recreational Campgrounds.

The building official may approve a maximum 5 recreational camper/rv sites without plan submission to the planning commission. Recreational campgrounds shall not operate as a commercial business.

(1) These sites shall be designed in accordance with section 26-452 , ((2)a),(3)c,d,&e of.

(2) Recreational campgrounds are exempt from the roadway construction specifications of Section 26-452.

DIVISION 4. NONCONFORMING USES

Sec. 26-471. Intent.

It is the intent of this chapter to avoid any unreasonable invasions of established private property rights; however, this chapter recognizes that the elimination of existing structures and uses that are not in conformity with the provisions of this article is as much a purpose of this chapter as is the prevention of new uses that would, if established, be contrary to the purpose and intent of this chapter. A nonconforming use of land or structure existing upon the effective date of the ordinance from which this section derives may be continued and maintained except as provided in this division.

Sec. 26-472. Alterations or enlargement.

(a) A nonconforming building or structure shall not be added to or enlarged in any manner unless the building or structure, including additions and expansions, conforms to the regulations of this chapter.

(b) If a building or structure that is conforming as to use but nonconforming as to required building setbacks, performance standards, and applicable supplementary regulations, the building or structure may be enlarged or added to, provided that the addition or enlargement fully complies with all applicable requirements.

(c) No nonconforming building or structure shall be moved in whole or in part to another location on the same lot or to any other lot unless every portion of the building or structure is made to conform to all applicable provisions of this chapter.

Sec. 26-473. Discontinuance of use.

(a) After a nonconforming use shall have been discontinued for a period of one year, it shall not be reestablished or changed to any use except a conforming use.

(b) No nonconforming use may be discontinued for any period and changed to any other type of nonconforming use.

(c) Electrical service to a mobile home which does not meet HUD housing regulations may not be permitted or reconnected after an interruption of service for a period exceeding 12 months.

Sec. 26-474. Damage to structures.

Any nonconforming structure containing a nonconforming use that has been damaged by fire, explosion, act of God, neglect, dilapidation or other cause, to the extent of 60 percent of its fair market value shall not be repaired or reconstructed except in conformity with this article.

Sec. 26-475. Maintenance and repairs.

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

Section 2.

That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

Section 3.

The sections, paragraphs, sentences, clauses and phrases of this ordinance are severable. Should any section, paragraph, sentence, clause or phrase of this ordinance be rendered invalid by any court of law, the remaining sections, paragraphs, sentences, clauses or phrases shall not be affected but shall continue in effect until amended or repealed by action of the Burke County Board of Commissioners.

Section 4.

This ordinance shall become effective upon January 1, 2011.

Adopted on first reading this 18th day of November, 2010.

Adopted on second reading this 14th day of December, 2010.

R. Wayne Crockett, Chairman

Merv Waldrop, Administrator