

BARTOW COUNTY
ZONING ORDINANCE



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BARTOW COUNTY ZONING ORDINANCE

An Ordinance regulating within the County of Bartow the location, height, bulk, number of stories and size of buildings and other structures; the sizes of yards, courts, and other open spaces; the density and distribution of population; the uses of buildings, structures, and land for trade, industry, residence, recreation, mining, agriculture, sanitation, public activities, and boundaries thereof; defining certain terms used herein; providing for the method of administration and amendment; establishing and defining the powers and duties of the Board of Appeals; establishing and defining the powers and duties of the Planning Commission; providing penalties for violations; repealing conflicting ordinances; and for other purposes.

ARTICLE I

PREAMBLE AND ENACTMENT CLAUSE

The County Commissioner of Bartow County, pursuant to Article 9, Section 2, Paragraph IV of the 1983 Constitution of the State of Georgia, hereby ordains and enacts into law the articles, sections, and appendices of this Ordinance. This Ordinance shall be known and may be cited as “Bartow County Zoning Ordinance.”

ARTICLE II

PURPOSES

In addition to the specific purposes stated in connection with the sign ordinance provisions and the adult establishment provisions, both of which enjoy special protections under the First Amendment, it is the purpose of this entire zoning ordinance to promote the public health, safety, and welfare of the citizens of Bartow County and visitors thereto. To these ends, this ordinance is intended to achieve, and is enacted for, the following purposes:

- (A) To guide and regulate the orderly growth, development, redevelopment and preservation of Bartow County in accordance with a well-considered comprehensive plan and with long-term objectives, principles and standards deemed beneficial to the interest and welfare of the people.
- (B) To protect the established character and the social and economic well-being of both private and public property.
- (C) To promote, in the public interest, the wise utilization of land.
- (D) To provide for adequate light, air, convenience of access, and safety from fire, flood and other dangers.
- (E) To reduce or prevent congestion in the public streets.
- (F) To facilitate the creation of a convenient, attractive and harmonious community.
- (G) To encourage an aesthetically attractive environment, both built and natural, and to provide for regulations that protect and enhance these aesthetic considerations.

- (H) To expedite the provision of adequate police and fire protection, safety from crime, disaster evacuation, civil defense, transportation, water, sewerage, flood protection, schools, parks, forests, playgrounds, recreational facilities, airports and other public requirements.
- (I) To protect against destruction of, or encroachment upon, historic areas.
- (J) To protect against overcrowding of land, overcrowding of population in relation to the community facilities existing or available, obstruction of light and air, danger and congestion in travel and transportation, and loss of life, health or property from fire, flood, or other danger.
- (K) To encourage economic development activities that provide desirable employment and enlarge the tax base.
- (L) To promote the preservation of the unique natural and physical resources of the county including forested areas, riverbeds, stream beds, and archaeological sites.
- (M) To achieve compliance with all applicable state and federal regulations.
- (N) To provide for protection of the constitutional rights and obligations of all citizens within the county.

ARTICLE III

DEFINITIONS

Sec. 3.1 INTERPRETATION OF CERTAIN TERMS AND WORDS

For the purpose of interpreting this Ordinance, certain words or terms used herein shall be defined as follows: Words used in the present tense include the future tense. Words used in the singular number include the plural, and words used in the plural include the singular. The word “person” includes a firm, association, organization, partnership, corporation, trust, and company as well as an individual. The word “lot” includes the word “plot” or “parcel.” The word “shall” is always mandatory. 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.” The word “maps,” “zoning map,” or “Bartow County Zoning Map” means the “Official Zoning Maps, Bartow County, Georgia.”

Sec. 3.2 DEFINITIONS

Except as specifically defined herein all words used in this ordinance shall carry their customary meaning as defined by a standard dictionary. See section 11.1 for additional definitions relating to signs. See section 12.2 for additional definitions relating to telecommunications towers. See Chapter 4 (Adult Establishments) of the Bartow County Code for additional definitions related to adult establishments.

AGRICULTURAL AND ANIMAL-RELATED DEFINITIONS:

As a matter of convenience, the following definitions relating to agriculture and animals are grouped together. Definitions contained herein may reference terms defined below under “Additional Definitions” and vice versa.

AGRICULTURE: All agricultural practices, subdivided into two sub-classifications: 1) horticulture and 2) raising or keeping livestock.

CHICKEN COOP: Any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, or similar birds, containing twenty (20) or less chickens or birds. A chicken coop is not a “major livestock enclosure” as long as it contains only 20 or less chickens or birds.

CHICKEN HOUSE: Any structure, building, shelter or other facility for raising, feeding, sheltering or maintaining chickens, or similar birds, containing more than twenty (20) chickens or birds. Any chicken house is a “major livestock enclosure.”

HORTICULTURE: The raising of crops, flowers, fruit, produce, plants, turf, trees, shrubs, and the like for purposes other than personal consumption or use (i.e., for commercial or industrial purposes, scientific purposes, for sale or income, etc.). Examples include, but are not limited to, row crops, fruit orchards, sod farms, tree farms, hydroponic farms, and commercial greenhouses, and shall include all associated activities.

KENNEL: Any building, structure or facility, or any series of buildings, structures or facilities on one lot, where more than a total of eight (8) dogs are kept, raised, fed, sheltered or otherwise maintained, whether for personal, commercial or any other purposes. See Section 14-19 of the Bartow County Code for further regulations relating to dog enclosures, and for general regulations on keeping of dogs.

LIVESTOCK: All animals of the equine (Family: Equidae), bovine (Family: Bovidae), or swine (Family: Suidae) type (or similar animals), including, but not limited to, goats, sheep, mules, horses, hogs, pigs, and cattle; all poultry, including chickens, roosters, hens and similar birds; other birds raised or kept such as pigeons; other grazing animals; all raptives, including, but not limited to, ostriches, emus, and rheas; non-traditional livestock including, but not limited to, bison, deer, buffalo, alpaca and llamas; and other similar animals raised for profit or use, but not including dogs or cats. Livestock shall also include, but not be limited to, definitions under O.C.G.A. § 4-4-1.1 for “livestock” and O.C.G.A. § 4-4-80 for “poultry.” Livestock is not permitted in any district other than A-1, except for the limited horse exception in RE-1 and RE-2. The term livestock or livestock animal shall include insects being used for food, food product or fiber production, including but not limited to, honey bees.

LIVESTOCK ENCLOSURE: Any structure, building, shelter, or other facility used for keeping, raising, feeding, sheltering or otherwise maintaining livestock. Fenced grazing land and fenced pasture for horses, cattle and other grazing animals shall not be included in this definition. A “major livestock enclosure” is any structure designed to hold, or holding, more than eight (8) livestock animals. A “minor livestock enclosure” is any structure designed to hold, or holding, eight (8) or fewer livestock animals.

MEAT PROCESSING FACILITY: A facility to process cattle, swine or other livestock (other than chicken) into meat products or carcasses for sale as food or feed; e.g., a slaughterhouse, rendering plant, or similar facility. Permitted in A-1 as conditional use or I-2. Chicken processing facilities are separate uses permitted only in I-2.

RAISING OR KEEPING LIVESTOCK: The raising or keeping of livestock for any purposes, commercial or personal. Examples include, but are not limited to, raising chickens

or goats, chicken coops or houses, hog pens, cattle barns, commercial stables, private stables, livestock enclosures, and cattle or sheep or other livestock grazing, and shall include all associated activities.

ADDITIONAL DEFINITIONS:

ACCESSORY DWELLING UNIT: A detached dwelling unit (such as a guest house, pool house or garage apartment) located on the same lot with a single-family dwelling unit. The square foot area of a guest house may not exceed fifty (50) percent of the heated and finished floor area of the principal building or one thousand (1,000) square feet in floor area, whichever is less, and may be used only by family members or guests without payment or consideration.

ACCESSORY USE: A use located on the same lot as the principal use, which is clearly incidental and secondary to the permitted use and which does not change the character of such use, including, but not limited to, private garages, bathhouses, greenhouses, tool sheds, storage buildings, or similar.

ADULT ESTABLISHMENT: An “adult arcade,” an “adult bookstore,” an “adult motion picture theater,” a “semi-nude lounge,” or a “sex paraphernalia store” as those terms are defined in Chapter 4 (Adult Establishments) of the Bartow County Code.

ALLEY: A minor way, public or private, used for service access to the back or side of properties otherwise abutting a street.

APARTMENTS: A multi-family residential use of five (5) or more attached dwelling units for which rent is paid and no fee title is conveyed.

ASSEMBLY PLANT: A facility that performs the fitting together, or assembling of pre-manufactured parts into a complete article, sub-assembly, or product. A “heavy assembly plant” assembles products that exceed 200 pounds per unit (e.g. cars, motorcycles, etc.) or does not have a completely enclosed production line. These definitions shall not apply if a more specific use, term or definition is contained in this Ordinance.

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

BUILDING: Any structure intended for shelter, housing, or enclosure of persons, animals, chattels or property, and usually having a roof supported by columns or by walls.

BUILDING, ACCESSORY: A detached structure designed for the use of which is clearly incidental to and subordinate to the principal structure or use of the land, and which is located on the same lot as the principal structure or use.

BUILDING, PRINCIPAL: A building in which is conducted the main use of the lot on which said building is located.

COMMERCIAL or COMMERCIAL OPERATIONS: An activity undertaken for profit, income, or other business purposes, including sales or manufacture of goods or items; including sale of animals, and including boarding and breeding of animals, and similar activities.

COMMERCIAL VEHICLE: A duly licensed and registered vehicle used to transport passengers or property to further a commercial enterprise. A commercial vehicle must not be used as an office nor have customer entry for a retail transaction. For purposes of this Ordinance the following are also commercial vehicles: vehicles of more than 10,000 pounds gross vehicle weight; vehicles with a manufacturer's rated load capacity of more than ¾ ton; vehicles registered as commercial vehicles, common carriers, motor common carriers, or classified as "for hire" by the State of Georgia, other States, or the ICC; or a freight trailer, semi-trailer, flatbed, tanker trailer, log trailer or other commercial trailer exceeding 12 feet in length. A recreational vehicle, farm machine or farm vehicle for agricultural uses is not a commercial vehicle. See Sec. 6.8 for further regulations.

CONDITIONAL USES: A use not ordinarily permitted but which may be permitted upon the imposition of conditions related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use; height, setback and other non-use requirements; physical improvements to the property and infrastructure serving the property. A conditional use must be approved in the same manner as a rezoning request prior to the issuance of a permit. See Article XVI.

CONDITIONAL ZONING: The imposition of conditions in the grant of a rezoning application which are in addition to or different from the regulations set forth in this zoning ordinance and which are related to the promotion of the public health, safety, morals or general welfare and designed to minimize the negative impact on surrounding lands. Such conditions may include, but are not limited to, restrictions on land use, height, setbacks and other non-use requirements, physical improvements to the property and infrastructure serving the property.

CONDOMINIUM: Individual ownership units in a multi-family structure, combined with joint ownership of common areas of the building and grounds, or otherwise meeting the definition of Condominium in the Georgia Condominium Act, Title 44, Chapter 3, Article 3.

CONVENTIONAL SINGLE-FAMILY HOUSING (SITE-BUILT HOME): A dwelling unit constructed on the site from materials delivered to the site, constructed in accordance with the applicable Standard Building Codes.

COUNTY: Bartow County, or the Commissioner of Bartow County, or the Commissioner's designee.

DEVELOPER: The owner of, or person responsible for, a development.

DEVELOPMENT, or "TO DEVELOP": Subdividing a tract of land into three or more lots whether for sale or rental, whether for commercial, industrial, office or residential purposes, or some combination thereof. It shall also include redevelopment of existing development. It shall also include the construction of any commercial, industrial, multi-family or office building or structure, even if on a single lot, and shall include the construction of a manufactured house park. In order that the purposes of this ordinance shall not be evaded by piecemeal development or subdivision, subdividing a tract of land existing on November 9, 2005 into two tracts shall not be a development, but any further split of either tract shall be a development.

DWELLING: A building or other structure designed, arranged, or used for temporary or permanent living quarters for one or more persons.

DWELLING UNIT: A building or portion thereof, providing complete living facilities for one family.

EASEMENT: A grant by a property owner of the use of land for a specific purpose or purposes by the general public, a corporation, or a certain person or persons.

ENCLOSURE: A structure with four sides and a roof designed to enclose and shelter animals, persons or objects.

FAMILY: An individual or two (2) or more persons related by blood, marriage, or adoption living together in a dwelling unit; or a group of not more than six (6) persons who need not be related by blood, marriage, or adoption, living together in a dwelling unit. For purposes of this Ordinance, “a family” may include five (5) or fewer foster children placed in a family foster home licensed by the State of Georgia, but shall not include fraternities, sororities, nursing homes, or rest homes.

GREENSPACE: Any parcel of land or water essentially unimproved and set aside, dedicated, designated, or reserved for public or private use or enjoyment, or for the preservation and protection of environmentally sensitive land areas or natural features. Excludes streets, drives, yard, and structures.

GROUP HOME FOR PERSONS WITH A DISABILITY: A residence in which three or more persons with a disability reside and which is licensed by the State Department of Human Resources as a personal care home under Title 31. See Sec. 9.1 for further regulations.

HEALTH DEPARTMENT: The Bartow County Health Department, which reports to the Bartow County Board of Health.

HOME OCCUPATION: Any use customarily conducted within the principal dwelling and carried on solely by the occupant thereof. See Section 6.4 for further regulations.

HOTEL: Building(s) or structure(s) typically multi-story, providing multiple residential dwelling units for typically short-term rental (two weeks or less), with interior access to the units.

INDUSTRIALIZED HOUSING: A factory fabricated dwelling or commercial unit built in one or more sections designed to fit together on a foundation but which usually does not originally have wheels for movement and which is constructed in accordance with the Georgia Industrialized Building Act (O.C.G.A. § 8-2-110) and which bears the seal of approval issued by the Commissioner of Community Affairs.

INDUSTRY, GENERAL: The manufacture, assembly, repair, processing, testing or packaging of finished products, predominantly from previously prepared materials or from raw materials; includes processing, fabrication, incidental storage, and distribution of such products. In general, such uses shall occur entirely or almost entirely within an enclosed structure. Without restricting the generality of the foregoing, this would include for example: assembly plants, feed processing plants, soft drink bottling and distribution plants, beer and liquor distribution plants, carpet manufacturing plants, and similar facilities. In

cases of facilities not clearly falling into this definition, the Zoning Administrator shall determine whether a facility is general industry or heavy industry.

INDUSTRY, HEAVY: A large-scale industrial manufacturing or processing activity, including especially the manufacturing or processing of raw materials for other industry, businesses or uses. Without restricting the generality of the foregoing, this would include for example: plants for the manufacture of petroleum products, pulp and paper products, stone, clay, and glass products, cement and lime products, fertilizers, animal by-products; and plants which will be engaged in the primary metal industry, metal processing, or the processing of natural gas or its derivatives. This would also include plants and facilities involved in the production (or processing) of intrinsically dangerous materials or products such as explosives, acids, and the like. In cases of facilities not clearly falling into this definition, the Zoning Administrator shall determine whether a facility is general industry or heavy industry.

INSTITUTIONAL-RESIDENTIAL USES: Uses that provide residential living space or dwelling units for persons in an institutional or group setting, whether for day care, 24-hour care or unassisted living, specifically defined as one of the following types: Assisted-Living Facility, Adult Day Care, Child Day Care, Homeless Shelter, Home for the Aged, Hospice, Nursery School, Nursing Home, Group Home, Protective Housing Facility, Rehabilitation/Treatment Facility, Residential Treatment Center, Rest Home, Retirement Home, and Shelter Care Facility. See Sec. 9.1 for further applicable regulations.

JUNK YARD (SALVAGE YARD; SCRAP YARD): Any use involving the storage or disassembly of wrecked automobiles, trucks, or other vehicles; storage, baling or otherwise dealing in bones, animal hides, scrap metal, commercial/residential appliances, used paper, used cloth, used plumbing fixtures and used brick, wood, or other building materials. Such uses shall be considered junk yards whether or not all or part of such operations are conducted inside a building or in conjunction with, addition to, or accessory to, other uses of the premises. See Section 9.6 for additional regulations.

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

LAND DISTURBANCE PERMIT: A permit granted under the Bartow County Soil Erosion and Sedimentation Control Ordinance that provides the authorization necessary to conduct a land-disturbing activity under the provisions of that Ordinance and this Ordinance.

LANDFILL: An area of land on which or an excavation in which solid waste is placed for permanent disposal. See Sec. 9.4 for further regulations.

LINE, LOT: The boundary line of a lot.

LINE, YARD: A line drawn parallel to a lot line at a distance therefrom equal to the depth of the required setback.

LOT: A developed or undeveloped tract of land having defined boundaries and legally transferable as a single unit of land; does not refer to public rights-of-way.

LOT OF RECORD: A lot that was in compliance with ordinances and regulations in

existence at the time the lot was created. Illegal lots that were created in violation of regulations existing at the time of creation are not lots of record. The following are lots of record:

- (A) Any lot described in a deed, survey, or final subdivision plat that was recorded in the office of the Bartow County Clerk of Court before September 22, 1993, the date of first adoption of a Zoning Ordinance in this County, and was not otherwise illegal at the time of creation.
- (B) Any lot described in a deed, survey, or final subdivision plat that was recorded after September 22, 1993 and before the date of adoption of this Ordinance, and which complied with the Zoning Ordinance in effect *at the time of the lot's creation*, even if it does not comply with the provisions of this Ordinance.
- (C) Any lot described in a deed, survey, or final subdivision plat that was recorded after the date of adoption of this Ordinance, and which complies with the requirements of this Ordinance.

LOT, DEPTH OF: The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

LOT, WIDTH OF: The distance between side lot lines.

MANUFACTURED HOUSE (MOBILE HOME): A detached, single-family dwelling unit designed for long-term occupancy and constructed in one or more units with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made. See Sec. 10.3 for further regulations.

MANUFACTURED HOUSE, MULTI-UNIT: A detached single-family dwelling unit constructed in two or more units with similar marriage walls with wheels for movement (whether or not such wheels are later removed) and which has plumbing and electrical connections provided for attachment to outside systems, whether or not such unit is subsequently installed on a foundation or other internal or external changes are made.

MANUFACTURED HOUSE PARK: A parcel of land which has been planned and improved for the placement of at least two manufactured houses for non-transient use. See Sec. 10.3 and the R-6 District (Sec. 7.8) for further regulations.

MANUFACTURED HOUSE STANDS: That area of a manufactured house lot which has been reserved for the placement of a manufactured house.

MINING: The extraction of ore or minerals from the earth by various methods, including but not limited to blasting and excavating. For purposes of this ordinance, "mining" shall include all methods of drilling for oil, natural gas or other hydrocarbons, but not drilling for water.

MOTEL: Building(s) or structure(s) of typically one or two stories height providing multiple residential dwelling units typically for short-term rental (two weeks or less), with adjacent parking and external access to each unit.

NON-CONFORMING USE: A lawful use of or vested right to use any building, structure or land existing at the time of the adoption of this Ordinance or the adoption of any amendment thereto. See Section 6.1 for further regulations.

OPEN SPACE: An area that is not used for or occupied by a driveway, an off-street parking area, a loading space, a yard, a refuse storage space, or a building.

ORDINANCE: This Ordinance and all amendments thereto including the Official Zoning Maps of Bartow County.

PLACE OF WORSHIP: A structure which is intended for conducting organized religious services for organizations with tax-exempt status, with no overnight facilities. Secondary uses such as child care, senior services, professional counseling, hospices, schools, rehabilitation services, or similar uses are not included in the definition. A place of worship does not include organizations that violate federal, state, or city laws or codes.

PLANNED UNIT DEVELOPMENT (PUD): A planned development on a minimum of 20 acres with a minimum lot size of 7,500 square feet and without regard to the segregation of housing types or uses and which may include multiple uses within the same tract. See Sec. 7.15 for further regulations.

PLAT: A map, plan or layout of a county, city, town, lot, section, subdivision or development indicating the location and boundaries of properties.

PRINCIPAL USE: The specific, primary purpose for which land or a building is used.

PUBLIC UTILITY: A utility regulated by the Georgia Public Service Commission.

RECREATIONAL VEHICLE: A camper, camp trailer, travel trailer, house car, motor home, trailer bus, trailer coach or similar vehicle, with or without motive power, designed for human habitation for recreational or emergency occupancy. Where a recreational vehicle is on or attached to a trailer used to carry or tow said vehicle, they shall together be considered one recreational vehicle. A recreational vehicle shall not include a pickup truck used for transportation to which a camper shell has been attached. See Article VI for further regulations.

REDEVELOPMENT: The process of developing property that has previously been developed. See "Development."

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

RIGHT-OF-WAY LINE (also "R/W"): The dividing line between a lot, tract or parcel of land and a contiguous right-of-way.

SETBACK: The open space between the lot line and the yard line, which shall be unobstructed by any structure other than as expressly permitted in this Ordinance. See Sec. 5.4. Where a distinction is made between an "external setback" and an "internal setback," "external setback" refers to the setback from external boundary lines and rights-of-way, and

“internal setback” refers to spacing between multiple buildings on one larger lot (e.g., apartment buildings or townhomes).

SIGN: Any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices. See Article XI for further sign regulations and definitions.

SOLAR POWER GENERATION FACILITY: An assembly of equipment that converts sunlight into electricity and then stores and/or transfers that electricity. Solar power generation facilities are allowed as a primary use in the A-1, I-1 and I-2 districts, with the granting of a conditional use permit. Other solar power uses, such as panels on a residential or other primary structure, are allowed as an accessory use.

STREET: A way for vehicular traffic, whether designated as an avenue, road, boulevard, highway, expressway, lane, alley or other way.

STRUCTURE: Anything constructed or erected, the use of which requires location on the ground, or attachment to something having location on the ground.

“**TO SUBDIVIDE**”: Dividing a tract of land into three or more lots.

SUBDIVISION: A tract of land divided into three or more lots.

SWIMMING POOL: Any structure intended for swimming or recreational bathing that contains water over 36 inches deep. This includes in ground, above ground, and on ground swimming pools, but this definition does not include inflatable temporary pools. See Sec. 6.15 and the Bartow County Building Code Ordinance for additional regulations.

TOWNHOUSE: A multi-family residential use consisting of three (3) or more attached dwelling units for which fee simple title is conveyed and for which an incorporated mandatory homeowners’ association is provided.

TRAVEL TRAILER / CAMPER: See “Recreational Vehicle.”

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

YARD: An open space on the same lot with a principal building open, unoccupied, and unobstructed by buildings or structures from ground to sky except where encroachments and accessory buildings are expressly permitted.

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

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

YARD, SIDE: An open, unoccupied space on the same lot with a principal building, situated

between the building and the side lot line of the lot and extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a side line.

ZONING ADMINISTRATOR: The Community Development Director of Bartow County, or a duly authorized representative.

ZONING MAP(S): The Official Zoning Maps, Bartow County, Georgia. See Section 4.2.

ARTICLE IV

ESTABLISHMENT OF ZONING DISTRICTS

Sec. 4.1 DIVISION INTO DISTRICTS

For the purpose of this Ordinance, Bartow County is divided into zoning districts designated as follows:

- . A-1 Agricultural District
- . RE-1 Rural Estate District (conventional or industrialized single-family)
- . RE-2 Rural Estate District (conventional, manufactured or industrialized single-family)
- . R-1 Residential District (conventional or industrialized single-family)
- . R-2 Residential District (conventional, manufactured or industrialized duplexes, triplexes, or quadraplexes)
- . R-3 Residential District (multi-family conventional, manufactured, or industrialized housing)
- . R-4 Residential District (conventional, manufactured or industrialized single-family)
- . R-6 Manufactured Housing Parks District
- . O/I Office and Institutional District
- . C-N Neighborhood Business District
- . C-1 General Business District
- . I-1 General Industrial District
- . I-2 Heavy Industrial District
- . M-1 Mining District
- . PUD Planned Unit Development District
- . BP Business Park District
- . R-7 Residential District (high-density multi-family housing)

Special Districts

- . Conservation Subdivision
- . Etowah Valley Historic District

Complete district regulations can be found in Article VII, and further applicable regulations can be found throughout this Ordinance.

Sec. 4.2 DISTRICT BOUNDARIES; OFFICIAL ZONING MAPS

The boundaries of each district are as shown on a series of maps which collectively are entitled "Official Zoning Maps, Bartow County, Georgia" and certified by the Zoning Administrator. Said maps and all explanatory matter thereon are hereby made a part of and incorporated into this Ordinance by reference. Said maps shall be retained in the office of the Zoning Administrator of Bartow County and are available for public inspection during the business hours of the zoning office, which is located in the Frank Moore Administrative and Judicial Center, 135 W. Cherokee Avenue, Cartersville.

Sec. 4.3 RULES FOR DETERMINING BOUNDARIES

Where uncertainty exists with respect to the boundaries of any of the aforesaid districts as shown on the Zoning Maps or Future Land Use Map, the following rules shall apply:

- 4.3.1 Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines, or highway rights-of-way lines, such center lines, street lines, or highway rights-of-way lines shall be construed to be such boundaries.
- 4.3.2 Where district boundaries are so indicated that they approximately follow lot lines, such lot lines shall be construed to be said boundaries.
- 4.3.3 Where district boundaries are so indicated that they are approximately parallel to the center lines of streets, highways, railroads, or rights-of-way of same, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the map. If no distance is given, such dimension shall be determined by the use of the scale shown on said map.
- 4.3.4 Where a district boundary line, as appearing on a map, divides a lot in single ownership at the time of this enactment into two or more classifications, the district requirements for the larger portion shall apply to the entire lot.
- 4.3.5 It is recognized that discrepancies or conflicts can occur between the official zoning maps and the official County Clerk's records (minutes) of actions taken by the Commissioner with respect to a specific parcel, either because of scriveners' errors or in amendment of the official maps. In the event such a discrepancy or conflict, the official County Clerk's records shall prevail.

Sec. 4.4 FUTURE LAND USE MAP

By this Section, the Future Land Use Map adopted by resolution of the Commissioner on December 6, 2006 and as thereafter amended, is established as the official policy of the county concerning proposed land uses, under which the unincorporated areas of the county are divided into land use categories.

Sec. 4.5 FUTURE LAND USE MAP DISTINGUISHED FROM ZONING

The Future Land Use Map does not alter or affect the existing zoning districts in the county, does not effectuate an amendment to the official zoning map, and does not itself permit or prohibit any existing land uses. However, it is the policy of the County to make every effort to keep zoning districts consistent with the Future Land Use Map classifications.

Sec. 4.6 LAND USE DISTRICTS

The boundaries of the various land use districts are shown upon the future land use map and shall be used as a guide for decision making by the County.

Sec. 4.7 INTERPRETATION OF LAND USE DISTRICT BOUNDARIES

Where uncertainty exists as to the boundaries of any land use districts shown on the Future Land Use Map, the rules set forth in Section 4.3 shall apply.

Sec. 4.8 RELATIONSHIP BETWEEN LAND USE CATEGORIES AND ZONING DISTRICTS

It is the goal of the County that the land use categories established by the Future Land Use

Map are to be implemented with appropriate zoning classifications, and that rezonings should be kept consistent with the Future Land Use Map wherever possible. If a zoning district is not listed as permitted in a land use district, application should first be made to change the land use district prior to amending the zoning district. Such applications can proceed simultaneously, but it is the goal of the County that no property should be zoned to a classification inconsistent with its land use district. However, the County Commissioner has the power to grant rezonings inconsistent with the Future Land Use Map, which is only a policy guideline.

The land use categories established by the Future Land Use Map are to be implemented by the establishment of appropriate zoning districts within each category. The following zoning districts are considered most compatible with the listed land use district:

- (A) Low density residential: R-1, R-2, R-4, RE-1, and RE-2.
- (B) Medium/high density residential: R-3, R-6.
- (C) Rural Estate: RE-1, RE-2; also R-1 and R-4, excluding R-1 or R-4 subdivisions of three or more lots.
- (D) Residential/mixed use: Predominantly R-1, R-2, R-3, R-4, R-6, PUD; also allows C-1, C-N, O/I.
- (E) Commercial: C-1, C-N, O/I.
- (F) Commercial/mixed use: Predominantly C-1, C-N, O/I; also allows R-1, R-2, R-3, R-4, R-6, PUD.
- (G) Industrial: I-1, I-2, BP.
- (H) Mining: M-1.
- (I) Agriculture: A-1; also R-1, R-4, RE-1, RE-2, excluding any R-1, R-4, or RE subdivisions of three or more lots.
- (J) Public/institutional: A-1, RE-1, RE-2, R-1, R-2, R-3, R-4, R-6, O/I, C-N, C-1, I-1, I-2, M-1.
- (K) Park/recreation/conservation: A-1, RE-1, RE-2, R-1, R-2, R-3, R-4, R-6.
- (L) Forestry: A-1; also R-1, R-4, RE-1, RE-2, excluding R-1, R-4 or RE subdivisions of three or more lots.

ARTICLE V

GENERAL REGULATIONS FOR LOTS

Sec. 5.1 USE; APPLICABLE ORDINANCES

- 5.1.1 No building, structure, land, lot or portion of a lot shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered, unless the use or occupancy is in conformity with the codes and ordinances in effect in Bartow County at the time a permit is issued, or application made for a permit, and all of the regulations herein specified for the district in which it is located. Nonconforming uses are discussed in Sec 6.1.
- 5.1.2 There shall be only one principal use per lot. Only accessory uses that are accessory to that principal use shall be permitted. See also Sec. 5.3.
- 5.1.3 This Ordinance regulates zoning. The Bartow County Building Code Ordinance and the County Building Inspections Department should be consulted for applicable State Standard Minimum Codes applying to construction, repair and renovation. The Bartow County Board of Health and the Bartow County Health Department should be consulted for applicable health regulations relating to on-site sewage management systems (i.e., septic systems) and regulation for swimming pools, food service, tourist courts and other potentially applicable regulations. Development shall be in accordance with the Bartow County Development Regulations, and the Engineering Department should be consulted for those requirements.

Sec. 5.2 YARDS

- 5.2.1 Yards must remain open space, unobstructed by buildings or structures, except as otherwise permitted, such as accessory buildings in the rear or side yard.
- 5.2.2 No part of a yard, or other open space, or off-street parking or loading space required about, or in connection with, any building for the purpose of complying with this Ordinance, shall be included as part of a yard, open space, or off-street parking or loading space similarly required for any other building.

Sec. 5.3 PRINCIPAL USE; ACCESSORY BUILDINGS

- 5.3.1 Only one principal use is permitted per lot or tract.
- 5.3.2 Every building or structure hereafter erected shall be located on a lot or tract as defined herein and there shall not be more than one principal building on one lot, plus its accessory buildings.
- 5.3.3 Accessory buildings and structures in residential zoning districts or ancillary to residential use are permitted only in the side or rear yard and shall not be less than ten (10) feet from the side and rear property lines, and shall also meet all buffer requirements, if applicable. No part of an accessory structure may be built closer to the street than the existing front building line of the principal structure. On lots

of less than two (2.0) acres, there shall be no more than three (3) accessory buildings, including any detached garages. Accessory buildings are not permitted on residential lots without a primary structure. On lots less than two acres, no accessory structure shall exceed fifty (50) percent of the size of the principle building or structure.

- 5.3.4 Temporary accessory structures (for example, mobile storage containers) may be located in any yard (including front yards) for no longer than fourteen (14) days. After that time period, any such structure must be removed.
- 5.3.5 Accessory Dwelling Units (such as a guest house, pool house or garage apartment) are allowed in residential zoning districts with the following standards:
- A. No more than one (1) accessory dwelling unit per lot. A single-family dwelling unit must exist on the lot or be constructed in conjunction with the accessory unit.
 - B. The structure shall be owner-occupied or by relatives or guests only, and cannot be used as rental property.
 - C. Heated floor area shall not exceed fifty (50) percent of the heated floor area of the principal building, or one thousand (1,000) square feet, whichever is less.
 - D. The structure must meet all accessory building setbacks and not be located closer to the street than the principal building.
 - E. The structure shall not exceed the height of the principal building on the lot.
 - F. The accessory unit shall not be sold separately or be subdivided or otherwise segregated in ownership from the principal dwelling unit, or the land on which the principal dwelling unit is located.
 - G. The unit must have a living or sleeping quarters and sanitation facilities.
 - H. An accessory dwelling unit shall comply with the standard building codes as set forth in Section 18-31 of the Bartow County Building Code.

Sec. 5.4 SETBACKS AND RIGHTS-OF-WAY

- 5.4.1 No building or other structure may be erected in a front, side or rear setback, except for driveways, walkways, structural retaining walls, and patios (but not elevated decks, or cantilevered overhangs). Eaves and stairs may protrude no more than three feet into a setback.
- 5.4.2 On lots having frontage on more than one street in any district, the front setback figure shall apply to each street.
- 5.4.3 The Zoning Administrator shall be empowered to grant an administrative variance (under Sec. 14.1) to the internal development setbacks for lots abutting new streets in new developments, but not for lots abutting external boundary lines or existing streets.

Sec. 5.5 LOTS; CREATION OF ILLEGAL LOTS

- 5.5.1 Lot Reduction. It is not permitted to reduce an existing lot below minimum standards. Specifically, no lot shall be reduced in size so that the mandatory lot frontage or depth; front, side or rear yard; width at building line; or lot area are not maintained. Lots of record that do not meet existing standards may not be reduced. This section shall not apply when a portion of a lot is acquired for public purposes.
- 5.5.2 Illegal Lots. It is not permitted to split or subdivide any lot if any of the resultant lots are under the minimum size lot allowed in the zoning district. Creation of a new lot under the minimum size requirement of the relevant zoning district is not permitted, nor is leaving a remnant under the minimum size requirement. It is not permitted to reduce an existing lot's size under the minimum size requirement. Any subdivision or creation of a substandard lot is illegal, and shall not create any vested right nor permit any non-conforming use.
- 5.5.3 Substandard Single Lots. Where the owner of a lot of record or his successor in title thereto does not own sufficient land to enable him to conform to the dimensional requirements of this Ordinance, such lot may be used as a building site for a single-family residence in a district where residences are permitted.
- 5.5.4 Substandard Adjoining Lots. If two or more adjoining lots with continuous frontage are in a single ownership at any time after September 22, 1993 (the date this provision was initially imposed) and such lots individually are too small to meet the yard, width, and area requirements of the district in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and the lot or lots in one ownership shall be subject to the requirements of this Ordinance.
- 5.5.5 **The County reserves the right to take legal action to reverse illegal lot creations, illegal lot splits, or other actions in violation of this section, including creation of substandard-sized lots or remnants.**

Sec. 5.6 ROAD FRONTAGE RESTRICTIONS; PRIVATE DRIVEWAYS AND EASEMENTS

- 5.6.1 No new lot shall be created, nor shall any principal building be erected, on any lot which does not have immediate frontage, of a minimum amount as specified below, on at least one existing public road (meaning a County road or State highway) or on a newly created internal street in a development. The only exception to this requirement is detailed below in Sec. 5.6.7. The minimum road frontage requirements are defined below based on the underlying zoning district.
- 5.6.2 A-1. For existing tracts of land zoned A-1, and located on existing public roads, a minimum of 200 feet of road frontage is required. For new developments in A-1 with internal streets, a minimum of 100 feet of road frontage is required, 50 feet on cul-de-sacs.
- 5.6.3 R-1, R-2, R-3, R-4. For existing tracts of land zoned R-1, R-2, R-3 or R-4, and located on existing public roads, a minimum of 200 feet of road frontage is

ARTICLE VI

REGULATION OF PROPERTY

Sec. 6.1 CONTINUANCE OF A NON-CONFORMING USE

Any pre-existing lawful non-conforming use of or vested right to use any building, structure or land existing at the time of the adoption of this Ordinance (September 22, 1993), or the adoption of any amendment hereto, may be continued subject to the restrictions contained in this Ordinance, even though such use does not conform with the regulations of this Ordinance, except that:

- 6.1.1 A non-conforming use or structure shall not be changed to another non-conforming use.
- 6.1.2 A non-conforming use or structure shall not be expanded, extended, or enlarged beyond the area of use, size of operation, and/or the size of the structures existing at the time the use became non-conforming. A non-conforming use cannot be expanded onto another parcel or tract of land. A non-conforming use on a portion of a single lot or tract of land may not be expanded even within that lot or tract of land to portions that were not in use at the time the use became non-conforming. For example, if a non-conforming junk yard (including all offices, junk cars, equipment and other piles of junk) was occupying 10 acres of a 50-acre tract of land when it became non-conforming, the use may not be expanded onto the other 40 acres. Similarly, no building containing a non-conforming use can be expanded or enlarged.
- 6.1.3 A non-conforming use or structure shall not be re-established after discontinuance for one year regardless of any reservation of an intent not to abandon.
- 6.1.4 A non-conforming use or structure shall not be rebuilt, altered, or repaired except as provided herein:
 - (A) If the structure is altered or repaired, said alterations or repairs shall be in conformity with the building codes in force at the time of said alteration or repair; provided, however, that said alteration or repair shall not extend or enlarge the structure being altered or repaired;
 - (B) If the structure is totally rebuilt, the replacement structure shall conform to all the requirements of this Ordinance, except as to the district; provided, however, said replacement structure may not occupy an area greater than the replaced structure. However, the replacement of a single family home (including site-built and manufactured homes) must meet all current requirements of Section X of the Zoning Ordinance.
- 6.1.5 Uses and structures made non-conforming by new provisions in this Ordinance shall be limited to the area of use, size of operation, height, and/or size of structures as existing on the date of adoption of this Ordinance.

6.1.6 Uses and structures made non-conforming by prior versions of this Ordinance shall be limited to the area of use, size of operation, height and/or size of structures as existing on the date of adoption of the relevant provision by the prior Ordinance.

Sec. 6.2 OPERATION OF BUSINESS FROM RESIDENTIAL DISTRICT PROHIBITED

Unless specifically permitted as a use under the applicable provision of Article VII, no business or commercial enterprise may operate in a residentially-zoned district, including A-1 and any R district. Operation of a business or commercial enterprise shall include, but not be limited to, such activities as: having employees report to work at the property; storing commercial vehicles at the property; parking commercial vehicles at the property (other than as specifically permitted by Sec. 6.8); conducting any manufacturing or assembly at the property; retail or wholesale sales of any sort; providing any service, maintenance or repair at the property (other than permitted home occupations); and storage of any materials, supplies, products, or components at the property. Home offices and home occupations are permitted as shown in Sec. 6.3 and 6.4.

Sec. 6.3 HOME OFFICES

Home offices are permitted in any home, allowing the occupant to work from home, or to manage a business licensed as a “mobile business.” No customers, suppliers or vendors shall be permitted at a home office. Employees are not permitted to report to work, receive assignments, or pick up vehicles at a home office. No non-resident of the home may work in the home office (i.e., no outside employees may work in the office). See also Sec. 6.2. Home occupations are permitted as stated in Section 6.4.

Sec. 6.4 HOME OCCUPATIONS

Home Occupations are permitted in zoning districts as listed in Article VII. No home occupation shall occupy more than thirty (30) percent of the heated floor space of the principal use building. No separate building or structure may be constructed to house a home occupation. A home occupation must be a use that is clearly incidental and secondary to the use of the dwelling as a residence and that does not change the character thereof or reveal from the exterior that the dwelling is being used in part for other than a residence. No non-resident of the home may work in the home occupation (i.e., no non-resident employees). There shall be no display, stock in trade, or commodity sold on the premises, and no mechanical equipment used except such as is commonly used for purely domestic household purposes. Such permissible occupations include, in general, such personal services such as are furnished by a musician, artist, seamstress, cook, or laundress, consultant, telecommuter, or other occupation which does not generate non-residential traffic nor has non-occupant employees, but shall not include such uses as barbershops, beauty parlors, tea rooms, animal hospitals, animal grooming, or a wholesale, retail or manufacturing business. No signs related to the home occupation are allowed.

Sec. 6.5 RESIDENTIAL LIVING ONLY PERMITTED IN PERMANENT STRUCTURES

No lot may be used for temporary or permanent residential living quarters unless a permanent dwelling unit has been lawfully erected on the lot, pursuant to the provisions of this Ordinance and applicable building and safety codes. Indications that a property is being used as temporary or permanent residential living quarters include actions such as spending significant time at the location on more than one day, repeated eating and sleeping at the

location, and performing other life activities at the location repeatedly.

Tents, boats, RVs and other structures that are not permitted permanent dwelling units cannot be occupied either on a permanent or temporary basis on a residential lot, except that tents may be occupied for no more than three (3) days in any two-month period when erected in the rear yard of a permanent dwelling unit.

Sec. 6.6 OCCUPANCY OF RECREATIONAL VEHICLES

No recreational vehicle shall otherwise be occupied as a temporary or permanent residential living quarter except in conformance with this Section or the provisions of the Bartow County Campground Standards Ordinance.

Recreational vehicles can be occupied as temporary dwellings as a temporary accessory use, for no more than ten (10) days in any two-month period, only if there is a permanent dwelling unit as a principal use on the lot, and only if the vehicle is parked in conformance with this Ordinance. No more than one (1) recreational vehicle can be so occupied on the same lot.

Sec. 6.7 RECREATIONAL VEHICLE PARKING

Recreational vehicles parked in any residential zone or residentially-used area shall not be permitted to be parked in any required set-back or buffer area, nor in any front-yard area. Recreational vehicles on residential property shall only be parked in the side or rear yard, within setbacks, although the Zoning Administrator may administratively vary this requirement if there is not sufficient room in or access to the rear or side yards. No more than two (2) recreational vehicles shall be parked on any single residential lot.

Sec. 6.8 COMMERCIAL VEHICLE PARKING

- 6.8.1 No more than two (2) commercial vehicles (trailers counted separately if separated from a tractor) shall be parked on any single residential lot, or on any lot in any residentially-zoned lot, including A-1 or any R district. Commercial vehicles may not be parked on any residential lot without an occupied single-family dwelling, and may not be parked on vacant residential lots.
- 6.8.2 On A-1 zoned property of over five (5) acres that contains a working agricultural business, commercial vehicles related to such business may be parked.
- 6.8.3 Commercial vehicles parked in any residential zone (including A-1) or residentially-used area shall not be permitted to be parked in any required set-back or buffer area. Commercial vehicles on any lot under five (5) acres must be parked in the side or rear yard area. The Zoning Administrator shall be permitted to grant a hardship administrative variance to allow parking in a setback or front yard if no other room exists.
- 6.8.4 The Zoning Administrator shall be permitted to grant a hardship administrative variance to allow up to four (4) commercial vehicles to park on one (1) lot (for example, if four family members living there each drive a commercial vehicle home from work), but in no circumstance shall such variance be used to permit employees to report to a residential structure on a daily basis to pick up commercial vehicles for the company's operation.

Sec. 6.9 USE OF VEHICLE OR TRAILERS FOR STORAGE PROHIBITED

Neither vehicles (whether operable or inoperable) nor trailers (whether on or off their axles) may be used as storage buildings. This shall apply to all vehicles and trailers, including commercial vehicles, recreational vehicles, panel vans, tractor-trailer rigs, railroad box-cars, etc. However, tractor-trailer rigs and trailers may be used for temporary storage on property zoned C-1, I-1, I-2 or M-1, only by businesses operating on the same property. Temporary storage means no particular trailer may remain longer than three (3) months.

Sec. 6.10 OUTSIDE SALES, YARD SALES, OPEN AIR MARKETS

Outside sales are not permitted on any residentially-zoned or -used lot, except as provided in this section. Yard sales and garage sales (or carport sales) shall be permitted on any residential lot, no more frequently than once per calendar quarter. Such sale may not continue for more than 72 hours. Flea markets (i.e., where vendors other than the property owner sell goods) are not permitted in any zoning district in the County.

Sec. 6.11 APPEARANCE OF PROPERTY

In order to preserve the aesthetic beauty of Bartow County, and protect against nuisances, hazards, vermin and odor, among other hazards, and to preserve the property values of surrounding property, all property in Bartow County shall be required to comply with the following provisions:

- 6.11.1 All property (other than where explicitly permitted, such as a junk yard or salvage yard) must be free of the following: scrap metal; junked, inoperative or broken appliances (including engines and vehicles or parts of vehicles); junked, inoperative or broken equipment (such as lawn mowers, bicycles, machines); construction or demolition debris; other waste, garbage or refuse such as old tires, discarded carpet, discarded household furniture, bottles, cans, or similar; stumps, branches, dirt, and other debris from land disturbance and grading (except incident to a permit under the *Bartow County Soil Erosion and Sedimentation Ordinance* for the subject property and/or pursuant to lawful construction on the subject property); and household trash (except in a trash container). Such items may be kept in an enclosed building or enclosed garage erected pursuant to a building permit or otherwise lawfully permitted, but may not be kept in the open.
- 6.11.2 All property, whether residential, commercial or industrial, containing a grass lawn (for example fescue, rye, bluegrass, bermuda, zoysia or similar grasses), landscaping strips, or other landscaping must be maintained so that the grass is kept cut below the height of 12 inches, and so that shrubbery, weeds and other landscaping is kept cut to the point where no windows or doors in a structure are obscured or blocked. This shall include landscaping on the right-of-way. Grass fields grown for grazing or other agricultural purposes and sod farms shall be exempt, except that in no event shall the front and side yards of a residentially-used structure be exempt. In order to prevent vacant and undeveloped lots from becoming a nuisance, all grass and vegetation within 25 feet of the back of the curb or edge of pavement of any vacant or undeveloped lot (whether residential, commercial or industrial), must be kept cut below a height of 12 inches, except for

trees larger than two inches DBH which may be saved. This shall include vegetation on the right-of-way.

- 6.11.3 Storage of lumber, dumpsters, wood pallets, pipe, concrete blocks, other construction material, or other commercial material, or any commercial inventory (including products for sale, use or repair in off-site businesses), or materials associated with a commercial operation, shall be prohibited on residentially-zoned or residentially-used property, unless associated with or required by a permitted use on the property (including repair or construction of a structure that is itself a permitted use, e.g., construction of a single-family residence on said property).

Sec. 6.12 JUNK, ABANDONED, INOPERABLE OR UNREGISTERED VEHICLES

- 6.12.1 No automobile, vehicle or trailer of any kind or type, without a valid license plate attached thereto, shall be parked or stand on any residentially-zoned property or other zoned property unless it shall be in a completely enclosed building or on property properly zoned as a junk yard, except for such off-road vehicles which by law do not require a license plate, provided the same is in operating condition.
- 6.12.2 No automobile, vehicle or trailer of any kind or type, which shall be inoperative or in a junk condition, or abandoned, shall be parked or stand on any property unless:
 - (A) it shall be in an enclosed building;
 - (B) it shall be on the premises of a business enterprise operated in a lawful manner, when necessary to the operation of such business enterprise; or,
 - (C) it shall be on property lawfully occupied and used for repair, reconditioning or remodeling of vehicles in conformance with the Zoning Ordinance of Bartow County.
- 6.12.3 A vehicle in inoperative or junk condition shall include, but shall not be limited to, any automobile, vehicle, trailer of any kind or type, or contrivance, or a part thereof, the condition of which is one or more of the following: 1) wrecked; 2) dismantled; 3) partially dismantled; 4) inoperative; 5) abandoned; 6) discarded; 7) scrapped; or 8) does not have a valid license plate attached thereto.
- 6.12.4 Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under other provisions of law.
- 6.12.5 This section shall not be the exclusive regulation of abandoned, discarded, dismantled, wrecked, scrapped, ruined or junk motor vehicles, or contrivances, within the unincorporated limits of the County, but shall be supplemental to and in addition to other regulations and ordinances of the County and statutes or provisions of law heretofore and hereinafter enacted by the County, State or other legal entity or agency having jurisdiction. See also, Sec. 6.11.
- 6.12.6 In all instances where the owner of any abandoned, inoperative, or junk motor vehicle and/or trailer cannot be determined, or when such vehicle is abandoned on public property or a non-owner's property, such junk or abandoned motor vehicle and/or trailer shall be removed under the authority and provisions of Chapter 40-11

of the Georgia Code Annotated. If on public property, such vehicle may be removed after five days; if on private property, it may be removed after 30 days.

6.12.7 In all instances where the owner of any junk, inoperative, unregistered, or abandoned motor vehicle and/or trailer refuses to remove, enclose or register (or, if requested, refuses to give consent for the county to remove) any such vehicle or trailer currently in violation of this ordinance, the county shall be empowered to seek an order from a court of competent jurisdiction authorizing the county to remove and dispose of such vehicle or trailer. In addition, if the vehicle or trailer is determined to be a health hazard or a nuisance, the county shall be empowered to seek an order from a court of competent jurisdiction authorizing the county to remove and dispose of such vehicle. Such orders shall be authorized if the vehicle has been in violation of this ordinance for more than 20 days.

6.12.8 For purposes of repair or restoration, one inoperable and unregistered vehicle may be kept in the rear yard of a property, provided it is not visible from the street, is screened from all neighbors by a privacy fence in the rear yard, and is repaired or restored, removed, or placed in a fully enclosed building within six months. Such vehicle shall not be stored in any side yard or any setback or buffer area.

Sec. 6.13 STORAGE OF TIRES

The storage of new or used tires on any property is prohibited unless the same are stored within an enclosed building or garage. It is illegal to discard or abandon tires on any property other than a lawful landfill.

Sec. 6.14 SALE OF AUTOS AND VEHICLES

In a residential zoning district or residentially-used area, sales of autos and other vehicles from such property shall be limited to no more than six vehicles per year. No more than two such vehicles shall be parked in the front yard of any property at any one time. Any greater number of sales or vehicles displayed for sale shall constitute a commercial operation, which shall only be permitted in the C-1 commercial zoning district.

Sec. 6.15 SWIMMING POOLS

Swimming pools are permitted as accessory uses in residential zoning districts. Swimming pools are only permitted to be located in the side or rear yards of a property. All portions of a swimming pool (including the pool itself, any recirculation pumps, sumps, heaters, filtration or treatment systems, chemical tanks, or pool-related machinery) shall be setback at least ten feet from the side and rear property lines. Swimming pools shall further comply with applicable Board of Health regulations, and the Bartow County Building Code Ordinance.

Sec. 6.16 TIMBERING OPERATIONS IN NON-RESIDENTIAL ZONING DISTRICTS

Timbering operations (meaning cutting, hauling and/or harvesting timber) shall be a permitted activity in non-residential zoning districts (that is, C-1, C-N, O-I, I-1, I-2 and M-1) provided that no timbering operations shall be permitted in the area of any required buffer listed in the relevant zoning district. Crossing the buffer perpendicularly shall be permitted, but the buffer area shall otherwise remain undisturbed. Special buffer exemptions under Sec.

8.2.4(A) and (C) shall not apply. Sawmilling, including use of portable sawmills, is not permitted in non-residential zoning districts. Timbering operations are also subject to Chapter 68 of the Code of Bartow County. For timbering operations in the A-1 district, see Sec. 7.1.

Sec. 6.17 MOTHBALLING VACANT STRUCTURES

- 6.17.1 Purpose. In lieu of enforcement under other provisions of this Code, the owner(s) of a vacant structure may elect to close or “mothball” the structure if the structure is vacant and unfit for human habitation and occupancy, and it is not dilapidated, unsafe, unsanitary or in danger of structural collapse. Mothballing is defined as a method used to protect a vacant structure from weather damage and vandals while preserving the structure for future use. Prior to mothballing the property owner(s) must register the property with the zoning administrator and receive a permit to mothball. The property will be inspected for compliance upon completion. The mothballed property shall automatically have its certificate of occupancy revoked.
- 6.17.2 General procedures. The structure shall be required to have a weather-tight roof, with all missing shingles replaced. No tarps allowed. Windows and doors shall be covered on the exterior with high-grade plywood cut to fit within the window or door opening. Window or door coverings must be attached with screws, and shall be painted a flat color, either dark gray, black or a color that matches the building. Water shall be turned off and pipes drained. Electricity shall be turned off. Exterior walls must be sound and complete.
- 6.17.3 Time and Terms. The owner(s) shall have no more than 30 days from receipt of a permit to complete securing of the structure. Mothballing shall only be permitted for a period of six months from the date of the permit. Upon the expiration of six months, the owner shall have 60 days to receive a certificate of occupancy. Reoccupancy shall require compliance with applicable building codes and require the issuance of a certificate of occupancy prior to anyone occupying the structure.
- 6.17.4 Violations. Failure to secure a certificate of occupancy within the time required shall be a violation of this ordinance. In addition, such property that has passed its term shall be a nuisance, and subject to an action to have it declared a public nuisance.

Sec. 6.18 NUISANCE ABATEMENT

- (A) Any owner of property who permits the same to become or remain in a condition prohibited under this Article may be notified in writing by the code enforcement officer to remove or remedy the condition within 15 calendar days of the date of such notification.
- (B) Unless the condition complained of is removed, the county, at the expiration of such 15-calendar-day period shall be authorized to remove the condition or hire a private contractor to remove the condition.
- (C) The cost of removal and abatement of the nuisance will be charged against the property and the property owner thereof, and it shall constitute a lien on the property which shall be recorded in the deed records of the County.

- (D) In the event the costs of abating the nuisance are not paid, the lien recorded may be collected in the same manner as that provided by law for executions for ad valorem taxes due the county.
- (E) In addition, the creation of a nuisance shall be deemed unlawful.
- (F) The provisions of this section are cumulative and in addition to issuance of a citation, or other civil action to remedy a nuisance.

Sec. 6.19 **OUTDOOR STORAGE IN COMMERCIAL AND INDUSTRIAL ZONES**

Outdoor storage of inventory, supplies, materials, or goods shall be allowed only in the C-1, I-1 and I-2 districts, under the following conditions. Outdoor storage must be located in a side or rear yard and screened from all rights-of-way, and residential districts that abut the outdoor storage area. Such storage shall be screened either by opaque fencing or walls, other structures, or landscaping approved by the Zoning Administrator. This section does not apply to incidental outside storage on properties in residential districts. Retail products typically sold outdoors (for example, trailers or sheds) are exempt from this ordinance, unless the items violate other sections of the Zoning Ordinance (For example Sec. 6.11 Appearance of Property). This determination shall be made by the Zoning Administrator. The Zoning Administrator shall determine if outdoor storage on a particular lot is a nuisance to adjoining property owners when enforcing this ordinance. Outdoor storage of junk, trash or debris is not permitted unless specifically authorized for the use (for example, a junk yard or landfill).

Sec. 6.20 **TEMPORARY OFFICE TRAILERS**

The use of trailers or modular buildings for construction offices shall be allowed on a construction site only and must be removed within thirty (30) days of the issuance of a certificate of occupancy; the use of trailers or modular buildings for on site real estate sales offices shall be allowed on a site for a period not to exceed thirty-six (36) months; the use of trailers or modular buildings for any other office use or commercial venture shall be allowed with the following condition:

- A. Temporary office trailers or modular buildings shall be allowed on a lot for a period not to exceed twelve (12) months. Upon expiration of the 12-month period, the trailer or modular building must comply with section 6.9 of this or said trailer or building must be removed from the property.

Sec. 6.21 **GREENSPACE AND OPEN SPACE LOTS**

Any lot or tract of land designated as Greenspace or Open Space on a final plat of a subdivision or boundary survey is prohibited from any residential development. Greenspace lots should remain undisturbed from any land disturbance or structures, including the harvesting of timber. Limited disturbance for walking trails is allowed.

ARTICLE VII

USE REQUIREMENTS BY DISTRICTS; SPECIAL DISTRICTS

The following districts designate certain uses and conditional uses within each district. A use not specifically named within a district is NOT permitted. Any question of interpretation as to the appropriate district for a use shall be determined by the Zoning Administrator. The minimum lot sizes, setbacks and other area and yard requirements for each district are provided both in each district and summarized in Article VIII of this Ordinance. Special districts for Conservation Subdivisions and the Etowah Valley Historic District are also contained herein.

Sec. 7.1 **A-1 AGRICULTURE DISTRICT**

7.1.1 Purpose. The A-1 agriculture district is established primarily to encourage the retention and development of suitable areas for common farm/agricultural practices and various compatible non-farm uses, preservation of open space, the conservation and management of soil, water, air, game and other natural resources and amenities, and to discourage the creation or continuation of conditions which could detract from the function, operation, and appearance of areas to provide food supplies and to prevent or minimize conflicts between common farm practices and non-farm uses. The A-1 district is also a residential district.

7.1.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the A-1 District:

Minimum Lot Size: 2 acres. No new A-1 lot shall be created which is not at least two acres in area, and no lot of less than two acres may be split off from existing A-1 zoned property. No remnant of under two acres may be created by a lot split, nor shall any existing A-1 lot be reduced to less than two acres.

Min. Lot Width at Street R/W (on existing road): 200 feet.

Min. Lot Width at Street R/W (in new development): 100 ft.; 50 ft. on cul-de-sac.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 10 feet

Rear Yard Setback (from property line): 25 feet

Maximum Building and Structure Height: 50 feet

Buffers: Special, see below.

7.1.3 Height Exceptions. Buildings or structures essential to the operation of an agricultural operation, such as silos, granaries, windmills, and barns, may exceed the height limitation stated above. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.1.4 Accessory Structures. Accessory buildings and structures which are not intended for use or used for the housing of livestock or agricultural practices and are ancillary to the residential use (e.g., garage, pool) shall maintain the same front and side yards as the main structure; however, they shall not project beyond the established front building line. For such buildings and structures, rear yard

setbacks shall be a minimum of ten feet. Silos, granaries, barns, and similar accessory agricultural structures, on lots 10 acres or greater, shall be setback by a distance equal to the structure's height from any property line, and may be located in the front, side or rear yard. Silos, granaries, barns, and similar accessory agricultural structures, on lots less than 10 acres, shall be setback by a distance of at least 25 feet from any property line, and shall be located in the rear yard. Accessory livestock structures must additionally meet special setback requirements under Sec. 7.1.8(B)(ii).

- 7.1.5 Non-Residential Uses and Associated Accessory Uses. Non-residential uses other than agricultural uses (e.g., bed and breakfast, airport, church) and associated accessory uses thereto shall be setback at least fifty (50) feet from the property line, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property, unless such requirements are waived or varied by the Zoning Administrator in hardship cases or cases where they are unnecessary to provide screening. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.
- 7.1.6 Development in A-1. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.
- 7.1.7 Lot Restrictions. No more than two lots sharing one private easement or driveway shall be allowed. No further subdivision will be allowed unless a street is constructed to County standards, whether it remains private or dedicated to the County. Any individual lot in an A-1 subdivision existing as of November 9, 2005, or created subsequent to that date, cannot be further subdivided. The Zoning Administrator may grant hardship exceptions to these restrictions.
- 7.1.8 PERMITTED USES IN A-1 DISTRICT

Within the A-1 Agriculture district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Single-family dwellings (conventional, manufactured and/or industrialized houses) and customary accessory uses, including docks and boathouses on not less than a two (2) acre tract of land; provided that, if there is located on adjoining property an existing major livestock enclosure or chicken house, then the dwelling shall be located not less than 100 feet from the adjoining property line and not less than 500 feet from the closest point to any of the above referred to activities, as defined by the structure or animal enclosure. Provided further that, if there is located on adjoining property an existing minor livestock enclosure or chicken coop, then the dwelling shall be located not less than 100 feet from the adjoining property line and not less than 200 feet from the closest point to any of the above referred to activities, as

defined by the structure or animal enclosure. See Sec. 10.3 for manufactured housing regulations.

- (B) Agricultural Uses subject to the following regulations:
 - (i) Fences. Any livestock shall not be able to roam off the property upon which it is kept, either being kept inside a properly fenced area (sufficient to restrain the animal) or kept contained in a livestock enclosure.
 - (ii) Livestock Enclosure Setback Provisions. Major livestock enclosures (including but not limited to, cattle barns, stables, and hog pens holding more than 8 animals, or chicken houses holding more than 20 chickens), and other buildings or structures which are intended for use or used for the housing or shelter of more than 8 livestock animals, shall observe a minimum setback of 100 feet from any property line and be located a minimum of 500 feet from any residence on an adjacent lot or parcel. Minor livestock enclosures (8 animals or less) and chicken coops (20 chickens or less) shall observe a minimum setback of 100 feet from any property line and be located a minimum of 200 feet from any residence on an adjacent lot or parcel.
 - (iii) Retail Sales. With a permit from the Zoning Administrator, retail selling of products raised on the premises shall be permissible provided that space necessary for the parking of customers' vehicles shall be provided off the public rights-of-way. No additional signs beyond that allowed in the A-1 district shall be allowed. Any accessory structure constructed shall be in the nature of a farm stand, not heated or air-conditioned, and not to exceed 200 square feet. Such structure must be located at least ten feet from the right-of-way. No commercial operations (large- scale selling or reselling) shall be permitted, nor shall resale of any product purchased from elsewhere be permitted. No employees who do not reside on the property may work in connection with retail selling.
- (C) Reserved.
- (D) Home occupations, see Sec. 6.4.
- (E) Family plots (not in excess of 12 burial sites, on lots of at least five acres), see Sec. 9.7.
- (F) In-home nursery schools (child day cares) with no more than six (6) children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (G) Group homes for persons with a disability, not exceeding six (6) residents, excluding resident staff, licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; provided that:

- (i) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (ii) the dwelling shall maintain its residential appearance;
 - (iii) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (iv) visitation hours are restricted so as to not create undue traffic congestion.
- (H) Timber production and forestry related uses, but not sawmills. See Sec. 7.1.9(R).
- (I) Fish hatcheries.
- (J) Marinas and associated accessory uses on Lake Allatoona, including commercial boat storage, boat docks, sale of fuel and incidental supplies for the boat owners, crews, and guests, on-site clubhouse/restaurant. Temporary or permanent housing associated with marinas, including house boats, lake cabin rentals and RV lots, are allowed with the granting of a Conditional Use Permit.
- (K) Political or religious gatherings, limited to not more than 14 days in duration per year, provided sufficient space is available to provide a buffer of 500 feet from adjoining property owners and off-street parking.
- (L) Vineyards (except wineries are conditional uses).
- (M) Resort communities. See Sec. 9.3.
- (N) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utility and service structures.
- (O) Special events. Special events, for example, overland foot races, arts and crafts fairs, musical concerts, and other gatherings of a commercial nature (meaning admission is charged or goods or services are being sold) shall be permitted subject to the administrative approval of the zoning administrator. Special events under this subsection shall not exceed 72 hours in duration. The zoning administrator shall review the request under the following criteria: 1) whether the size and shape of the property sufficient to support the event; 2) whether the roads serving the property are adequate for the anticipated traffic; 3) whether the adjacent property owners and neighbors will be negatively impacted by the event; 4) whether the event is inconsistent with the surrounding property and uses; 5) whether the event is inconsistent with the intent of the zoning ordinance; 6) whether the event would create a nuisance; 7) whether the event would be harmful to the environment; 8)

whether the event is consistent with other applicable laws and ordinances. The applicant shall submit information as required by the zoning administrator to review the event in accordance with the above criteria and shall submit information as to the purpose; size and dates of event; size and location of property; anticipated crowds; anticipated vendors and other commercial activity; whether a special event alcohol license will be sought; plans for parking, traffic control, sanitation, public safety and security for the event; and other such information as may be required by the zoning administrator. The zoning administrator may require notice to adjacent property owners and to review their comments. Application should be made at least 45 days prior to the event to ensure the timeliness of an appeal. The decision of the zoning administrator may be appealed to the commissioner.

- (P) Commercial greenhouses, with a minimum lot size of five acres and the greenhouses are set back at least 25 feet from the property lines.

7.1.9 CONDITIONAL USES IN A-1 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Country Clubs and Golf Courses, without residential lots.
- (B) Golf Course Communities and Country Club Communities; See Sec. 9.2.
- (C) Bed and breakfast inns, provided there is sufficient space to provide adequate parking and the rental is limited to temporary occupancy only.
- (D) Wineries (locations for the production of wine) that are located on the same property as the vineyard, and are suitable for the area. Large wine production or processing facilities that are of a commercial or industrial nature shall be located in I-2 districts.
- (E) Water bottling plant, at natural spring locations, and limited truck and commercial traffic related thereto. Such plants must meet the I-1 District buffer and setback requirements, and may not operate (or generate or receive commercial vehicle traffic) between the hours of 7:00 p.m. and 7:00 a.m.
- (F) Privately owned historic sites, regularly open for public visitation, provided the same consist of ten (10) acres or more and is a component of the National Register of Historic Places and the Georgia Register of Historic Places; provided further, that any fees charged or revenue generated in connection with the site are used solely to offset the costs of restoring and maintaining the buildings and grounds of said site; provided further, that the only ancillary facilities permitted are a museum, restaurant and gift shop (which may contain a snack bar); provided further, that facilities for parking must be self-contained on the premises and shielded from public view. No activity which would cause sound to travel beyond the limits of the property is allowed. No activity not directly related to the historic nature of the property, shall be permitted. Overnight parking is prohibited.

- (G) Recreational vehicle/travel trailer parks and campgrounds; provided the park or campground shall consist of a minimum of twenty (20) acres and developed in accordance with the provisions of this Ordinance pertaining to campgrounds; provided further, the nearest parking space or campsite shall be located not less than 500 feet from any adjoining property line. See the Bartow County Campground Standards Ordinance.
- (H) Cemeteries, see Sec. 9.7.
- (I) Public airports, on at least 200 acres of land, and the boundary of the airport property may not be located within 2,000 feet of any residential dwelling. Private landing strips on at least 50 acres, with the runway not located within 1,000 feet of the nearest residence. Associated commercial uses, such as skydiving facilities, must be stated within the Conditional Use Permit application. Structures associated with the commercial use (hangars, sales office, maintenance facility, etc.) must be setback 200 feet off the property line. The applicant must present a site plan showing the location of the runway, drop zones, all proposed structures, access and parking, which shall become a zoning condition if the use is approved. Drop zones shall be unobstructed and follow the basic safety requirements set forth by the United States Parachute Association. The applicant must also state the number of aircraft that will use the private landing strip. The development must conform to Bartow County Development Regulations for non-residential uses in terms of parking, stormwater and other matters as set forth therein. All uses must meet Federal Aviation Administration guidelines and not interfere with operations at the Cartersville-Bartow County Airport.
- (J) Sailport, ultralight landing strip, on at least 50 acres of land, not within 1,000 feet of any residentially-used property.
- (K) Bicycling, mountain bike course, or similar, for commercial purposes or organized events. Minimum lot size: 10 acres.
- (L) Motorcross motorcycle track, dirt bike track, race track, auto racing, drag strip, other powered-vehicle race track. Fifty (50) acre minimum tract of land required, with minimum five hundred (500) foot buffer (complying with Sec. 8.2.5). No portion of the race track or any garage, staging or pit area, nor any parking area, may be located within one thousand five hundred (1500) feet of any residential dwelling.
- (M) Outdoor paintball game courses and facilities, or similar facilities, with a minimum area of 10 acres and no gaming to take place within 200 feet of any property line. Hours of permitted operation are 8:00 a.m. to 9:00 p.m. "Paintball" means any game or event that involves using guns or devices that shoot capsules of paint or dye.
- (N) *Firing Range Facilities, Outdoor.* These are any facilities where outdoor firing of firearms is performed on a commercial basis (i.e., requires a fee or membership), including private gun clubs, target shooting ranges, etc.
 1. Minimum lot size: 100 acres.

2. A 200-foot vegetated buffer shall be required for all sides of the property abutting residential or commercial zones, such buffer to be consistent with the buffer standards set forth in section 8.2
3. Firing ranges for rifles and pistols should be oriented so that firing is not directed towards any residential property within 2000 yards that is touching an arc width of 20 degrees, centered on the axis of firing (that is, within ten degrees of either side of said axis); ranges for sporting clays, skeet, trap and five stands are not subject to this requirement.
4. All portions of any firing range (for pistol and rifle ranges, this is defined as the area from the firing line to the target backstop or berm, for the width of the shooting lanes; for sporting clays, skeet, trap and five stands, this is defined as the area from the firing stations to a distance 100 yards from the firing stations in the direction of fire) must be located at least 1,000 feet from all property lines.
5. Hours of firing shall be limited to between 10:00 a.m. and 6:00 p.m., Monday to Saturday. No firing permitted on Sunday.
6. A site plan shall be submitted with the conditional use application showing all facilities and ranges, the direction of firing, all residential property within 2000 yards downrange, and all buffers and distances, plus such other information as is required by the Zoning Administrator to enforce this section.

(O) *Firing Ranges Facilities, Indoor.* These are facilities where all firing ranges are inside buildings.

1. Minimum lot size: 10 acres.
2. A 50-foot vegetated buffer shall be required for all sides of the property abutting residential or commercial zones, such buffer to be consistent with the buffer standards set forth in section 8.2.
3. No building containing a firing range may be located within one hundred feet (100') of the property boundary.
4. Buildings housing firing ranges must be constructed to prevent the escape of bullets and also constructed with sound-proofing or setbacks such that no sound of the discharge of firearms is audible at the property line.
5. A site plan shall be submitted with the conditional use application showing all facilities, all buffers and distances, plus such other information as is required by the Zoning Administrator to enforce this section.

(P) Existing Firing Ranges. Outdoor Firing Ranges in existence as of July 8, 2009 in Bartow County shall, commencing July 12, 2009, be subject to the following restriction: hours of operation shall be limited to Monday to Saturday, 10:00 a.m. to 7:00 p.m. No firing shall be permitted on Sunday.

Note: The foregoing provisions concerning firing ranges (Sections 7.1.9 (N), (O), and (P)) shall not apply to property owned by the County or property owned entities exempt from county zoning including the U.S. Government, a municipality within the County, or an entity regulated by the Georgia Public Service Commission (i.e., a public utility).

- (Q) Only on former, abandoned mine property, shallow surface mining is permitted as a conditional use for rock and mineral removal, provided no explosive blasting nor digging is permitted. Neither strip mining nor open pit mining shall be permitted, nor shall any mining requiring heavy excavators or massive land disturbance. Shallow surface mining is limited to a depth below preexisting grade of ten (10) feet; deeper mining requires M-1 classification. A 100 foot undisturbed, vegetated buffer shall be required. The applicant shall be required to meet the buffer requirements of the M-1 district for surface mining.
- (R) Sawmills; provided that any sawmill must be located at least 500 feet from an adjoining property line; provided further that if said sawmill is located on property which adjoins property on which a dwelling is located, said sawmill must be located no less than 1,000 feet from the closest point to said dwelling.
- (S) Explosive storage, when accessory to a permitted use (except not permitted in conjunction with shallow surface mining, see below).
- (T) Telecommunications structures, subject to Article XII.
- (U) Chicken houses holding or designed to hold more than 500 chickens. Minimum lot size required: 15 acres.
- (V) Dog arenas, horse tracks, steeplechase tracks, similar animal race facilities; rodeo facilities; kennel clubs, dog clubs and similar facilities; catteries, cat breeding facilities, and similar facilities. Minimum lot size required: 20 acres. Any race facility must be set back at least 200 feet from the property lines.
- (W) Kennels. Minimum setback for kennels is 100 feet from property line and 200 feet for nearest non-owned residence. Higher setbacks may be required depending on the intensity of the use. The maximum number of dogs may be capped depending on the circumstances of the property. Minimum lot size required: 15 acres.
- (X) Meat processing facilities and temporary holding lot for livestock, with a 100-foot setback from the property line; but not chicken processing facility, see Sec. 7.13. Minimum lot size required: 15 acres.
- (Y) Event facility, for weddings, rehearsal dinners, corporate meetings, retirement functions and catering. Only limited overnight facility permitted; no hotel or motel operation shall be allowed. The facility may not operate a restaurant open to the general public; it may only hold previously scheduled and reserved events for specific group(s). Minimum lot size is 10 acres. Must have sufficient parking to satisfy Bartow County Development Regulations. No structure or parking may be located within 50 feet of property line. Further restrictions may be applied as zoning conditions. The facility cannot be expanded beyond what is approved in the original conditional use application without a further conditional use approval.

- (Z) Taxidermy facilities, on minimum of ten (10) acre lots.
- (AA) Outdoor Dive Training Facility. A facility to offer outdoor scuba or dive training to members of the public and government entities, including incidental sales and rental of scuba/dive equipment. May include docks and no more than 2,500 square feet of heated space associated with the facility in one or more structures, plus accessory storage. Boat sales or marinas are not permitted. Sales or rental of boat slips are not permitted.
- (BB) Solar power generation facilities not accessory to a residential structure. Any such facilities and associated apparatus shall be set back at least 50 feet from the property lines. Sound barriers shall be required for noise mitigation around all inverter and transformer skid pads. Equipment shall be screened and fenced from adjacent property to restrict unauthorized access. Screening shall consist of a minimum 8-foot opaque fence with the addition of shrubbery, trees or an earthen berm. The applicant shall demonstrate that the proposal will not have an adverse effect on neighboring properties by providing aerials of the site, graphic renderings of the project, and/or pictures from the site of surrounding parcels demonstrating sight lines. Appropriate vegetated buffers and/or plantings may also be required to help limit the visual impact of the site and possible glare issues.
- (CC) Special events not meeting the criteria of section 7.1.8(P) - for example events seeking to exceed 72 hours in duration - may be sought as a special use permit. The applicant shall submit the information required for a review under section 7.1.8(P) and the zoning administrator shall make a recommendation to the commissioner.
- (DD) Agricultural retail sales. The purpose of this conditional use is to permit agricultural operations to have a small retail outlet to sell their produce along with related items without the necessity of having to rezone a tract to general commercial. On tracts of at least five acres, a property owner may apply to authorize construction or use of a building for sales of agricultural products grown on the property. The building (or portion of building devoted to retail sales) may not exceed 1,200 square feet. The building must be set back at least 50 feet from any side and rear property lines. The applicant must present a site plan showing the location of the building, access and parking, which shall become a zoning condition if the use is approved. The development must conform to Bartow County Development Regulations for non-residential uses in terms of parking, stormwater and other matters as set forth therein. At least 25 percent of the items sold must be agricultural products grown on the property. Up to 75 percent may be items associated with the sale of agricultural products or agricultural products grown elsewhere.
- (EE) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.1.5.

- (FF) Swine farms with more than 200 swine. Minimum lot size required: 15 acres.
- (GG) Private subdivisions (see Development Regulation Sec. 5.33). Private subdivisions must have a gated entrance but the County Fire Department must be provided access satisfactory to the Fire Marshal.
- (HH) Lake cabin rentals, house boats, RV lots associated with marinas. See Sec. 7.1.8(J).

Sec. 7.2 **RE-1 RURAL ESTATE DISTRICT** (Conventional or Industrialized Single-Family Housing)

7.2.1 Purpose. The RE-1 rural estate district is established primarily to encourage the development of large lot rural estate type housing developments, for conventional or industrialized homes. The RE-1 district is a residential district.

7.2.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the RE-1 District:

Minimum Lot Size: 3 acres. See Sec. 5.5.

Min. Lot Width at Street R/W (on existing road): 200 ft.

Min. Lot Width at Street R/W (in new development): 100 ft., 50 ft. on cul-de-sac.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 10 feet

Rear Yard Setback (from property line): 25 feet

Maximum Building and Structure Height: 50 feet

Buffers: None.

Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.2.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.2.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.

7.2.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.2.6 Development in RE-1. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.2.7 PERMITTED USES IN RE-1 DISTRICT

Within the RE-1 Rural Estate district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Conventional or industrialized single-family dwellings on a minimum lot size of three acres. Manufactured houses shall not be permitted.
- (B) On lots three acres or larger, stables and horses are permitted so long as said horses are owned by the property owner and the number of horses does not exceed one per whole acre of property; provided further that any barn or structure used to house said horses is located at least 100 feet from the adjoining property line and at least 200 feet from any dwelling located on adjoining property. Commercial operations are not permitted. No other livestock is permitted.
- (C) Home occupations, see Sec. 6.4.
- (D) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utility and service structures.
- (E) In-home nursery schools (child day cares) with no more than six (6) children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (F) Group homes for persons with a disability, all not exceeding six (6) residents, excluding resident staff, licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; provided that:
 - (i) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (ii) the dwelling shall maintain its residential appearance;
 - (iii) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (iv) visitation hours are restricted so as to not create undue traffic congestion.

7.2.8 CONDITIONAL USES IN RE-1 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all

requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.2.5.

Sec. 7.3 **RE-2 RURAL ESTATE DISTRICT** (Conventional, Industrialized, or Manufactured Single-Family Housing)

7.3.1 Purpose. The RE-2 rural estate district is established primarily to encourage the development of large lot rural estate type housing developments, for conventional, industrialized or manufactured houses. The RE-2 district is a residential district.

7.3.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the RE-2 District:

Minimum Lot Size: 3 acres. See Sec. 5.5.

Min. Lot Width at Street R/W (on existing road): 200 ft.

Min. Lot Width at Street R/W (in new development): 100 ft., 50 ft. on cul-de-sac.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 10 feet

Rear Yard Setback (from property line): 25 feet

Maximum Building and Structure Height: 50 feet

Buffers: None.

Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.3.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.3.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.

7.3.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.3.6 Development in RE-2. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.3.7 PERMITTED USES IN RE-2 DISTRICT

Within the RE-2 Rural Estate district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Conventional, industrialized or manufactured single-family dwellings on a minimum lot size of three acres. See Sec. 10.3 for manufactured housing regulations.
- (B) On lots three acres or larger, stables and horses are permitted so long as said horses are owned by the property owner and the number of horses does not exceed one per whole acre of property; provided further that any barn or structure used to house said horses is located at least 100 feet from the adjoining property line and at least 200 feet from any dwelling located on adjoining property. Commercial operations are not permitted. No other livestock is permitted.
- (C) Home occupations, see Sec. 6.4.
- (D) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utility and service structures.
- (E) In-home nursery schools (child day cares) with no more than six (6) children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (F) Group homes for persons with a disability, all not exceeding six (6) residents, excluding resident staff, licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; provided that:
 - (i) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (ii) the dwelling shall maintain its residential appearance;
 - (iii) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (iv) visitation hours are restricted so as to not create undue traffic congestion.

7.3.8 CONDITIONAL USES IN RE-2 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all

requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.3.5.

Sec. 7.4 **R-1 RESIDENTIAL DISTRICT** (Conventional or Industrialized Single-Family Housing)

7.4.1 Purpose. The R-1 residential district is established primarily to encourage the development of smaller lot single-family developments, for conventional or industrialized homes. The R-1 district is a residential district.

7.4.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the R-1 District:

Minimum Lot Size: 15,000 square feet with sewer; if on septic, 26,000 square feet or greater as required by County Health Department. See Sec. 5.5.

Min. Lot Width at Street R/W (on existing road): 200 feet.

Min. Lot Width at Street R/W (in new development): 100 feet, 25 ft. on cul-de-sac.

Front Yard Setback (from right-of-way): 25 feet

Side Yard Setback (from property line): 10 feet

Rear Yard Setback (from property line): 25 feet

Maximum Building and Structure Height: 50 feet

Buffers: None.

Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.4.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.4.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.

7.4.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.4.6 Development in R-1. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.4.7 PERMITTED USES IN R-1 DISTRICT

Within the R-1 residential district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Conventional or industrialized single-family dwellings. Manufactured houses shall not be permitted.
- (B) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utility and service structures.
- (C) In-home nursery schools (day cares) and kindergartens with no more than 6 children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (D) Home occupations, see Sec. 6.4.
- (E) Group homes for persons with a disability, all not exceeding six (6) residents, excluding resident staff, licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; provided that:
 - (i) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (ii) the dwelling shall maintain its residential appearance;
 - (iii) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (iv) visitation hours are restricted so as to not create undue traffic congestion.

7.4.8 CONDITIONAL USES IN R-1 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.4.5.
- (C) Private subdivisions (see Development Regulation Sec. 5.33). Private subdivisions must have a gated entrance but the County Fire Department must be provided access satisfactory to the Fire Marshal.

Sec. 7.5 **R-2 RESIDENTIAL DISTRICT** (Conventional, Industrialized or Manufactured Duplex, Triplex, or Quadraplex Housing)

7.5.1 Purpose. The R-2 residential district is established primarily to encourage the development of townhomes and conventional, industrialized or manufactured two-family and multi-family dwelling units (duplexes, triplexes, and quadraplexes). The R-2 district is a residential district.

7.5.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the R-2 District:

Minimum Lot Size (for entire development): 15,000 square feet with sewer; if on septic, 26,000 square feet or greater as required by County Health Department.
See Sec. 5.5.

Min. Lot Width at Street R/W (on existing road): 200 feet.

Min. Lot Width at Street R/W (in new development): 100 ft., 25 ft. on cul-de-sac.

Front Yard Setback (from right-of-way): 25 feet

Side Yard Setback (from property line): 10 feet

Rear Yard Setback (from property line): 25 feet

Internal Setback (minimum distance between buildings): 20 feet

Maximum Building and Structure Height: 50 feet

Buffers: None.

Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.5.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.5.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.

7.5.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.5.6 Development in R-2. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.5.7 PERMITTED USES IN R-2 DISTRICT

Within the R-2 residential district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Multi-Family Developments. Conventional, industrialized or manufactured two-family and multi-family dwelling units (duplexes, triplexes, and quadraplexes) are permitted on one lot as part of a development. Multiple buildings are permitted on one lot, but the total ground floor area of the buildings is limited to twenty-five (25) percent of site area. Two (2) off-street parking spaces shall be provided on the site for each dwelling unit. Separate bath/toilet facilities and kitchen/dining areas shall be provided for each dwelling unit. Duplexes, triplexes and quadraplexes on individual lots are also permitted.
- (B) Townhouse Developments. Fee simple townhouses which comply with the provisions listed below in (i) through (vii) are permitted.
 - (i) Total ground floor area of the building(s) is limited to thirty (30) percent of site area. Two off-street parking spaces shall be provided on site for each dwelling unit, except in the case of low income public housing which shall provide one and one-half parking spaces per dwelling unit. Each dwelling unit shall have separate bath/toilet and kitchen/dining areas.
 - (ii) Each dwelling unit shall contain a minimum of:
 - 360 square feet - efficiency units
 - 500 square feet - one bedroom units
 - 750 square feet - two bedroom units
 - 1,000 square feet - three bedroom units
 - 1,200 square feet - four bedroom units.
 - (iii) Internal setbacks: buildings shall be spaced at least twenty (20) feet apart. The front of one building shall not face the rear of another building on the site. External setbacks: All buildings must maintain a setback of twenty-five (25) feet from all external property boundary lines and any rights-of-way.
 - (iv) No development shall be constructed on a lot or tract of land unless connected to public sewer.
 - (v) A minimum of ten percent of the lot or tract shall be set aside and designated for recreational purposes (for example, parks, fields, playgrounds, walking trails, etc.). Parking lots, streets, setback areas, stormwater control measures, detention facilities, and so forth shall not count towards this requirement.
 - (vi) At least one refuse collection station shall be provided for each thirty (30) families or fraction thereof which shall be located not more than fifty (50) feet from any dwelling unit.

- (vii) Each development shall be landscaped with trees and fast growing screen planting (such as to be six feet high within one year of planting) so as to compliment the development and surrounding areas.
- (C) Condominium Developments. Condominium developments (governed by the Georgia Condominium Act) are permitted in compliance with the provisions of Sec. 7.5.7(B)(i) through (vii).
- (D) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utility and service structures.
- (E) In-home nursery schools (day cares) and kindergartens with no more than 6 children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (F) Home occupations, see Sec. 6.4.
- (G) Group homes for persons with a disability (for up to six residents not counting resident staff), licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources.

7.5.8 CONDITIONAL USES IN R-2 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.5.5.

Sec. 7.6 **R-3 RESIDENTIAL DISTRICT** (Multi-Family Housing)

- 7.6.1 Purpose. The R-3 residential district is established primarily to encourage the development of multi-family housing such as apartments and townhomes. The R-3 district is a residential district.
- 7.6.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the R-3 District:
- Minimum Lot Size: 1 acre with sewer; septic not permitted. See Sec. 5.5.
Min. Lot Width at Street R/W (on existing road): 100 feet
Front Yard Setback (from right-of-way): 25 feet
Side Yard Setback (from property line): 10 feet
Rear Yard Setback (from property line): 25 feet
Maximum Building and Structure Height: 35 feet
Buffers: None.
Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.
- 7.6.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.
- 7.6.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.
- 7.6.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.
- 7.6.6 Development in R-3. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.6.7 PERMITTED USES IN R-3 DISTRICT

Within the R-3 residential district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Apartment Developments. Apartment buildings which comply with the following:
- (i) Total ground floor area of the building(s) is limited to thirty (30) percent of site area. Two off-street parking spaces shall be provided on site for each dwelling unit. Each dwelling unit shall have separate bath/toilet and kitchen/dining areas.
 - (ii) Each dwelling unit shall contain a minimum of:
 - 600 square feet - one bedroom units
 - 750 square feet - two bedroom units
 - 900 square feet - three bedroom units
 - (iii) Internal setbacks: buildings shall be spaced at least twenty (20) feet apart. The front of one building shall not face the rear of another building on the site. External setbacks: All buildings must maintain a setback of twenty-five (25) feet from all external property boundary lines and any rights-of-way.
 - (iv) No apartments shall be constructed on a lot or tract of land unless connected to public sewer.
 - (v) A minimum of ten percent of the lot or tract shall be set aside and designated for recreational purposes (for example, parks, fields, playgrounds, walking trails, etc.). Parking lots, streets, setback areas, stormwater control measures, detention facilities, and so forth shall not count towards this requirement.
 - (vi) At least one refuse collection station shall be provided for each thirty (30) families or fraction thereof which shall be located not more than fifty (50) feet from any dwelling unit.
 - (vii) Each development shall be landscaped with trees and fast growing screen planting (such as to be six feet high within one year of planting) so as to compliment the development and surrounding areas.
- (B) Townhome developments. Fee simple townhome developments which comply with the following:
- (i) Minimum lot size for townhomes: 3,000 square feet

Two off-street parking spaces shall be provided on site for each dwelling unit.

(ii) Each townhome shall have a minimum heated area of 1,100 square feet.

(iii) Internal setbacks: Buildings shall be spaced at least 20 feet apart. The front of one building shall not face the rear of another building on the site. External setbacks: All buildings must maintain a setback of 25 feet from all external property boundary lines and any rights-of-way.

(iv) No townhomes shall be constructed on a lot or tract of land unless connected to public sewer.

(v) A minimum of ten percent of the lot or tract shall be set aside and designated for recreational purposes (for example, parks, fields, playgrounds, walking trails, etc.). Parking lots, streets, setback areas, stormwater control measures, detention facilities, and so forth shall not count towards this requirement.

(vi) At least one refuse collection station shall be provided for each 30 families or fraction thereof which shall be located not more than 50 feet from any dwelling unit.

(vii) Each development shall be landscaped with trees and fast growing screen planting (such as to be six feet high within one year of planting) so as to compliment the development and surrounding areas.

(viii) In order to encourage the completion of the build-out of mixed townhome/single-family developments (whether on public or private streets) which were rezoned to R-3 prior to October 8, 2014, and which developments were, as of that date, final platted and partially constructed, all remaining unbuilt lots in such developments may be built with single family detached dwellings, provided all such new homes shall have a minimum size of 1,200 heated square feet.

- (C) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utilities and service structures.
- (D) In-home nursery schools (day cares) and kindergartens with no more than six children at any one time; provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six feet.
- (E) Home occupations. See section 6.4.

- (F) Group homes for persons with a disability (for up to six residents excluding resident staff), licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources.

7.6.8 CONDITIONAL USES IN R-3 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.6.5.

Sec. 7.7 **R-4 RESIDENTIAL DISTRICT** (Conventional, Industrialized or Manufactured Single-Family Housing)

7.7.1 Purpose. The R-4 residential district is established primarily to encourage the development of smaller lot single-family developments, for conventional or industrialized homes. The R-4 district is a residential district.

7.7.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the R-4 District:

Minimum Lot Size: 15,000 square feet with sewer; if on septic, 26,000 square feet or greater as required by County Health Department. See Sec. 5.5.

Min. Lot Width at Street R/W (on existing road): 200 feet.

Min. Lot Width at Street R/W (in new development): 100 ft., 25ft. on cul-de-sac.

Front Yard Setback (from right-of-way): 25 feet

Side Yard Setback (from property line): 10 feet

Rear Yard Setback (from property line): 25 feet

Maximum Building and Structure Height: 50 feet

Buffers: None.

Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.7.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.7.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.

7.7.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.7.6 Development in R-4. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.7.7 PERMITTED USES IN R-4 DISTRICT

Within the R-4 residential district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Conventional, manufactured, or industrialized single-family dwellings. See Sec. 10.3 for manufactured housing regulations.
- (B) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utility and service structures.
- (C) In-home nursery schools (day cares) and kindergartens with no more than 6 children at any one time; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (D) Home occupations, see Sec. 6.4.
- (E) Group homes for persons with a disability, all not exceeding six (6) residents, excluding resident staff, licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; provided that:
 - (i) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (ii) the dwelling shall maintain its residential appearance;
 - (iii) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (iv) visitation hours are restricted so as to not create undue traffic congestion.

7.7.8 CONDITIONAL USES IN R-4 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.7.5.

Sec. 7.8 **R-6 RESIDENTIAL DISTRICT** (Manufactured House Parks)

7.8.1 Purpose. The R-6 residential district is established primarily to allow development of manufactured house parks. The R-6 district is a residential district.

7.8.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the R-6 District:

Minimum Park Size: 10 acres; minimum lot size in parks: 4,000 square feet.

Minimum Park Width: 400 feet; minimum lot width in parks: 50 feet.

Minimum Density of Park: 8 units per acre.

Front Yard Setback individual lots (from right-of-way): 40 feet

Side Yard Setback individual lots (from property line): 10 feet

Rear Yard Setback individual lots (from property line): 25 feet

Special Right-of-Way setback: no individual manufactured house may be located closer than 40 feet to any road right-of-way, whatever side of the house.

Maximum Building and Structure Height: 50 feet

Buffers: Special, see below.

7.8.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.8.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.

7.8.5 Non-Residential Uses and Accessory Uses. Non-residential uses and accessory uses shall be set back at least fifty (50) feet from all property lines, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the Development Regulations may be applicable, and the Engineering Department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.8.6 Development in R-6. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted.

7.8.7 Manufactured house parks. Manufactured house parks are the only uses permitted in R-6 districts, and are only authorized in this district. Manufactured house parks as defined in this Ordinance must adhere to the following conditions:

- (A) No manufactured house park shall be constructed or maintained on a lot or a total area of less than ten (10) acres, having a width of not less than 400 feet. This ten (10) acre minimum must be adhered to throughout the existence of the manufactured house park.
- (B) Each manufactured house space shall be at least fifty (50) feet in width and shall provide a minimum of 4,000 square feet. In cul-de-sac or curved street design, the width of the manufactured house space shall be at least fifty (50) feet at the location of the center of the manufactured house unit. Notwithstanding the foregoing, the maximum density of units on any one acre in any park shall not exceed eight (8) units. Manufactured house parks are not allowed except on public sewer. No individual or group septic systems are permitted for manufactured house parks.
- (C) A manufactured house shall be allowed in any park in this county so long as it is constructed at least in conformity with the requirements of the DCA, the Federal Manufactured Home Construction and Safety Standards Act (42 USC 5401 et seq.) and the regulations of the U. S. Department of Housing and Urban Development (HUD), and conforms to all other applicable regulations in this Ordinance.
- (D) A minimum of ten percent of the total usable area of any park shall be set aside and designated for recreational purposes.
- (E) The manufactured house park site plan including recreational plans and all proposed commercial uses, shall be submitted to the Bartow County Zoning Administrator for approval.
- (F) Each manufactured house site shall be provided with drives connecting with the interior drive and sufficient to provide two off-street parking spaces. In addition, driveways at least eighteen feet wide shall be provided to service buildings. Streets are required to be constructed according to minimum requirements provided in Bartow County Development Regulations.
- (G) One refuse collection station shall be provided for each twenty (20) families or fraction thereof. It shall be conveniently located for collection not more than 200 feet from any manufactured house served. If individual refuse containers are used on manufactured house sites, stands must be provided to hold the cans and screen them from public view.
- (H) A buffer strip at least twenty-five (25) feet wide shall be located adjacent to each exterior property line of the manufactured house park and shall not be included within any individual manufactured house lot. This buffer applies no matter what the zoning on adjacent property, except it shall be increased to a width of fifty (50) feet when located adjacent to single-family zoning districts. In the event the park is located next to a commercial or industrial district also requiring a buffer when adjacent to residential, then that parcel shall also contain the required buffer. The buffer strip in the R-6 district shall be densely planted with fast growing evergreen shrubs or trees (such as are at least six feet tall within one year).

- (I) An opaque wood fence at least six feet high must be erected all along the property line of the park, except along road frontage. The park owner must maintain the fence in good repair and appearance.
- (J) No manufactured house shall be located within ten (10) feet of its individual lot line or forty (40) feet from any public road right-of-way.

7.8.8 PERMITTED USES IN R-6 DISTRICT

Within the R-6 district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Individual manufactured houses, provided they are located in a manufactured house park which meets the requirements in Sec. 7.8.7.
- (B) Manufactured house parks subject to the requirements in Sec. 7.8.7.

Sec. 7.9 **O/I OFFICE AND INSTITUTIONAL DISTRICT**

7.9.1 Purpose. The O/I residential district is established primarily to encourage the development of office and institutional type uses.

7.9.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the O/I District:

Minimum Lot Size: 15,000 square feet on sewer; if on septic, 26,000 square feet or greater as required by County Health Department.

Minimum Lot Width at Street R/W: 100 feet.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 20 feet (none if abutting O/I)

Rear Yard Setback (from property line): 20 feet (none if abutting O/I)

Maximum Building and Structure Height: 50 feet

Buffers: 25 feet when adjacent to a residential district; 50 feet when adjacent to residential district if O/I development exceeds 10,000 square feet.

7.9.3 Buffers. Buffer standards, and regulations regarding use and crossing of buffers, are located in Section 8.2.

7.9.4 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.9.5 A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the O-I district, unless finished with a product consisting of brick, stone, or hard-coat stucco, with the following exception: the rear wall of a metal building may be allowed to be finished with a metal panel if it is not visible from a public road or right-of-way. All commercial and retail operations in the O/I district must occupy a structure, of a minimum of 500 square feet. The total ground floor area of all structures on the lot shall not exceed 50 percent of the lot.

7.9.6 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.9.7 PERMITTED USES IN O/I DISTRICT

Within the O/I district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

(A) Offices.

- (B) Cultural facilities, including art galleries, museums, legitimate theaters, libraries, and other uses similar in character to those listed.
- (C) Offices of health service practitioner, including physicians, surgeons, dentists, and dental surgeons, osteopathic physicians, chiropractors, and other licensed practitioners similar to those listed.
- (D) Health service clinics, including a pharmacy as an accessory use.
- (E) General office uses, including sales representatives, legal services, engineering, architectural, accounting, auditing, bookkeeping, finance, real estate, insurance, and others similar in character to those listed.
- (F) Churches, synagogues and similar places of worship and their customary related uses. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations.

7.9.8 CONDITIONAL USES IN O/I DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.

Sec. 7.10 **C-N NEIGHBORHOOD BUSINESS DISTRICT**

7.10.1 Purpose. The C-N district is established primarily to encourage the development of smaller commercial uses that serve nearby neighborhoods. Such uses are intended to be consistent with the surrounding residential development in form, mass and design.

7.10.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the C-N District:

Minimum Lot Size: 15,000 square feet on sewer; if on septic, 26,000 square feet or greater as required by County Health Department; or larger if required to meet buffers.

Minimum Lot Width at Street R/W: 100 feet.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 20 feet (none if abutting C-N)

Rear Yard Setback (from property line): 20 feet (none if abutting C-N)

Maximum Building and Structure Height: 50 feet

Buffers: 25 feet where adjacent to any residential district.

7.10.3 Buffers. Buffer standards, and regulations regarding use and crossing of buffers, are located in Section 8.2.

7.10.4 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.10.5 Building Area; Design. A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the C-N district, unless finished with a product consisting of brick, stone, or hard-coat stucco, with the following exception: the rear wall of a metal building may be allowed to be finished with a metal panel if it is not visible from a public road or right-of-way. All commercial and retail operations in the C-N district must occupy a structure, of a minimum of 500 square feet. Uses in the C-N district shall be consistent with any adjacent residential property in scale and size.

7.10.6 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.10.7 PERMITTED USES IN C-N DISTRICT

Within the C-N district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a

district is NOT permitted:

- (A) Strip shopping centers of no more than 20,000 square feet.
- (B) Retail stores and shops, including the incidental sale of motor fuels on lots not exceeding one acre, and no more than six gas pumps (i.e., fueling stations for six vehicles).
- (C) Banks.
- (D) Grocery stores and markets, not exceeding 20,000 square feet.
- (E) Churches, synagogues and similar places of worship and their customary related uses, not exceeding 20,000 square feet of total heated space.
- (F) Nursery schools, adult and child day care centers and kindergartens; provided that they shall have at least thirty-five (35) square feet of indoor space for each child or supervised adult and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (G) Restaurants, coffee shops.

7.10.8 CONDITIONAL USES IN C-N DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.

Sec. 7.11 **C-1 GENERAL BUSINESS DISTRICT**

- 7.11.1 Purpose. The C-1 district is established primarily to encourage the development of general commercial uses.
- 7.11.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the C-1 District:
- Minimum Lot Size: 15,000 square feet on sewer; if on septic, 26,000 square feet or greater as required by County Health Department; or larger if required to meet buffers.
Minimum Lot Width at Street R/W: 100 feet.
Front Yard Setback (from right-of-way): 40 feet
Side Yard Setback (from property line): 20 feet (none if abutting C-1)
Rear Yard Setback (from property line): 20 feet (none if abutting C-1)
Maximum Building and Structure Height: 50 feet
Buffers: 50 feet when adjacent to residential districts.
- 7.11.3 Buffers. Buffer standards, and regulations regarding use and crossing of buffers, are located in Section 8.2.
- 7.11.4 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.
- 7.11.5 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setback shall be 10 feet. If the property is abutting the same zoning district, side and rear setbacks shall be zero, but fire code regulations must still be met.
- 7.11.6 Building Area; Design. A metal panel exterior finish product shall not be allowed on metal buildings exceeding one hundred fifty (150) square feet in gross floor area constructed or placed on lots within the C-1 district, unless finished with a product consisting of brick, stone, or hard-coat stucco, with the following exception: the rear wall of a metal building may be allowed to be finished with a metal panel if it is not visible from a public road or right-of-way. All commercial and retail operations in the C-1 district must occupy a structure, of a minimum of 500 square feet.
- 7.11.7 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.
- 7.11.8 PERMITTED USES IN C-1 DISTRICT

Within the C-1 district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Retail business or service establishments including restaurants.
- (B) Offices, banks, and theaters.
- (C) Hotels, motels.
- (D) Loft condos/apartments, where the residential single-family living space is located above retail space. The residential areas cannot exceed fifty percent (50%) of the structure. Existing developments cannot be converted to this use, unless the entire property is redeveloped. The development must comply with the provisions of Sec. 7.5.7(B)(i) through (vii).
- (E) Institutional-Residential Uses: Hospitals, group homes for persons with a disability, group homes (non-disability) clinics, nursing homes, assisted living facilities, adult day cares, child day cares, kindergartens, retirement homes, shelter care facilities, rehabilitation and treatment facilities, residential treatment centers, hospices, and related facilities. See Sec. 9.1 for further regulations.
- (F) Funeral parlors and mortuaries provided any such use shall be located on a major street.
- (G) Veterinary clinics, kennels, and/or animal hospitals, provided no part of any building, structure, pen, or enclosure is located closer than fifty (50) feet to any property line.
- (H) Churches, synagogues and similar places of worship and their customary related uses.
- (I) Nursery schools, day care centers, and kindergartens; provided that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet.
- (J) Private schools offering general education courses for more than one grade.
- (K) Newspaper offices and printing establishments.
- (L) Public buildings, structures and land.
- (M) Public utility and service structures.
- (N) Tennis/racquetball courts/clubs, or similar facilities.
- (O) Bicycling, mountain bike course, hippodrome, with a minimum of two acres.

- (P) Indoor paintball and laser tag facilities and game centers.
- (Q) Outdoor paintball game courses and facilities, or similar facilities, with a minimum area of 10 acres. Hours of permitted operation are 8:00 a.m. to 9:00 p.m. "Paintball" means any game or event that involves using guns or devices that shoot capsules of paint or dye.
- (R) Theme or amusement park, provided the parcel is at least 100 acres in size; a 100-foot buffer from all adjacent property, meeting the requirements of Section 8.2.5, shall be required.
- (S) Welding shop, metal forging shop, both under 10,000 square feet.
- (T) Machine shop.
- (U) Storage yards, including building materials, timber and lumber; storage accessory to other lawful use (unless otherwise specifically listed elsewhere in this Ordinance).
- (V) Propane storage tanks with individual tank capacities of no more than 15,000 gallons and no more than four tanks, on property of at least five acres. All tanks shall be setback at least 100 feet from the property line, and at least forty (40) feet from any building or structure.
- (W) Wholesale Establishments, Distribution Centers, and Office/Warehouses (excluding processing, fabrication, or manufacturing).
- (X) Mini warehouses.
- (Y) Automobile service stations, provided that all structures and buildings, except principal use signs, and including storage tanks, shall be placed not less than twenty-five (25) feet from any side or rear property line except where such side or rear property line abuts a street, in which case the setback shall be that required for such streets measured from the right-of-way. All buildings or structures including gas pumps and storage tanks, except principal use signs, shall comply with the setback requirements of any abutting street. On a corner lot, the means of ingress and egress shall be provided not less than fifteen (15) feet from the intersection of street right-of-way lines. Ingress and egress shall be arranged and designed so as to minimize the interference with the flow of traffic, either vehicular or pedestrian. No vehicles shall remain unattended on the premises for more than 72 hours except vehicles owned by the business, those vehicles on which active repair by the business is underway, and those held for lease or rental.
- (Z) Self service or automated car wash facility; when such facility is adjacent to existing residential use, an 8-foot opaque wooden fence shall be required along the property line.
- (AA) Automobile parking lots and garages of one acre or less provided said uses

must be surrounded by a fence meeting the requirements of Section 8.2.5.

(BB) Automobile sales and service; auto auctions.

(CC) Truck stop. When adjacent to residential districts, buffer width increases to 100 feet.

(DD) Bus terminals.

7.11.9 CONDITIONAL USES IN C-1 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

(A) Telecommunications structures, subject to Article XII.

(B) Indoor Firing Ranges. Any firing range must be located entirely inside a structure, and the structure must be sound-proofed such that no sound of the discharge of firearms is discernable at the property line. The structure must be designed and constructed with sufficient precautions to prevent stray bullets from escaping. This provision shall not apply to property owned by the County or property owned entities exempt from county zoning including the U.S. Government, a municipality within the County, or an entity regulated by the Georgia Public Service Commission (i.e., a public utility).

Sec. 7.12 **I-1 GENERAL INDUSTRIAL DISTRICT**

7.12.1 Purpose. The I-1 district is established primarily to encourage the development of general industrial uses, as distinct from heavy industrial uses.

7.12.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the I-1 District:

Minimum Lot Size: 1 acre, or as required to meet buffers.

Minimum Lot Width at Street R/W: 100 feet.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 20 feet (none if abutting I-1)

Rear Yard Setback (from property line): 20 feet (none if abutting I-1)

Maximum Building and Structure Height: 75 feet

Buffers: 200 feet when adjacent to residential districts or the C-N or O/I District.

50 feet when adjacent to the C-1 district.

7.12.3 Buffers. Buffer standards, and regulations regarding use and crossing of buffers, are located in Section 8.2.

7.12.4 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.12.5 Building Area. All industrial operations in the I-1 district must occupy a building or structure, of a minimum of 800 square feet.

7.12.6 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.12.7 PERMITTED USES IN I-1 DISTRICT

Within the I-1 district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) General industry, plants and facilities.
- (B) Any retail or service establishment dependent upon or closely related to industry.
- (C) Assembly plant.
- (D) Feed processing plant.

- (E) Fertilizer plant, mixing plant.
- (F) Carpet manufacturing plants.
- (G) Concrete plant.
- (H) Tire, rubber processing plant (not recycling facilities, see Sec. 9.5).
- (I) Soft drink bottler/distribution; beer and liquor distribution, distillery.
- (J) Water bottling plant.
- (K) Manufactured or portable building manufacturers.
- (L) Welding shop, metal forging shop.
- (M) Wholesaling and warehousing.
- (N) Mini-warehouses.
- (O) Automobile service stations meeting the requirements of Sec. 7.11.8(Y).
- (P) Truck terminals.
- (Q) Storage yards, including building materials yards, lumber yards, and saw mills, but not junk yards or automobile junk yards, provided any such use is screened from view by a fence as set out in Section 8.2.5 of this Ordinance.
- (R) Storage tanks of under 50,000 gallons, for chemicals and other industrial substances, provided all such tanks are located at least 200 feet from the property line.
- (S) Propane storage tanks, of any size, located at least 40 feet from the property line.
- (T) Theme or amusement park.
- (U) Public or private utility service structures, including substations.
- (V) Crematories. All structures must be set back at least fifty (50) feet from property lines, and the property containing the crematory must be located at least one-thousand feet (1,000 ft) from the property line of any residentially-zoned or residentially-used property.
- (W) Medical, dental, laboratory or research facility (except any facility with Class IV biohazard containment facility or experimenting with chemical warfare or nerve agents shall require a conditional use permit).
- (X) Adult establishments in accordance with the requirements of appendix A.

- (Y) Places of worship and accessory uses.
- (Z) Auto parts and repair businesses, including towing companies, with associated recycling/salvage operations, on lots not larger than five (5) acres. No recycled or salvaged cars may be kept on site for more than 120 days; no long-term storage of junk cars shall be permitted. The premises must contain an enclosed building. All temporary storage of vehicles outside of buildings must be in the rear of any buildings on the property, and screened from view from the street and adjacent property by a combination of the buildings, opaque fencing and/or landscaping.
- (AA) Solid waste collections operations, limited to fleet maintenance and storage, and rolloff/dumpster storage, but not a solid waste transfer station. Storage of solid waste is prohibited. See Section 9.5 of the Zoning Ordinance.

7.12.8 CONDITIONAL USES IN I-1 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Solar power generation facilities. Sound barriers shall be required for noise mitigation around all inverter and transformer skid pads. Equipment shall be screened and fenced from adjacent property to restrict unauthorized access. Screening shall consist of a minimum 8-foot opaque fence with the addition of shrubbery, trees or an earthen berm. The applicant shall demonstrate that the proposal will not have an adverse effect on neighboring properties by providing aerials of the site, graphic renderings of the project, and/or pictures from the site of surrounding parcels demonstrating sight lines. Appropriate vegetated buffers and/or plantings may also be required to help limit the visual impact of the site and possible glare issues.

Sec. 7.13 **I-2 HEAVY INDUSTRIAL DISTRICT**

7.13.1 Purpose. The I-2 district is established primarily to encourage the development of heavy industrial uses, as distinct from general industrial uses.

7.13.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the I-2 District:

Minimum Lot Size: 1 acre, or as required to meet buffers.

Minimum Lot Width at Street R/W: 100 feet.

Front Yard Setback (from right-of-way): 40 feet

Side Yard Setback (from property line): 20 feet (none if abutting I-2)

Rear Yard Setback (from property line): 20 feet (none if abutting I-2)

Maximum Building and Structure Height: 75 feet

Buffers: 500 feet when adjacent to residential districts or the C-N or O/I District.

100 feet when adjacent to the C-1 district. 50 feet when adjacent to the I-1 District

Special Setbacks and Buffers: Due to the risk of explosion and damage to surrounding property, any chemical plant, petroleum refinery or petroleum processing plant, bulk storage tank farm, fertilizer plant or explosives plant, or similar use posing risk of explosion, shall be set back from the property line by at least 1,000 feet, including all structures and facilities except for parking areas, storm water and detention facilities, fencing and checkpoints, rail lines and related appurtenances. Any loading or unloading area must meet the setback. Any use specified in the paragraph shall require a 500 foot buffer for all adjacent property, no matter what the zoning district, and at least 200 feet of such buffer must be wooded, or planted with at least six rows of varying trees (tree plan to be approved by the zoning administrator to provide visual screening and some blast protection).

7.13.3 Buffers. Buffer standards and regulations regarding use and crossing of buffers, are located in Section 8.2.

7.13.4 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.13.5 Building Area. All industrial operations in the I-2 district must occupy a building or structure, of a minimum of 800 square feet.

7.13.6 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.13.7 PERMITTED USES IN I-2 DISTRICT

Within the I-2 district, no building, structure, land, or water shall be used except

with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Any use permitted in an I-1 general industrial district, including general industry, plants and facilities.
- (B) Heavy industry, plants and facilities.
- (C) Assembly plant, and heavy assembly plant.
- (D) Asphalt plant.
- (E) Chemical plants.
- (F) Petroleum refinery/processing plant.
- (G) Petroleum, natural gas, or liquid propane (or similar flammable substance) substation or transfer station.
- (H) Bulk storage tanks (flammable or non-flammable); all tanks must be surrounded by spill-control dikes and other measures; flammable tanks must be kept at least 1,000 feet from property line. Bulk storage exceeds 50,000 gallons.
- (I) Steel plant, metal smelting, mini-mill, electric arc furnace and integrated steel mills.
- (J) Paper or pulp mills.
- (K) Scrap tire processing plants.
- (L) Brick or masonry plants.
- (M) Commercial mulching operations, and similar uses.
- (N) Chicken or meat processing plants.
- (O) Tannery, leather processing facility.
- (P) Railroad yards, switching yards, depots.
- (Q) Public utility service structures including substations.
- (R) Adult establishments in accordance with the requirements of appendix A.
- (S) Places of worship and accessory uses.

7.13.8 CONDITIONAL USES IN I-2 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Landfills. See Sec. 9.4 for further regulations.
- (C) Recovered Material Processing Facilities and Solid Waste Handling Facilities. See Sec. 9.5 further regulations.
- (D) Composting facility (see Sec. 9.5 for further regulations).
- (E) Junk yards, including automobile junk yards, and scrap yards, salvage yards or other salvage operations, conditioned upon the same being compatible with the existing heavy industry and not being distracting from the surrounding area and further conditioned upon such use being completely screened from view by a solid opaque wall, or existing natural screen at least eight (8) feet in height. Such junkyard shall comply with all setback requirements for this district and shall contain at least twenty (20) acres and not adjoin a residential area. The buffer between said use and another use permitted in this district or any other district shall be at least 500 feet at all points around the property line.
- (F) Explosives plant and explosives storage.
- (G) Public or private utility generation facilities; power plants (except nuclear power which is not permitted); solar power generation facilities; wind power generation facilities; public utility service structures including substations. For solar power generation facilities, sound barriers shall be required for noise mitigation around all inverter and transformer skid pads. Equipment shall be screened and fenced from adjacent property to restrict unauthorized access. Screening shall consist of a minimum 8-foot opaque fence with the addition of shrubbery, trees or an earthen berm. The applicant shall demonstrate that the proposal will not have an adverse effect on neighboring properties by providing aerials of the site, graphic renderings of the project, and/or pictures from the site of surrounding parcels demonstrating sight lines. Appropriate vegetated buffers and/or plantings may also be required to help limit the visual impact of the site and possible glare issues.

Sec. 7.14 **M-1 MINING DISTRICT**

7.14.1 Purpose. The M-1 district is established primarily to permit the mining of property. The permitting and regulation of the mining industry falls upon one or more of the following federal or state authorities: a) federal - U. S. Department of Labor, Mine Safety and Health Administration, Environmental Protection Agency; b) state - Georgia Department of Natural Resources, Environmental Protection Division.

7.14.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the M-1 District:

Minimum Lot Width at Street R/W: 200 feet.

Front Yard Setback (from right-of-way): 150 feet

Side Yard Setback (from property line): 50 feet (none if abutting M-1)

Rear Yard Setback (from property line): 50 feet (none if abutting M-1)

Maximum Building and Structure Height: 75 feet

Buffers: Buffer shall be either 100, 500 or 1,000 feet in width, depending on use or type of mining. See below.

7.14.3 Special Buffer Provisions.

- (A) Mining involving blasting or using of explosives (e.g. granite and limestone quarrying), or drilling for oil or natural gas or other hydrocarbons, shall require a 1,000-foot buffer when abutting a different district. No drilling shall be conducted within 1,000 feet of a preexisting well supplying drinking water.
- (B) Mining not involving blasting or use of explosives, but involving heavy excavators and large excavations or removal of overburden (e.g., strip mining, open pit mining, and some subsurface mining), shall require a 500-foot buffer when abutting a different district.
- (C) Shallow surface mining (mining on the surface not exceeding a depth below preexisting grade of ten feet) is permitted with a 100-foot vegetated buffer, when abutting a different district.
- (D) Any question of the appropriate buffer width shall be left to the interpretation of the Zoning Administrator, who shall be provided site plans and operational descriptions as required to make the necessary determination.
- (E) Other non-mining uses in the M-1 district shall require a 100-foot buffer when abutting a different district.
- (F) Buffer standards and regulations regarding use and crossing of buffers, are located in Section 8.2. The buffer shall be maintained by the property owner.

7.14.4 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned

observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

- 7.14.5 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.14.6 PERMITTED USES IN M-1 DISTRICT

Within the M-1 district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:

- (A) Mining and quarrying; extraction of natural resources from the earth; drilling for oil, gas or other hydrocarbons.
- (B) Activities directly related to, and in the support of, the excavation of minerals or rock materials which are beneficial and sold for profit. Such activities may be surface, underground, subaqueous, or solution in nature.
- (C) Public utility and service structures.
- (D) Concrete plant, masonry plant, brick plant.
- (E) Fertilizer plant.
- (F) Inert waste landfills. See Sec. 9.4.

7.14.7 CONDITIONAL USES IN M-1 DISTRICT

The following are permitted only with the grant of a conditional use permit under the requirements of Article XVI. All such uses must likewise meet all requirements of this zoning district.

- (A) Telecommunications structures, subject to Article XII.
- (B) Explosives plant and explosives storage, when accessory to mining operations.

Sec. 7.15 **PUD PLANNED UNIT DEVELOPMENT DISTRICT**

7.15.1 Purpose. The PUD district is established primarily to encourage the development of mixed use developments, containing both residential and commercial property. PUD is considered a residential district where residential uses are placed.

7.15.2 Area, Yard, Height and Buffer Requirements. The following requirements apply in the PUD District:

Minimum PUD Size: 20 acres; minimum individual lot size, 7,500 square feet on sewer. Septic not allowed in a PUD.

Minimum Lot Width at Street R/W for individual lot: 50 ft., 25 ft. on cul-de-sac.

Front Yard Setback for individual lot: 25 feet

Side Yard Setback for individual lot: 10 feet

Rear Yard Setback for individual lot: 25 feet

External Setback: 25 feet (i.e., all buildings to be at least 25 feet from external boundaries of PUD development).

Maximum Building and Structure Height: 50 feet

Buffers: Buffers in PUD districts shall be set according to the zoning district that corresponds to the proposed use and density, and shall be determined at the time the PUD status is granted by rezoning.

7.15.3 Height Exceptions. The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see Article XI.

7.15.4 Accessory Structures. Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet. Non-residential accessory uses shall be set back at least fifty (50) feet from the property line, shall be screened by a twenty-five (25) foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property, or as otherwise required by the Zoning Administrator during the review process. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations.

7.15.5 Development Plans. Development must be in accordance with the Bartow County Development Regulations. The Engineering Department should be consulted. Uses in this district are subject to special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.

7.15.6 A planned unit development district shall be located only in an area where public utilities are available on not less than twenty (20) acres. A PUD must be served by public water and sewer. Said District may consist of various residential dwellings, commercial or industrial sites or combinations thereof on lots of not less than 7,500

square feet developed as a unit. A PUD is not intended to be developed as solely residential lots.

7.15.7 The following shall be filed with the application for rezoning, in addition to any information otherwise required of all rezoning applications. Site plans are required to be filed, and the PUD must be conditioned to the site plan at the rezoning hearing. Concept plans with only general delineations of the location of lots and structures are unacceptable:

- (A) the proposed name of the PUD;
- (B) an aerial photograph of the area and vicinity;
- (C) a complete and accurate legal description of the proposed PUD property;
- (D) a tabulation of total acreage of the site designated for various uses, i.e., parking, structures, streets, parks, playgrounds and utilities;
- (E) a site plan showing all proposed lots in the PUD and proposed building densities (units per acre);
- (F) proposed circulation pattern of the public streets and private driveways;
- (G) parking layout which complies with the provisions of this Ordinance concerning off-street parking;
- (H) all access points to the same arterial streets to be located and which shall have been approved by the Road Department and/or the Georgia Department of Transportation;
- (I) detailed landscaping plans, including and designating types of buffer or landscape screens placed between abrupt changes of land uses. Buffers shall be required consistent with the most comparable zoning district for the proposed uses;
- (J) signage plan, showing all proposed signs (providing height, area, type and location) for commercial uses and businesses; and
- (K) site plan showing a minimum of ten percent (10%) of the PUD shall be set aside and designated for recreational purposes (for example, parks, fields, playgrounds, walking trails, etc.). Parking lots, streets, setback areas, stormwater control measures, detention facilities, and so forth shall not count towards this requirement.

7.15.8 PERMITTED USES IN THE PUD DISTRICT

Uses permitted in the R-1, R-2, R-3, C-1, and C-N districts are permitted in the PUD District.

7.15.9 Consideration of the application for a PUD shall be in accordance with the procedures set forth in Article XV of this Ordinance, provided, however, the

applicant may request, at the time of filing the application, an extended presentation time. In that event, the application will automatically be placed last on the agendas of the Planning Commission and Commissioner's public hearings for the date at which the application is to be presented or the Zoning Administrator may set a special hearing date to consider the same.

- 7.15.10 Except as otherwise expressly provided herein, the PUD shall comply with all the requirements of this Ordinance.
- 7.15.11 CONDITIONAL USES IN PUD DISTRICT. Telecommunications structures may be permitted as conditional uses in the PUD District, subject to Article XII of this Ordinance.

Sec. 7.16 **CONSERVATION SUBDIVISION (SPECIAL DISTRICT)**

- 7.16.1 Purpose. It is the purpose and intent of Bartow County in enacting these regulations to provide for increased greenspace in Bartow County, and to preserve open land in perpetuity for future generations, while not increasing the overall development levels for the County. The purpose is further to increase the aesthetic beauty of the County, improve the value of adjacent property, and generally serve to enhance the public health, safety and welfare of the citizens of Bartow County.
- 7.16.2 Procedure. A conservation subdivision allows increased residential density in conjunction with the fee simple grant of undeveloped and undisturbed greenspace to the County or to such land trust as the County may designate. The applicant seeking to develop a conservation subdivision must meet with the Zoning Administrator and provide a survey of the entire tract, prior to placement of lots and roads. The County and the applicant shall then agree upon the tract to be donated. Where possible, the tract to be donated should link up with other greenspace tracts or trails. A minimum of one-half of the total acreage of the parcel must be donated to qualify for a conservation subdivision. Alternative greenspace arrangements are also available. See Section 7.16.9.
- 7.16.3 Applicable Districts. A conservation subdivision is permissible in the following zoning districts: R-1, R-2, R-4, RE-1, and RE-2.
- 7.16.4 Development Regulations. In a conservation subdivision, the following development standards shall apply.
- (A) Minimum lot size is reduced by 50% from the existing minimum residential lot size under that zoning classification, if sewer is available. For example, in authorized “R” districts, minimum lot size reduces to 7,500 square feet. In “RE” districts, minimum lot size becomes 1.5 acres. If sewer is not to be used for waste disposal, the minimum lot size shall be 50% of the existing minimum, or the amount required by the health department, whichever is greater.
 - (B) The overall density of lots shall not exceed that number which would be permissible under the normal development standards; gross density shall not be increased, except as provided in subparagraph (C) below.
 - (C) Curb and gutter shall not be required in conservation subdivisions in RE-1 and RE-2 districts. In RE-1 and RE-2 districts only, a twenty percent (20%) density bonus shall be granted if the developer chooses to install curb and gutter, and the lot size shall be reduced sufficiently to grant this bonus; however, health department regulations shall still apply.
 - (D) In the R-1, R-2 and R-4 districts, front setbacks are reduced to 15 feet, and rear setbacks are reduced to 20 feet. The minimum width at the building line is reduced to 75 feet. The setbacks and minimum building line width for RE-1 and RE-2 are not changed.
- 7.16.5 Greenspace Areas. Greenspace areas shall include, but not be limited to, wetlands, river buffer zones, woodlands, wildlife corridors, pastures, meadows, and similar

natural property. Greenspace areas shall be contiguous on the parcel. Greenspace shall be contiguous to other greenspace parcels, county parks, Corps of Engineer property, national parks, and similar preserved land where possible. Greenspace land shall be undisturbed and undeveloped. Greenspace must be accessible by a county or state road, or by easement. Hunting shall not be permitted in greenspace areas and any deed of conveyance of greenspace to the County or land trust shall contain a deed restriction to that effect.

- 7.16.6 Standards. Approval of a conservation subdivision shall be granted or denied by the Zoning Administrator. The Zoning Administrator shall consider the following factors:
- (A) Whether the applicant has designated and offered to dedicate appropriate amounts and locations of greenspace.
 - (B) Whether the conservation subdivision would be detrimental to the surrounding uses.
 - (C) Whether the terrain or location of the property is not suitable for a conservation subdivision, or is not desirable as greenspace.
 - (D) Whether the area remaining after dedication of greenspace is suitable for development at the proposed density.
- 7.16.7 Approval, Post-Approval Procedure. The Zoning Administrator shall issue written approval or denial of the conservation subdivision. Upon approval of the conservation subdivision, the applicant shall cause a survey and legal description to be prepared of the greenspace. Greenspace shall be clearly identified on all preliminary plans and all development plans. Greenspace shall be dedicated to a land trust as the developer may designate, the County, or to the Home Owners' Association prior to approval of the final plat, by fee simple deed, to be preserved in perpetuity as greenspace. Appeal of the approval of a conservation subdivision must be initiated within thirty (30) days of written approval by the Zoning Administrator of the conservation subdivision. If an appeal is initiated, the applicant may withhold dedication until the appeal is completed.
- 7.16.8 Appeal. Appeal of the Zoning Administrator's decision to approve or deny a conservation subdivision can be taken by the applicant or any aggrieved citizen by filing a notice of appeal within thirty days with the Zoning Administrator, who shall forward the appeal directly to the Board of Appeals. The Board of Appeals shall hear the appeal at the next available hearing. Appeals from the Board of Appeals shall be to the Commissioner pursuant to Article XIV.
- 7.16.9 Alternative Greenspace. In a conservation subdivision, the applicant may propose alternatives from the standard requirement. The applicant may propose purchasing an equivalent amount of greenspace adjacent and contiguous to existing county greenspace elsewhere in the County; the applicant may propose donating an equivalent amount of greenspace to an approved land trust; or the applicant may propose submitting funds to purchase an equivalent amount of greenspace, to be paid into a County greenspace bank for future purchase of greenspace at the County's discretion. Such dollar amounts would be based on appraisals approved

by the Zoning Administrator, at pre-development values. Payment or contribution of land shall occur prior to approval of the final plat. Any alternative greenspace arrangement must be approved by the Commissioner. Alternative greenspace arrangements require the voluntary cooperation of the applicant; otherwise, the standard requirement shall apply.

Sec. 7.17 **ETOWAH VALLEY HISTORIC DISTRICT (SPECIAL DISTRICT)**

- 7.17.1 Purpose. It is the purpose and intent of Bartow County in enacting these regulations to provide for the identification of and protection of historical and cultural artifacts and sacred locations of the Muscogee (Creek) Nation and the Eastern Band of the Cherokee Nation, which are two Native American Nations that are historically connected to the Etowah River Valley (referred to collectively as “Native American Nations”). The identification and protection of such artifacts and locations is of great benefit to the public welfare, in that it preserves and promotes understanding of the County’s and the nation’s history, enhances the aesthetic environment, encourages proper economic development, provides tourism opportunities, and benefits all citizens. This Ordinance further honors the agreement made with the Nations by Bartow County. Property in the Etowah Valley Historic District is subject to additional procedures prior to rezoning or development, in order to achieve these purposes.
- 7.17.2 District Established. The Etowah Valley Historic District is an overlay district, the boundaries of which are depicted on the map described in Section 7.17.3. All provisions of the underlying zoning district shall continue to apply in addition to the requirements of this Section. In cases of conflict, the stricter requirement shall control.
- 7.17.3 District Boundaries. The boundaries of the Etowah Valley Historic District shall be as depicted on the map designated “Bartow County Etowah Valley Historic District,” dated August 6, 2003, which map is incorporated into this Ordinance by reference, and which map shall be kept in the office of the Zoning Administrator and shall be available for public inspection at all times.
- 7.17.4 Rezoning; Land Use Map Change. Application for Rezoning or Land Use Map Amendment; Notification:
- (A) Any applicant seeking an amendment to the land use map, or seeking a rezoning for any property located in the Etowah Valley Historic District shall, prior to filing an application, send notice to the Native American Nations at the address given in Section 7.17.8. The notice provided to the Nations must contain a copy of the proposed application. The notice shall also state that the Nations have thirty days to respond and comment on the application, from the date of their receipt, and that all such comments shall be sent to both the applicant and the Bartow County Zoning Administrator, at 135 W. Cherokee Avenue, Cartersville, Georgia 30120.
 - (B) Notices shall be sent certified mail, return receipt requested, to the addresses listed in Sec. 7.17.8. Copies of the notices shall be filed with the application. The return receipt of all notices shall be filed with the Zoning Administrator within thirty days of the application being filed.
 - (C) No Planning Commission hearing can be held on any application falling under this section until at least thirty days after the date of the last return receipt indicating notice to the Nations. Any comments received shall be included in the file for review by the Planning Commission and Bartow County Commissioner.

7.17.5 Development; Land Disturbance Permit. Application for Development or Land Disturbance; Survey Required; Notification:

- (A) Any applicant seeking a permit or approval for any development (as defined in the Bartow County Zoning Ordinance) or land disturbance permit in the Etowah Valley Historic District, other than one seeking to erect a single-family residence on a single lot, shall commission an archaeological survey for any property or portion of property within the boundaries of the District. The survey shall be conducted by a qualified archaeologist, as defined in Sec. 7.17.10. No application will be accepted by the County without a completed archaeological survey.
- (B) The Native American Nations shall be notified prior to the commencement of the archaeological survey by notice stating that a survey is being commenced and describing the subject property, and identifying the archaeologist.
- (C) The Nations shall also be notified of the completion of the archaeological survey and shall be sent a copy of the completed survey and the application (including site plan), prior to submission to Bartow County. This notice shall state that the Nations have thirty days to respond and comment on the application and survey, from the date of their receipt, and that all such comments shall be sent to both the applicant and the Bartow County Zoning Administrator, at 135 W. Cherokee Avenue, Cartersville, Georgia 30120.
- (D) All notices shall be sent to the addresses listed in Sec. 7.17.8, via certified mail, return receipt requested. Copies of all notices sent shall be filed with the application. The return receipt cards of all notices must be filed with the Zoning Administrator within thirty days of the application being filed.
- (E) If the Nations desire to dispute the recommendation of the applicant's archaeological survey regarding the subject property, they shall be required to submit their own survey and/or recommendation from a qualified archaeologist, as defined in Sec. 7.17.10. Each Nation may submit its own survey. Any survey shall be prepared to the standards of Sec. 7.17.6. The Nations shall submit such survey or recommendation to the applicant and the Zoning Administrator within thirty days of receipt of the application. If no survey is submitted, the Nations' archaeologist shall at least make a recommendation, consistent with his or her best professional judgment, as to what action should be taken on the site, e.g.: further survey, removal, avoidance, mitigation, preservation in place, data recovery, or other actions.

7.17.6 Archaeological Survey Standards.

- (A) Archaeological surveys shall be prepared by a qualified archaeologist, as defined in Section 7.17.10. Archaeological surveys shall be prepared pursuant to the standards contained in the Archaeological Assessment Report Guidelines and Components, produced by the Georgia Department of Natural Resources, Historic Preservation Division ("HPD"). Surveys shall be "Intensive Level Surveys" as defined in that document. Surveys shall identify any Significant sites, historic sites or artifacts, or prehistoric sites or artifacts on the property. A

“Significant” site is a site that is listed, or potentially would be eligible for listing, in the National Register for Historic Places.

- (B) If any archaeological survey reveals any Significant sites, historic sites or artifacts, or prehistoric sites or artifacts, the archaeologist preparing the survey shall make a recommendation, consistent with his or her best professional judgment, as to what action should be taken on the site, e.g.: further survey, removal, avoidance, mitigation, preservation in place, data recovery, or other actions. If the survey reveals no Significant sites, historic sites or artifacts, or prehistoric sites or artifacts, the archaeologist shall so state.
- (C) The survey shall also include a resume, CV, or other documents demonstrating that the author is a qualified archaeologist as defined in Section 7.17.10.
- (D) Potential applicants are advised, but not required, to commission a “Reconnaissance Level Survey” well in advance of significant development expenditures, to identify issues as early as possible. Neither notice nor filing of that report is required.

7.17.7 Survey Review and Decisions; Referral to State Historic Preservation Division

- (A) The “Intensive Level” archaeological survey shall be submitted with the application for development permits, and shall be available to the public. Comments shall be accepted from the Native American Nations and any other party wishing to comment, in written form. The Nations may also submit a survey or recommendation from a qualified archaeologist, as discussed in Sec. 7.17.5, above. Each nation may submit its own recommendation. The Zoning Administrator shall have the longer of sixty (60) days from the date of filing of the application and survey, or thirty (30) days from the date of receipt of the last certified mail “return receipt” indicating notice to the Nations, or thirty (30) days from the receipt of the Nations’ survey or comments, for initial review of the archaeological survey. One extension of up to sixty (60) days may be granted of this period at the discretion of the Zoning Administrator.
- (B) In regards to whether any Significant historic or prehistoric sites or artifacts exist, and what action if any should be taken with such sites or artifacts, the County shall follow the recommendation of the applicant’s qualified archaeologist, unless the Nations submit a different recommendation from their own qualified archaeologist.
- (C) In the event there is a dispute between the applicant’s archaeologist and the Nations’ archaeologist over the existence of Significant historic or prehistoric sites or artifacts, or a dispute over what action should be taken with such sites or artifacts, the surveys and recommendations from both the applicant and the Nations shall be submitted to the Georgia Department of Natural Resources, Historic Preservation Division (“HPD”), at 156 Trinity Avenue, SW, Suite 101, Atlanta, GA 30303-3600, with a request for technical resource assistance, and a recommendation on action to take. The HPD shall be informed in the request that if no recommendation is received within sixty (60) days from the date the request is mailed, the recommendation of the applicant’s archaeologist shall be accepted.

- (D) In the event assistance is requested from the Historic Preservation Division, the County shall await the HPD's recommendation, and shall refer to and rely upon the HPD's comments, and implement the HPD's recommendation. If no response is received from the HPD within sixty (60) days from the date the request is mailed, the recommendation of the applicant's archaeologist shall be accepted.
- (E) All other provisions of applicable County ordinances must also be satisfied prior to permits being issued.

7.17.8 Native American Nations; Notification Addresses

The terms "Native American Nations" and "Nations," as used in this Ordinance, refer exclusively to the Muscogee (Creek) Nation and the Eastern Band of the Cherokee Nation. Any required notice shall be sent to the Nations at the following addresses:

For the Muscogee (Creek) Nation:

Attn: Joyce A. Bear or successor
Cultural Preservation Office
Muscogee (Creek) Nation
P.O. Box 580
Okmulgee, OK 74447
(918) 756-8700 ext. 603; email: cultural@ocevnet.org

For the Eastern Band of the Cherokee Nation:

Attn: Lee Clauss or successor
Cultural Resources/THPO
Eastern Band of Cherokee Indians
P.O. Box 455
Cherokee, NC 28719
(828) 497-1589 or -1594; email: leeclauss@nc-chokeee.com

7.17.9 Human Remains, Cemeteries and Burial Grounds

No known cemetery, burial ground, human remains, or burial object (as those terms are defined in O.C.G.A. § 36-72-2) shall be knowingly disturbed by the owner or occupier of the land on which the cemetery or burial ground is located for the purposes of developing or changing the use of any part of such land unless a permit is first obtained from Bartow County pursuant to the provisions of O.C.G.A. § 36-72-1 et seq., which are incorporated herein by reference. Any discovery of any human remains, cemetery, burial ground or burial object must be reported to the Zoning Administrator and the Native American Nations.

- 7.17.10 Qualifications for Archeologist. A "qualified archaeologist" is an archaeologist who meets the U.S. Department of the Interior, National Park Service professional qualification standards for archaeologists, as published in the Code of Federal Regulations, 36 CFR Part 61, as follows:

- (A) The minimum professional qualifications in archaeology are a graduate degree in archaeology, anthropology, or closely related field plus:
 - (i) At least one year of full-time professional experience or equivalent specialized training in archaeological research, administration or management;
 - (ii) At least four months of supervised field and analytical experience in general North American archaeology; and
 - (iii) A demonstrated ability to carry research to completion.
- (B) In addition to those minimum qualifications, a professional in prehistoric archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the prehistoric period. A professional in historic archeology shall have at least one year of full-time professional experience at a supervisory level in the study of archaeological resources of the historic period.

7.17.11 Fees. A surcharge fee for review of an application for a land use map amendment, rezoning or any development in the Etowah Valley Historic District shall be charged, in the amount of \$150. This fee shall be in addition to the normal fee, and relates to the costs of additional administration and review.

7.17.12 Appeals. Any aggrieved party shall have fifteen days from the date of the Zoning Administrator's decision to file an appeal of the Zoning Administrator's decision, which shall be heard by the Board of Appeals. Appeal shall be initiated by filing a written appeal stating the grounds with the Zoning Administrator. The Board of Appeals shall hear the appeal within forty-five (45) days of the date of appeal.

Sec. 7.18 **BUSINESS PARK DISTRICT**

7.18.1 Purpose.

The purpose of the Business Park District is to provide uniform regulations for a joint City of Cartersville-Bartow County industrial/business park, a portion of which is located in each jurisdiction. To provide consistency for property owners and future uses, and to benefit the public health, safety and welfare, the City and County have adopted identical regulations as follows. The Business Park District, where applied via amendment to the Official Zoning Maps of the participating government, shall control over inconsistent regulations contained in other ordinances and the Code of Ordinances of each jurisdiction, whether or not the provisions herein are stronger or weaker restrictions. The purpose of this district is also to provide consistent development standards for other industrial and business parks located in the vicinity of the joint City-County park, so that the area is developed consistently and without incompatible uses or negative impacts on infrastructure, public health, safety or welfare. This District may also in the future be applied to other areas of the County. The provisions of this section control over inconsistent provisions in other sections of this Ordinance or other portions of the Code of Bartow County.

7.18.2 General Area, Height and Setback Regulations.

Minimum lot size:	1 acre
Maximum lot coverage (impervious surface limitation):	75%
Required lot width at street right-of-way (internal street):	40 feet (25 feet in cul-de-sac)
Front setback:	40 feet
Side setback:	15 feet
Rear setback:	20 feet
Maximum building height (see below):	50 feet
Buffers (see below):	50 feet except as noted.

- (A) The County or City Zoning Administrator dependent upon jurisdiction may grant an administrative variance of up to 20 percent to any of the general area, height and setback regulations listed above. Additionally, they may grant an administrative variance on the undisturbed buffer requirements, if the proposed landscaping and screening in the buffer enhances the screening of the adjacent property.
- (B) Building Height. With the approval of the County or City Zoning Administrator dependent upon jurisdiction, maximum height may be increased by variance. Building height limitations shall not apply to accessory structures such as water towers, conveyer belts, smoke stacks and other incidental and uninhabited parts of industrial uses.
- (C) Buffers. A 50-foot buffer shall apply adjacent to all land uses, except that no buffers shall be required from industrial to industrial. Further, there shall be a 200-foot buffer required where shown on the overlay district map adjacent to existing residential uses as of the date of adoption of the overlay district. When any of the existing residential uses are rezoned to a non-residential zoning classification, the buffer adjacent to that property shall be reduced to 50 feet, unless it is a similar zoning classification, in which case the buffer

requirement shall not apply. Buffers shall be undisturbed, except that, if the buffer is adjacent to a residential use, and is insufficiently dense to be opaque to vision year round, the Zoning Administrator may require that the buffer shall be planted with sufficient vegetation so that it is opaque year-round, to a depth of at least twenty-five feet. Buffers may be used for perpendicular crossing by access roads and utilities, but not for lateral roads or parking. Buffers may be used for detention ponds, provided that vegetative screening remains or is planted between the pond and the property line. The County or City Zoning Administrator dependent on jurisdiction shall approve buffer plans and plantings.

- (D) Setbacks shall be measured from the property or lot line. As setback exceptions, the following may intrude into the setback zone: unsupported roof overhangs, steps, walkways and access roads, landscaping and irrigation systems, planters, architectural fences and walls not exceeding 42 inches, and underground utilities and sewers.

7.18.3 Permitted Uses.

The following uses are permitted in the Business Park District. Any use not specifically listed is prohibited, except as permitted by Section 7.18.4.

- Business offices
- Call center
- Data Center
- Distribution facilities
- Education and Training Facilities
- Light Industrial uses which may include manufacturing, fabricating, processing or assembling of product and equipment which are housed within a building
- Manufactured or portable building manufacturers
- Manufacturing, except explosives or fireworks
- Outdoor Storage (as an accessory use)
- Public Utility Facilities
- Radio, TV and other communication towers
- Research and Development Facilities
- Research laboratories and biomedical laboratories
- Retail or services uses
- Telecommunication structures
- Warehousing
- Wholesale trade and distribution

7.18.4 Conditional Industrial Uses.

Any industrial use not listed above, and otherwise permitted either as a permitted or conditional use in the Bartow County General Industrial District or the Bartow County Heavy Industrial District, may be permitted, upon grant of a conditional use permit. The applicant shall submit an application for a conditional use subject to the standards, regulations and criteria contained in this Ordinance and the application shall proceed as a conditional use permit pursuant to the applicable provisions (Article XVI). Bartow County shall be empowered to impose conditions on the approval to ameliorate any negative impacts of the proposed use, including restrictions on noise, vibration, light or glare, hours of operation, additional buffering and any other appropriate condition.

7.18.5 Prohibited Uses.

Notwithstanding the foregoing, any uses listed herein shall be prohibited and may not be approved for the district, even as a conditional use:

- (1) Airports and landing fields;
- (2) Coal Burning Facilities;
- (3) Paper and pulp manufacturers;
- (4) Explosives, including fireworks manufacture or storage in bulk quantities;
- (5) Garbage, offal, dead animal reduction or dumping;
- (6) Mining and related activity;
- (7) Quarrying and related activity;
- (8) Stock yards, commercial;
- (9) Conversion of energy by nuclear fusion or fission;
- (10) Blasting.

7.18.6 Landscaping Requirements.

All developments shall comply with the following minimum landscape requirements:

Border landscaping – building	5 ft. wide (none between building and truck courts)
Border landscaping – vehicular use area	5 ft. wide
Trees along vehicular use area	1 per 75 ft.
Border landscaping – road ROW	1 per 30 ft., 10 feet wide
Parking lot landscaping islands	160 sq. ft., req. at end of each row; i.e. 320 sq. ft. for double row.
Parking lot landscaping – trees	1 tree per island
Parking lot landscaping – spaces	1 island per 12 spaces
New plant materials – trees	8 ft. height at planting, 15 ft. at maturity

- (A) Parking lot terminal island design. Each single and double row of parking spaces shall be terminated by landscaped islands, no less than 9 feet in width and no less than 15 feet in length and shall include at least one tree having no branches maintained below five feet in height for visibility. The remainder of the island shall be adequately landscaped with shrubs and ground cover with a height of no more than three feet at maturity. Islands may contain no curbs, elevated curbs or depressed curbs.
- (B) Parking lot interior island design. A minimum of one interior island shall be provided for every 15 parking spaces or fraction thereof. One tree required per island having no branches maintained below five feet in height for visibility. The remainder of the island shall be adequately landscaped with shrubs and ground cover with a height of no more than three feet at maturity. Islands may contain no curbs, elevated curbs or depressed curbs.
- (C) New Plant Materials.
Trees – A tree shall attain an average crown spread over 15 feet at maturity. Trees having an average crown spread of less than 15 feet may be substituted by grouping the same so as to create the equivalent of a 15-foot crown spread. All trees shall be of a species which can be maintained with a minimum of five feet of trunk height. New trees shall have a minimum of 2.5 inches diameter at breast height (DBH) measured 4.5 feet above ground

and shall be a minimum of 8 feet in overall height immediately after planting.

Shrubs – Shrubs shall be a minimum of one foot in height when measured at the time of planting.

7.18.7 Street Design Standards.

Streets in this overlay district shall be paved to minimum twenty-eight (28) foot width, with a section of 8” GAB, 3” Binder and 1.5” surface course.

7.18.8 Signs.

(A) The following signs are permitted:

.1 Ground Signs:

One monument-style brick or masonry sign for each individual building in the park. Maximum area of each sign is 60 square feet. Maximum height is 6 feet. The sign may be double-sided. One additional monument-style brick or masonry sign of no more than 60 square feet and six feet in height shall be permitted if the building has more than one access point.

.2 Window Signs:

Total signage per business not to exceed 25% of the area of windows facing road frontage.

.3 Wall Signs:

Total area of all signs is not to exceed 10% of the gross floor area of the building. No more than four wall signs per business are permitted and no single wall sign shall exceed 250 square feet.

.4 Entrance Signs:

Two monument-style brick or masonry entrance signs at each entrance to the business park. Maximum area of each sign is 100 square feet. Entrance signs may only be single-sided, unless only one is erected at an entrance, in which case it can be double-sided. Entrance signs only permitted at the entrance to the planned center. Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is 10 feet.

Sec. 7.19 R-7 RESIDENTIAL DISTRICT (Multi-Family Housing)

7.19.1 Purpose. The R-7 district is established primarily to encourage the development of multi-family housing such as apartments and townhomes in transitioning areas between medium to high-density residential areas and non-residential areas, including redevelopment of existing manufactured-home parks. The R-7 district is a residential district.

7.19.2 Area, Yard, Height and Buffer Requirements. The following requirements apply to the R-7 District:

Minimum Lot Size: 15,000 square feet with sewer; septic not permitted. See Sec. 5.5
Min. Lot Width at Street R/W (on existing road): 200 feet.
Min. Lot Width at Street R/W (in new development): 100 ft., 25 ft. on cul-de-sac.
Front Yard Setback (from right-of-way): 25 feet
Side Yard Setback (from property line): 10 feet
Rear Yard Setback (from property line): 25 feet
Internal Setback (minimum distance between buildings): 20 feet
Maximum Building and Structure Height: 50 feet
Buffers: 25 feet when adjacent to A-1, R-1, R-2, R-3, or R-4 zoning districts.
Special Agricultural Setbacks: See Sec. 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.19.3 PERMITTED USES IN R-7 DISTRICT

Within the R-7 district, land and structures shall be used in accordance with standards herein. Any use not specifically designated as a permitted use in this section shall be prohibited.

(A). Apartment or condominium, with a maximum density of 14 units per gross acre, which comply with the following:

(i) Minimum heated floor area per unit.

- *3-bedroom*, 900 sq. ft.
- *2-bedroom*, 750 sq. ft.
- *1-bedroom*, 600 sq. ft.

(ii) Ten percent of gross acreage shall be set aside as open space and provisions shall be made for common areas within said open space for the use of residents of the development. Streets, parking areas, required yards, and required buffer zones shall not be counted as part of the minimum open space. Such area may serve as passive areas and/or developed for recreational purposes such as pools, playground equipment, walking trails, or basketball and tennis courts.

(iii) Application for rezoning to this zoning district shall require submission of a site plan as well as a parking and landscape plan. Parking lot areas shall have planted landscape strips and at least one tree-planted island for every 12 parking spaces.

(iv) Signage shall be as permitted in the R-3 zoning district.

7.19.4 Other Regulations.

- A. Principle structures within the R-7 district shall have a minimum of fifty percent (50%) finish product on the exterior walls of the buildings consisting of brick, stone, hard-coat stucco, or fiber cement siding.
- B. A metal panel exterior finish product shall not be allowed on metal buildings exceeding 150 square feet in gross floor area constructed or placed on lots within the R-7 district.
- C. Gable or hip roofs shall have a minimum roof pitch of 5.12. Both gable and hip roofs shall provide overhanging eaves on all sides that extend a minimum of one foot beyond the building wall.

Sec. 7.20

R-8 RESIDENTIAL DISTRICT (High-density single-family)

7.20.1 *Purpose.* The R-8 residential district permits the development of high density single-family housing. The R-8 district is a residential district.

7.20.2 *Area, yard, height and buffer requirements.* The following requirements apply in the R-3 district:

Minimum lot size: 7,000 square feet with sewer; septic not permitted. See [section 5.5](#).

Minimum lot width at street R/W (in new development): 50 feet, 35 feet on cul-de-sac.

Front yard setback (from right-of-way): 20 feet.

Side yard setback (from property line): 8 feet.

Rear yard setback (from property line): 20 feet.

Maximum building and structure height: 35 feet.

Minimum open space requirements. Proposed developments consisting of more than five (5) acres shall reserve a minimum of twenty-five (25) percent of the gross acreage of the site as open space with common areas provided. Open space configuration must be approved by the County and should be relatively contiguous and not linear. Open space must be shown on the plat with notation that it is not buildable and cannot be further subdivided.

The development may be proposed with rear garages accessing alleys. If alleys are two way streets, they must meet standard street widths. If one-way streets, they may be constructed with a minimum width of 14 feet.

Buffers: In addition to required setbacks, a fifteen-foot wide buffer is required along all property lines which abut a single-family zoning district or use, or a non-residential zoning district, in order to provide a visual screen in accordance with 8.2.5 of this Appendix.

Special agricultural setbacks: See subsection 8.2.3 for setbacks required for homes built adjacent to existing agricultural structures.

7.20.3 *Height exceptions.* The height limitation does not apply to structures such as unoccupied and inaccessible architectural features on non-residential buildings (e.g., church spires, belfries, cupolas and domes), monuments, government-owned observation towers, water towers, chimneys, flag poles, aerials, and similar structures. Specific height requirements apply to signs and structures containing signs; see article XI.

- 7.20.4 *Accessory structures.* Accessory buildings and structures shall maintain the same front and side yards as the main structure; however, they will not project beyond the established building line. Rear yard setbacks shall be a minimum of ten feet.
- 7.20.5 *Non-residential uses and accessory uses.* Non-residential uses and accessory uses shall be set back at least 50 feet from all property lines, shall be screened by a 25-foot vegetative buffer, and shall also have a six-foot wooden fence on the inner or outer boundary of the buffer where adjacent to residentially-used property. Off-street parking/loading for all non-residential uses shall be provided in accordance with Bartow County Development Regulations. Other provisions of the development regulations may be applicable, and the engineering department should be consulted. Non-residential uses must meet special building code requirements, and the Bartow County Building Inspections Department and the Bartow County Building Code Ordinance should be consulted.
- 7.20.6 *Development in R-8.* Development must be in accordance with the Bartow County Development Regulations. The engineering department should be consulted. In addition, Fire Marshal requirements for increased fire protection and fire flow may be required.
- 7.20.7 *Permitted uses in R-8 district.* Within the R-8 residential district, no building, structure, land, or water shall be used except with one or more of the following uses. A use not specifically named within a district is NOT permitted:
- (A) Conventional or industrialized single family homes. Manufactured houses shall not be permitted.
 - (B) Municipal, county, state, federal and other public uses, including parks and playgrounds; public utilities and service structures.
 - (C) In-home nursery schools (day cares) and kindergartens with no more than six children at any one time; provided that they shall have at least 35 square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six feet.
 - (E) Home occupations. See section 6.4
 - (F) Group homes for persons with a disability (for up to six residents excluding resident staff), licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources.

7.20.8 *Conditional uses in R-8 district.* The following are permitted only with the grant of a conditional use permit under the requirements of article XVI. All such uses must likewise meet all requirements of this zoning district.

(A) Telecommunications structures, subject to article XII.

(B) Churches, synagogues and similar places of worship. Accessory uses for churches and places of worship, such as schools, day cares, hospices, and similar facilities, are permitted. All such uses must meet off-street parking regulations, as required by the Bartow County Development Regulations. See subsection 7.20.5.

ARTICLE VIII

AREA, YARD, HEIGHT AND BUFFER REQUIREMENTS

Sec. 8.1 AREA, YARD AND HEIGHT REQUIREMENTS.

8.1.1 Table. The following table summarizes area, yard and height requirements as stated in each individual zoning district in Article VII. In the event of a conflict, the requirements stated in Article VII shall control. All units in feet unless otherwise indicated. See the applicable zoning district regulations for further information. See Sec. 8.2 for transitional buffer requirements between dissimilar zoning districts. Notes: “Width at street R/W” refers to the width of the lot at the street right-of-way line; i.e., the frontage of the lot. Two values are given, one for lots on existing County roads, and one for lots in newly created developments or subdivisions. Cul-de-sacs are special, see footnote 1 to the table. “Front setback from R/W” means the front setback is measured from the right-of-way line, not the street or back of curb.

District	Area	Width at Street R/W (existing/ new development)	Front setback from R/W	Side setback	Rear setback	Max. Bldg. Ht. ²
A-1	2 acres	200/100 ¹	40	10	25	50
RE-1	3 acres ⁷	200/100 ¹	40	10	25	50
RE-2	3 acres ⁷	200/100 ¹	40	10	25	50
R-1	15,000 sq. ft. ^{3,7}	200/100 ¹	25 ⁸	10	25 ⁸	50
R-2	15,000 sq. ft. ^{3,7}	200/100 ¹	25 ⁸	10	25 ⁸	50
R-3	15,000 sq. ft. ³	200/100 ¹	25	10	25	50
R-4	15,000 sq. ft. ^{3,7}	200/100 ¹	25 ⁸	10	25 ⁸	50
R-6	10 acres ⁹	Sec. 7.8	25 ⁶	10 ⁶	25 ⁶	50
O/I	15,000 sq. ft. ³	100	40	20 ⁴	20 ⁴	50
C-N	15,000 sq. ft. ^{3,5}	100	40	20 ⁴	20 ⁴	50
C-1	15,000 sq. ft. ^{3,5}	100	40	20 ⁴	20 ⁴	50
I-1	1 acre ⁵	100	40	20 ⁴	20 ⁴	75
I-2	1 acre ⁵	100	40	20 ⁴	20 ⁴	75
M-1	100 acres	200	150	50	50	75
PUD	20 acres ⁹	NA/50	25	10	25	50
Bus. Park	1 acre	40 ¹	40	15	20	50

Footnotes for Table 8.1.1:

¹ Except on cul-de-sac lots; on such lots, the minimum width of frontage at the street right-of-way line is 50 feet in A-1, RE-1 and RE-2, 25 feet in R-1, R-2, R-3 and R-4; and 25 feet in Business Park District. Buildings on cul-de-sac lots must meet front, side and rear setbacks.

² Specific height requirements apply to signs, see Article XI. Special signage requirements apply to the Business Park District, see Sec. 7.18.8. The height

limitations do not apply to structures such as unoccupied and inaccessible architectural features on commercial or institutional buildings (e.g., church spires, church belfries, cupolas and domes on commercial buildings), monuments, silos (in the A-1 district), government-owned observation towers, water towers, chimneys, smokestacks (in industrial districts), conveyors (in industrial districts), flag poles, masts, aerials, and similar structures, except that none of the above shall, within a three (3) mile radius of the Cartersville-Bartow County Airport, exceed a height above the “clear zone” required for a safe approach to said airport as set forth by the Federal Aviation Administration. Furthermore, any said structure containing a sign shall be subject to the height requirements of Article XI.

³ If the lots use sewer for waste disposal; if sewer is not available, the minimum shall be 26,000 square feet or as specified by the health department, whichever is greater.

⁴ When abutting a different district, a side & rear yard shall be provided as stated. When abutting an area zoned the same as the subject property, no side or rear yard shall be required, except that minimum fire code requirements shall in all cases be met.

⁵ If no transitional buffers (i.e., buffers between differing zoning districts) required. If transitional buffers (see Sec. 8.2) are required, the minimum lot size shall be an amount sufficient to accommodate all required buffers, plus one acre in Business Park, I-1 or I-2 properties, or plus 15,000 sq. ft. in C-1, C-N, and O/I parcels.

⁶ Setbacks apply to district in general; setbacks and yard areas for individual lots in R-6 governed by Section 7.8.

⁷ In Conservation Subdivisions (See Sec. 7.16), minimum lot size is 50% of the existing minimum lot size: R-1, R-2, and R-4 reduce to 7,500 sq. ft; RE-1 and RE-2 reduce to 1.5 acres. However, if sewer is not used, the minimum lot size is either 50% of the existing minimum, or the minimum amount required by the health department, whichever is greater.

⁸ In Conservation Subdivisions (Sec. 7.16), for “R” districts, the minimum front setback is reduced to 15 feet, the minimum rear setback is reduced to 20 feet, and the minimum width at the building line is reduced to 50 feet.

⁹ Minimum size for development; minimum lot size governed by Sec. 7.8 and 7.15 respectively.

Sec. 8.2 REQUIRED BUFFERS

- 8.2.1 Buffers. A buffer area shall be defined as that portion of a lot set aside for separation or screening purposes, pursuant to the applicable provisions of this Ordinance, to separate different use districts and or uses on one property from uses on another property of the same use district or a different use district. Transitional buffers are buffers required between dissimilar zoning districts.

8.2.2 Buffer Requirements.

Mandatory buffer widths are listed under each individual zoning district.

8.2.3 Special Agricultural Provisions.

In order to protect existing agricultural uses from encroachment by new development, the following provisions shall apply:

- (A) Major livestock facilities. When any property is rezoned from an A-1 District to any residential district and there is located on adjoining property an existing major livestock enclosure, then no dwelling constructed on the newly rezoned property shall be located less than 100 feet from the adjoining property line on which any of the above are located and less than 500 feet from the closest point of any of the above referred to activities.
- (B) Minor livestock facilities. When any property is rezoned from an A-1 District to any residential district and there is located on adjoining property an existing chicken coop or minor livestock enclosure, then no dwelling constructed on the newly rezoned property shall be located less than 100 feet from the adjoining property line on which any of the above are located and less than 200 feet from the closest point of any of the above referred to activities.

8.2.4 Special Exemptions. The following special exceptions apply to buffers and control over general buffer provisions:

- (A) When property zoned C-1, C-N or O/I is separated by a county or state road or federal highway from residentially-zoned property, no buffer shall be required.
- (B) When property zoned I-1 is separated from property in a different zoning classification by a state or federal highway right-of-way of at least 100 feet in width, the required buffer for the I-1 property along such right-of-way shall be reduced to fifty (50) feet.
- (C) When property zoned C-1 or C-N is located adjacent to property zoned A-1 and containing a non-residential use, no buffer shall be required.

8.2.5 Buffer Standards. Buffers should be sufficient to provide some screening or protection to neighboring uses, where required by the use and nature of the surrounding area. The particular standards for a specific buffer depend on the nature of the proposed use, and the character of the surrounding area. The Zoning Administrator shall make a determination as to the type of buffer required, following the procedure of Sec. 8.2.6.

- (A) The Zoning Administrator shall have the following discretionary options regarding the standards imposed on a particular buffer, and may impose some or all of the following requirements:
 - (i) Buffers may be required to be left in their natural state with the

preexisting vegetation intact.

- (ii) Buffers may be required to be planted or vegetated with fast growing trees and shrubs (for some or all of the width of the required buffer), in species and quantities to be determined by the Zoning Administrator.
 - (iii) Open field buffers may be left as open space.
 - (iv) Roads, right-of-way and streams may be counted towards buffer requirements, or may be left as open space.
 - (v) The Zoning Administrator may, in addition or in lieu of other requirements, require a fence be erected.
- (B) Buffers shall be undisturbed, except that buffer areas may be used for sewer and other utility easements, detention ponds, access roads and fences may be erected in buffer areas.
- (C) No structures may be erected in buffers, and buffers areas shall be graded or disturbed only when absolutely necessary. Buffers shall be crossed in such a fashion to minimize incursion into the buffer (i.e., close to perpendicularly). Where possible, buffers shall be restored to an opaque standard after being crossed, and BMPs, as required by the Bartow County Development Regulations (and Soil Erosion and Sedimentation Control Ordinance), shall be followed at all times.
- (D) If a fence is required by the Zoning Administrator, it shall be eight (8) feet high, wooden, stone or masonry, and shall be opaque.
- (E) The Zoning Administrator shall have the authority to administratively vary all requirements in this section.
- (F) The Zoning Administrator's determination may be appealed to the Board of Appeals. See Article XIV.

8.2.6 Procedure. In the event a development is one that requires buffers, the developer shall inform the Zoning Administrator of the proposed use, and provide information about the size of the operation, dimensions of the building(s), the planned hours of operation, security lighting and other lighting issues, anticipated traffic flow of customers, suppliers and deliveries, and any other information as required by the Zoning Administrator. The Zoning Administrator shall review the surrounding area and the uses and zoning of surrounding property. The Zoning Administrator shall then determine the appropriate buffering standards under Sec. 8.2.5, considering the following criteria:

- (A) The nature of the use, and all the information provided about the use and its potential nuisance impact on the neighboring and surrounding properties;
- (B) The existing and adjacent uses that may already impose similar negative impacts on adjoining property;

- (C) The existing dissimilar uses of surrounding property and the current zoning of the surrounding property;
- (D) The location of any nearby residences; and
- (E) The existence of any streams, roads or other rights-of-way, the natural terrain and the existing topography, that may provide buffering.

8.2.7 County property that is adjacent to municipal property shall have a buffer requirement for the common border equal to the buffer that would be required for the most similar or closest equivalent County zoning district, based on the underlying use, setback, and density criteria of the districts. This determination shall be made by the Zoning Administrator comparing the ordinances.

Sec. 8.3 REDUCTION OF BUFFERS

8.3.1 *Policy.* Buffers are designed to protect adjacent properties from negative impacts of incompatible uses. Agreement by a current owner to reduce an adjacent buffer may create problems when future owners attempt different uses of the property. Therefore, permission to reduce buffers should be given only after careful review, and determination that no other property will be negatively impacted or lose any buffer protection. In addition, the reduction shall be recorded as a public record so that future purchasers are aware of the reduction.

8.3.2 *Procedure.* Any adjacent property owner may request a buffer reduction (i.e., allowing an adjacent property owner to reduce the buffer protecting the applicant's property) by filing a request on forms provided by the zoning administrator. Reduction in any amount, down to zero feet, may be requested.

8.3.3 *Restrictions.* No buffer reduction may result in the buffer zone being reduced to less than the required minimum distance for any portion of any property not participating in the request (i.e., a buffer could not be reduced for the full width of a property if an adjacent property would not have a full buffer from all points on the adjoining corner). The property burdened by the buffer cannot be the applicant to reduce its own buffer. This section cannot be used to reduce a buffer imposed by a zoning condition.

8.3.4 *Requirements.*

(A) The properties involved must be adjacent to each other.

(B) All the then-current owners of the property desiring that the buffer be reduced (i.e. the property giving up the protection of buffer) must sign said request and have the signature(s) notarized.

(C) The applicant must provide the following along with the application:

- (1) The deed of the property making application.

(2) One copy of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract and showing the reduced or eliminated buffer area and buffers remaining to protect adjacent property not participating in the request. The plat should show the zoning of all the involved and adjoining parcels. The plat must be prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat. If a new plat is prepared, the plat must be prepared in compliance with the county's GPS Control Network and Digital Enterprise GIS system (consult the engineering department for details). An additional electronic copy of the plat shall be submitted by the applicant, owner or developer to the engineering department.

(3) The names and addresses of the owners of the land and their agents, if any.

(4) The names and addresses of all adjoining property owners. In determining the adjoining property owners, streams and road, street or railroad rights-of-way shall be disregarded.

8.3.5 *Approval.*

(A) Once filed with the zoning administrator, the zoning administrator shall have 15 days to approve or deny the request or determine that the request is incomplete.

(B) In determining whether to approve the application, the zoning administrator shall consider 1) whether the application satisfies the requirements of this section, 2) whether it protects the adjoining property owners who are not participating in the request; 3) whether the reduction of the buffer would create a nuisance; 4) whether the reduction of the buffer serves the public health, safety and welfare; and 5) whether the reduction of the buffer serves the purposes of this zoning ordinance. Failure to satisfy any of these conditions will justify a denial. If the reduction of the buffer can be reasonably anticipated to create future nuisances, it may be denied.

(C) A denial may be appealed to the board of zoning appeals under subsection 14.4.1.

8.3.6 *Effect on property upon which buffer is waived or reduced.*

(A) Once the adjoining property owner waives or reduces the buffer, it is waived or reduced hereafter unless both current adjoining property owners file a request for the buffer to be reinstated.

(B) If the request is approved, the applicant shall submit a proposed agreement, covenant or other instrument to the zoning administrator, for review and approval prior to filing in the office of the clerk of superior court, Bartow County, Georgia, in the deed records. The plat shall also be filed and referenced therein

reflecting the buffer reduction. The purpose of this instrument shall be to inform all subsequent purchasers of the reduction of the buffer. The buffer reduction shall not take effect until said instrument has been reviewed and approved, and it and the plat have been recorded.

(C) A buffer that has been reduced or eliminated through this section may be increased or re-imposed by future zoning decision or zoning condition imposed by the commissioner, especially if conditions change. The reduction granted in this section by the zoning administrator shall not abridge the zoning power of the county's governing authority. However, any future zoning decision or zoning condition should respect the vested rights of the property owners.

ARTICLE IX

DETAILED REGULATIONS FOR SPECIFIC USES

Sec. 9.1 INSTITUTIONAL-RESIDENTIAL USES

9.1.1 Institutional-Residential Uses are generally uses that provide residential living space or dwelling units for persons in an institutional or group setting, whether for day care, 24-hour care or unassisted living, specifically defined as one of the following types:

ADULT DAY CARE: A use that provides care, assistance with personal services and/or supervision for adults for more than four (4) hours and less than twenty-four (24) hours per day. Uses providing medical services or assistance with medical or rehabilitative treatment are not included.

ASSISTED-LIVING FACILITY: A residential facility that provides an array of coordinated supportive personal and health care services, available 24 hours per day, to residents who need any of these services. Such facility does not include nursing homes, or group homes for persons with a disability.

CHILD DAY CARE: A use that provides care, assistance with personal services and/or supervision for children for more than four (4) hours and less than twenty-four (24) hours per day. Uses providing medical services or assistance with medical or rehabilitative treatment are not included.

DISABILITY: A physical or mental impairment that substantially limits one or more of a person's major life activities, including a person having a record of such an impairment or being regarded as having such an impairment. A "disability" does not include current illegal use of, or addiction to, any federally controlled substance, as defined in Section 102 of the Controlled Substances Act, 21 U.S.C. 802 or successor law. "Major life activities" means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working. "Has a record of such an impairment" means has a history of, or has been classified as having, a mental or physical impairment that substantially limits one or more major life activities.

GROUP HOME FOR PERSONS WITH A DISABILITY: A residence in which three or more persons with a disability reside and which is licensed by the State Department of Human Resources as a personal care home under Title 31.

GROUP HOME (NON-DISABILITY): Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service and one or more personal services for two or more adults who are not related to the owner by blood or marriage and falls under the jurisdiction of the Georgia Department of Human Resources, but that does not meet the definition of "Group Home for Persons with a Disability."

HOME FOR THE AGED: A use comprising building or buildings providing dwelling units for persons over a certain minimum age, where no domiciliary care, nursing care, or other assistance is provided.

HOMELESS SHELTER: A facility either (1) operated, licensed or contracted by a governmental entity, or (2) operated by a charitable, non-profit organization, which, for no compensation provides temporary lodging, meals, and counseling to individuals and groups such as the homeless, pregnant teenagers, victims of domestic violence, neglected children, and runaways. Temporary lodging is typically less than thirty (30) days. See Sec. 9.1.2.

HOSPICE: A use, other than uses fitting the description of Nursing Homes or Group Home for Persons with a Disability, in which domiciliary care is provided with support and supervisory personnel that provide room and board, personal care and rehabilitation services in a family environment for persons not meeting the definition of handicapped under the Fair Housing Act, 42 U.S.C. § 3601 et seq.

KINDERGARTEN: A day program or part-day program for teaching of children between four and six years old, that serves as an introduction to school.

NURSERY SCHOOL: The same as a “Child Day Care.”

NURSING HOME: A long-term residential facility for elderly, or otherwise ill persons which may include some or all of the following: individual dwelling units, living and sleeping rooms, a common dining room, skilled nursing care, recreational facilities, and transportation for social and medical purposes. Such facility does not include an Assisted Living Facility, a Hospice, a Group Home for Persons with a Disability, or a Group Home, Non-Disability.

PROTECTIVE HOUSING FACILITY: The same as a “Homeless Shelter.”

REHABILITATION FACILITY: A facility (residential or non-residential) to provide rehabilitation, treatment, or counseling services. Without limitation, such services may include rehabilitation, treatment, counseling, or assessment and evaluation services related to delinquent behavior, alcohol and drug abuse, sex offenders, sexual abuse, mental health, behavioral dysfunctions, emotional or psychological problems, or other similar facilities. See Sec. 9.1.2.

REST HOME: The same as a “Home for the Aged.”

RETIREMENT HOME: The same as a “Home for the Aged.”

SHELTER CARE FACILITY: The same as a “Homeless Shelter.”

- 9.1.2 Buffer Requirements. Where permitted, any rehabilitation facility or homeless shelter shall be located on property of at least three acres. When adjacent to residentially-zoned or used property, a twenty-five (25) foot landscaped buffer shall be provided. Any such facility shall be surrounded by an opaque wood fence at least six feet high along all property lines with adjacent commercial uses or that abut other zoning districts, or along the inner or outer boundary of any required buffer. No fence shall be erected along the road frontage.

9.1.3 Permitted Zoning Districts for Specific Uses. The following uses are permitted in the following districts. This section is provided for convenience only, and attempts to summarize the provisions in the various districts in Article VII. No new rights are granted by this section. To the extent there is a conflict between this section and the provisions of Article VII, Article VII shall control.

- (A) Group Homes for Persons with Disabilities, for six or fewer residents (not including resident staff), are permitted in A-1, RE-1, RE-2, R-1, R-2, R-3 and R-4. Please refer to the individual district regulations for more specific requirements, including generally the requirements that they be licensed by and in compliance with the applicable regulations of the Georgia Department of Human Resources; and that:
 - (i) there is no external signage or other evidence of the use of the dwelling as other than a residential dwelling unit;
 - (ii) the dwelling shall maintain its residential appearance;
 - (iii) there is adequate off-street parking for resident, staff and visitors' parking such that, except for planned special events, there are no vehicles parked on the street or road right-of-way; and
 - (iv) visitation hours are restricted so as to not create undue traffic congestion.
- (B) Group Homes for Persons with Disabilities (no size limit), are permitted in C-1.
- (C) Group Homes (Non-Disability) are permitted in C-1.
- (D) In home child day cares and kindergartens, for six or fewer children, are permitted in A-1, RE-1, RE-2, R-1, R-2, R-3, and R-4 districts. Please refer to the individual district regulations for more specific requirements, including generally the requirements that they shall have at least thirty-five (35) square feet of indoor space provided for each child and at least 100 square feet of play area per child in the outdoor play area which shall be enclosed by a fence having a minimum height of six (6) feet and provided further that, prior to the application, the applicant shall show proof of registration and licensing as required by the Georgia Department of Human Resources
- (E) Child day cares, adult day cares and kindergartens are permitted in the C-N district, in accordance with the requirements of that district.
- (F) In C-1, all of the following are permitted, in accordance with the requirements of that district: Hospitals, group homes for persons with a disability, group homes (non-disability), clinics, nursing homes, assisted living facilities, adult day cares, child day cares, kindergartens, retirement homes, shelter care facilities, rehabilitation and treatment facilities, residential treatment centers, hospices, and related facilities.

Sec. 9.2 GOLF COURSE COMMUNITIES/COUNTRY CLUB COMMUNITY

Golf Course Communities or Country Club Communities are authorized as conditional uses in the A-1 District, when located on lands comprising one hundred (100) acres or more, provided that at USGA Regulation 18-hole golf course is constructed first or simultaneously with the housing. Residential development in a golf course community or country club community shall comply with the requirements of the R-1 district as to lot size, width, setback and yard requirements. A 50-foot buffer, meeting the standards of Sec. 8.2.5, is required for all external boundaries of the property, to screen all neighbors. The applicant must present a plat for the proposed community, and the conditional rezoning, if granted, shall be conditioned to the plat. The Golf Course must remain perpetually a golf course for the community, and cannot be developed into a subdivision at a future date. The covenants on the community shall reflect this requirement.

Sec. 9.3 RESORT COMMUNITIES

9.3.1 A resort community is a large, mixed-use development centered around a golf course and hotel, and may contain residential development, recreational activities and related amenities and limited commercial development. To qualify as a resort community, a project must contain the following: 1) a minimum of three hundred (300) acres; 2) a minimum of one (1) regulation 18-hole golf course (i.e., contains a variety of par three, par four and par five holes, and is at least 5,200 yards in length and at least par 66); 3) fifty room hotel, or greater (not a motel; internal access rooms only); and 4) At least twenty-five percent (25%) of the gross acreage of the resort community must be non-impervious areas, which may include, but are not limited to, open space, golf courses and related areas, undisturbed natural areas, water courses, flood plains, wetlands, landscaped areas, parks, buffers and historic preservation areas. All external boundaries of the resort community must contain a fifty (50) foot buffer, meeting the requirements of Sec. 8.2.5.

9.3.2 The following are permitted uses in a resort community:

- (A) Residential development at a maximum total allowable density of two (2) dwelling units per gross acre, including all single-family and multi-family development. Residential development is not permissible until the 18-hole golf course is completed and operating. Single-family development and multi-family development is permissible, but manufactured houses are prohibited. For residential single-family development, minimum lot size shall be 5,000 square feet, minimum lot width shall be 40 feet measured at front street right-of-way line. For multi-family development, including apartments and fee simple townhouses, the provisions of Sec. 7.6. shall apply. Residential dwelling units may be made available for rent to guests on a temporary basis on such terms as are customarily available in a resort community.
- (B) Hotels, which may be located in one or more buildings, containing at least 50 internal access rooms, and which may also contain suites/cabanas with external access, conference centers, reception and catering facilities for social and business-related purposes, restaurants and associated buildings, and offices necessary for the management and operation of the resort, including, without limitation, marketing, rental property management and sales offices.

- (C) Mixed-use residential-commercial (not to exceed ten percent (10%) of all allowable residential units).
- (D) Places of worship.
- (E) Wellness clinics and spas offering limited medical care, including therapy and diagnostic testing in conjunction with rest and rejuvenation, but not hospitals, nursing homes or any facility requiring a certificate of need from the State of Georgia. Only guests at the resort or residents may use such facilities.
- (F) In addition to the commercial and retail areas located in golf or other recreational shops, clubhouses or hotels within the resort community, limited retail and commercial uses, in compliance with the provisions of Sec. 7.10, and designed to serve the guests and residents of the resort community. Commercial uses shall not exceed three percent (3%) of the gross acreage of the resort community.
- (G) Recreational, sporting, and cultural facilities and amenities, both indoor and outdoor, including, without limitation, clubhouses and pro shops, golf courses, tennis courts, playgrounds and children's activity facilities, swimming pools and water activity facilities, spas, fitness centers, stables, sports fields and courts, skeet and target-shooting ranges, cultural and educational centers and performance stages.
- (H) All legal conforming buildings and all legal conforming uses of land and/or buildings existing within a resort community on August 6, 2003. Any building or use of any land and/or building within a resort community which is the subject of a conditional use permit on August 6, 2003 and which has not otherwise been established as a permitted use pursuant to this Section shall continue as a conditional use in accordance with the provisions of such conditional use permit.

9.3.3 The following development standards shall apply in a resort community so as to promote a higher standard of quality, preservation and community aesthetics.

- (A) All single-family lots less than one-half acre shall be planned in a village-style or similar cluster-type arrangement such as to promote preservation of natural areas or development of previous spaces such as landscaped areas, parks, amenities and open spaces. To accommodate such planning, front and rear setbacks may be reduced to a minimum of five feet, and the minimum side setback may be reduced as low as zero feet on one side so long as aggregate of the two side setbacks shall be at least 10 feet.
- (B) Roads within a resort community shall be either a Neighborhood Collector street, a Neighborhood Street, or an Alley.
 - (i) A "Neighborhood Collector street" shall be defined as a through road that has more than four Neighborhood Streets intersecting it. A Neighborhood Collector street shall have a fifty (50) foot right-of-way

inclusive of twenty (20) feet of pavement and two feet of rolled curb gutter on each side, and a maximum slope of eighteen percent (18%).

- (ii) A “Neighborhood Street” shall be defined as any road within a resort community that is not a Neighborhood Collector street. A Neighborhood Street shall have a forty (40) foot right-of-way inclusive of eighteen (18) feet of pavement and the option of having no gutter where conditions permit or two feet of rolled curb gutter on each side, and a maximum slope of eighteen percent (18%).
 - (iii) “Alleys,” as said term is used in this Section, means minor ways on which such lots will abut and which are intended to provide means of vehicular access to and parking for the dwelling unit on such lot, minimum width fourteen (14) feet.
- (C) Rural ditch sections may be used for stormwater conveyance.
 - (D) Walking trails of either pervious or impervious surface shall be developed to provide pedestrian access throughout the community. Such trails may include the use of walkways and bridges where necessary to promote pedestrian enjoyment of watercourse areas. Wherever such trails are not practical, sidewalks of at least four (4) feet in width shall be provided on one side of the street.
 - (E) Street right-of-ways may be used for the planting, placement or location of trees, monumentation, signage, lighting, roundabouts or rotaries, and architectural elements, such as benches, gazebos or fountains.
 - (F) All utility lines shall be installed underground.
 - (G) Access to a resort community may be by way of a secured, controlled or gated entry, provided that entry into the resort community is available at all times for emergency vehicles, utility providers, municipal services, such as trash collection, meter reading and fire and law enforcement personnel.
 - (H) All roads, alleys, drainage, stormwater management facilities, and rights-of-way within a resort community shall be private, and shall be maintained by the resort community. All deeds for conveyance of property within a resort community shall contain the following statement in bold capital letters: **“THE GRANTEE HEREIN ACKNOWLEDGES THAT ALL STREETS, DRAINAGE FACILITIES, AND STORMWATER MANAGEMENT FACILITIES IN THE RESORT COMMUNITY ARE PRIVATE, AND ARE NEITHER MAINTAINED NOR OWNED BY BARTOW COUNTY; MAINTENANCE AND UPKEEP ARE THE RESPONSIBILITY OF THE RESORT COMMUNITY.”** All plats and site plans for development shall contain similar language.
 - (I) Dwelling units within a resort community may front on a park, golf course or other open space with primary pedestrian and vehicular access provided to such dwelling unit from an alley.

- (J) Off-street parking and off-street loading requirements of the Ordinance shall not apply to resort communities, except that all parking for residents, guests and for any special events held on such communities must be located on resort community property and not on County rights-of-way or other private property.

Sec. 9.4 LANDFILLS and SOLID WASTE DISPOSAL FACILITIES

9.4.1 Permitted landfills/disposal facilities are classified into three types: 1) inert waste landfills; 2) construction and demolition (C & D) landfills; and 3) municipal solid waste (MSW) landfills. Each type of landfill is defined below. Inert waste landfills are permitted as of right in the M-1 district, and permitted as conditional uses in the A-1, I-1 and I-2 districts. C & D and MSW landfills are only permitted as conditional uses in the I-2 district. Landfills that are not permitted in any district include hazardous waste landfills. In the event a solid waste disposal facility is sought to be constructed that is not covered specifically herein, the Zoning Administrator shall make a determination as to what use it is most closely related to and apply the relevant regulations. This Section incorporates by reference the definitions contained in O.C.G.A. § 12-8-22 and DNR Rule 391-3-4-.01.

Types of Disposal Facilities:

- (A) “Inert Waste Landfill” means a disposal facility accepting only wastes that will not or are not likely to cause production of leachate of environmental concern. Such wastes are limited to earth and earth-like products, concrete, cured asphalt, rocks, bricks, yard trimmings, stumps, limbs, and leaves. This definition excludes industrial and demolition waste not specifically listed above.
- (B) “Construction/Demolition Waste Landfill” means a disposal facility accepting only waste building materials and rubble resulting from construction, remodeling, repair, and demolition operations on pavements, houses, commercial buildings and other structures. Such waste include, but are not limited to, wood, bricks, metal, concrete, wall board, paper, cardboard, inert waste landfill material, and other nonputrescible wastes which have a low potential for groundwater contamination.
- (C) “Municipal Solid Waste Landfill” means any facility or location where the final deposition of any amount of municipal solid waste occurs, whether or not mixed with or including commercial or industrial solid waste, and includes, but is not limited to, municipal solid waste landfills and municipal solid waste thermal treatment technology facilities. “Municipal solid waste” means any solid waste derived from households, including garbage, trash, and sanitary waste in septic tanks and means solid waste from single-family and multifamily residences, hotels and motels, bunkhouses, campgrounds, picnic grounds, and day use recreation areas. The term includes yard trimmings, construction or demolition waste, and commercial solid waste but does not include solid waste from mining, agricultural, or silvicultural operations or industrial processes or operations.

- (D) “Hazardous Waste Disposal Facility.” Hazardous waste landfills are prohibited, and hazardous waste (which means any solid waste which has been defined as hazardous waste in regulations promulgated by the Board of Natural Resources, Chapter 391-3-11.) may not be disposed of in inert, construction/demolition, or solid waste landfills.

9.4.2 Regulations Applying to C & D and MSW Landfills/Disposal Facilities.

- (A) Any C & D or MSW landfill/disposal facility must be located on a minimum of 250 acres. The landfill “cell” area (that is, holding actual waste) may not exceed 30% of the total acreage, with landfill operations areas (i.e., “cells” plus scales, offices, storage, other buildings, etc.) not exceeding 40%. No landfill cell may exceed 60 feet in height from the original grade, when fully filled, covered and vegetated. No more than 10 acres of the property can be active landfill cell at any one time.
- (B) All landfill cell areas and landfill operations areas must be surrounded by a chain link fence at least six (6) feet high and topped with anti-climbing devices. The boundary of the landfill property (either inside or outside the vegetated buffer) must be surrounded by a wooden privacy fence, at least eight (8) feet high.
- (C) All C & D and MSW landfills must be surrounded by a buffer at least one thousand (1,000) feet thick, located on the landfill property. The buffer must be sufficiently vegetated to be completely opaque and prevent viewing of any landfill cell at all times of the year. At least 500 feet of the buffer must be vegetated, even if plantings are required; the planting plan shall be approved by the Zoning Administrator. The buffer must also comply with all requirements and specifications of Sec. 8.2.5 which do not conflict with these requirements.
- (D) No landfill cell may be located within two thousand (2,000) feet of any residential dwelling (so used at the time of application for the permit). No landfill cell may be located within two-hundred fifty (250) feet of a wetland, groundwater recharge area, lake or other body of water, floodplain, stream or river.

9.4.3 Regulations Applying to Inert Landfills

- (A) Any inert landfill must be located on a minimum of 50 acres. The landfill “cell” area (actual waste disposal area) may not approach within 100 feet of the property line. No landfill cell may exceed 30 feet in height from the original grade, when fully filled, covered and vegetated.
- (B) All landfill cell areas and landfill operations areas must be surrounded by a chain link fence at least six (6) feet high and topped with anti-climbing devices.
- (C) All inert landfills must be surrounded by a vegetated buffer at least one hundred (100) feet thick, located on the landfill property. The buffer must be sufficiently vegetated to be completely opaque and prevent viewing of any

landfill cell at all times of the year. If plantings are required to meet this standard, the planting plan shall be approved by the Zoning Administrator. The buffer must also comply with all requirements and specifications of Sec. 8.2.5 which do not conflict with these requirements.

9.4.4 Regulations Applying to all Landfills and Disposal Facilities.

- (A) All lights at landfill/disposal facilities shall be downward firing and shielded. Hours of operation of any landfill shall be no greater than 8:00 a.m. to 5:00 p.m. Monday to Friday, 8:00 a.m. to 4:00 p.m. Saturday. No operation allowed on Sunday.
- (B) A landfill/disposal facility shall only be permitted where all County roads used for access have been built to a standard sufficient to withstand the projected number of trips per day at maximum weight for the vehicles expected. If a landfill is proposed adjacent to County roads that are not sufficient, according to the County Engineer, to withstand the loads, or were not designed for such loads, the landfill owner may pay to bring such roads up to standard from the entrance(s) of the landfill to the nearest County or State road of sufficient strength; or the landfill shall be denied. Truck traffic shall be restricted to roads of sufficient strength.

9.4.5 An application for a conditional use permit for a landfill shall also submit the following information, in addition to other conditional use requirements:

- (A) A topographic site plan showing the proposed landfill, all surrounding uses in a ½-mile radius, the zoning on all adjacent parcels, the location of the landfill cells, all buffers and fences, highlighting land sloping 25% or more, and showing such other information as may be required by the Zoning Administrator.
- (B) Proximity to airports, sailports, private airstrips and similar uses within ten miles shall be indicated. Proximity to national historic sites within five miles shall be indicated.
- (C) A report from a geologist of the soil conditions on the landfill, discussing the topography (especially any steep slopes), the substrata, and any geologic hazards or relevant conditions on the property, as well as giving an opinion as to the property's suitability for the type of landfill proposed.
- (D) A site plan prepared by a qualified engineer depicting all floodplains, streams and rivers, watershed areas, wetlands, and groundwater recharge areas within ½ mile of the subject property (including on the subject property), as well as showing the location of the landfill and the landfill cells to those features, showing all buffers and setbacks. The plan shall also depict all water wells within ½ mile of the landfill cells.
- (E) A plan showing access, ingress and egress, including mechanisms to keep dust down and dirt off county roads. All access roads to landfill cells must be paved, and a truck cleaning station must be used at any exit. An estimate

of daily truck traffic shall be provided, and entrances shall be located to minimize traffic hazards, with accel/decel lanes provided.

- (F) A traffic plan showing ingress and egress, number of trips per day, vehicle type, and maximum weight of vehicles expected.
- (G) A determination of plan consistency obtained under the Bartow County Joint Solid Waste Management Plan showing that the landfill is consistent with the JSWMP. This should be obtained prior to seeking a conditional use permit.

9.4.6 In addition to the conditional use criteria in Article XVI, in considering a conditional use application for a landfill, the following additional criteria shall also apply:

- (A) Is the property and general area suitable for a landfill, considering geography, wetlands, streams and rivers, watersheds, groundwater recharge areas, adjacent uses and zoning, airports, national historic sites, jurisdictional boundaries and similar criteria?
- (B) Do the property and site plan meet all the buffer requirements relating to landfills?
- (C) Will the landfill have any negative impacts on the adjacent properties?
- (D) Are access, ingress and egress adequately provided for, considering the volume of traffic expected?
- (E) Is the use consistent with the Future Land Use Map, the Bartow County Comprehensive Plan, the pattern of development in the area, and the Bartow County Joint Solid Waste Management Plan?

Sec. 9.5 RECOVERED MATERIALS PROCESSING FACILITIES AND SOLID WASTE HANDLING FACILITIES

9.5.1 Recovered Materials Processing Facilities and Solid Waste Handling Facilities (referred to in this section as “Facility”) are permitted as a conditional use in the I-2 Heavy Industrial District.

9.5.2 “Recovered Materials Processing Facility” means a facility engaged solely in the storage, processing, and resale or reuse of recovered materials; also known as a “recycling facility.” Such definition shall not include a solid waste handling facility; provided, however, any solid waste generated by such facility shall be subject to all applicable laws and regulations relating to such solid waste. “Solid Waste Handling Facility” means any facility (including a composting facility), the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste. “Recovered Materials” means those materials which have known use, reuse, or recycling potential; can be feasibly used, reused or recycled; and have been diverted or removed from the solid waste stream for sale, use, reuse, or recycling, whether or not requiring subsequent separation and processing. “Recycling” means any process by which materials which would otherwise become solid waste

are collected, separated, or processed and reused or returned to use in the form of raw materials or products.

- 9.5.3 Any Facility must be located on a minimum of 250 acres. The active waste handling area (that is, an area for handling, storing, collecting, processing, treating, etc. waste) may not exceed 40% of that acreage.
- 9.5.4 The boundary of the Facility property (either inside or outside the vegetated buffer) must be surrounded by a wooden privacy fence, at least eight (8) feet high. Any active waste handling area must be surrounded by a chain-link fence at least six (6) feet high and topped with anti-climbing devices.
- 9.5.5 All Facilities must be surrounded by a vegetated buffer at least one thousand (1,000) feet thick, located on the property. The buffer must be sufficiently vegetated to be completely opaque and prevent viewing of any waste handling area at all times of the year. At least 500 feet of the buffer must be vegetated, even if plantings are required; the planting plan shall be approved by the Zoning Administrator. The buffer must also comply with all requirements and specifications of Sec. 8.2.5 which do not conflict with these requirements.
- 9.5.6 No waste handling area (as measured from the chain link fence boundary) may be located within two thousand (2,000) feet of any residential dwelling (so used at the time of the application). Waste handling areas may not be located within two-hundred fifty (250) feet of a wetland, groundwater recharge area, lake or other body of water, floodplain, stream or river.
- 9.5.7 All lights at a Facility shall be downward firing and shielded. Hours of operation of any Facility shall be no greater than 8:00 a.m. to 5:00 p.m. Monday to Friday, 8:00 a.m. to 4:00 p.m. Saturday. No operation allowed on Sunday.
- 9.5.8 The requirements of Sec. 9.4.7 regarding roads (replacing the word “landfill” as used in that section with the word “Facility”) shall apply.
- 9.5.9 An application for a conditional use permit for a Facility shall also submit the information required in Sec. 9.4.8 (replacing the word “landfill” as used in that section with the word “Facility”) in addition to other conditional use requirements.
- 9.5.10 In addition to the conditional use criteria in Article XVI, in considering a conditional use application for a Facility, the following additional criteria shall also apply:
- (A) Is the property and general area suitable for a Facility, considering geography, wetlands, streams and rivers, watersheds, groundwater recharge areas, adjacent uses and zoning, airports, national historic sites, jurisdictional boundaries and similar criteria?
 - (B) Do the property and site plan meet all the buffer requirements relating to Facilities?
 - (C) Will the Facility have any negative impacts on the adjacent properties?

- (D) Are access, ingress and egress adequately provided for, considering the volume of traffic expected?
- (E) Is the use consistent with the Future Land Use Map, the Bartow County Comprehensive Plan, the pattern of development in the area, and the applicable solid waste management plan?

Sec. 9.6 JUNK YARDS; SALVAGE YARDS; SCRAP YARDS

Any junk yard (including salvage yards and scrap yards), whether preexisting or new, shall maintain a 25-foot buffer that complies with the standards of Sec. 8.2.5 of this Ordinance. Any stacking of inoperable, crushed or otherwise damaged vehicles shall only be permitted in a junk yard. Impound lots, towing services and similar businesses shall be permitted to retain junk, inoperative or abandoned vehicles for a maximum of 120 days before disposal; long term or permanent storage of such vehicles shall only be permitted in a junk yard.

Sec. 9.7 CEMETERIES AND FAMILY PLOTS

- 9.7.1 Family Plots. Family plots are burial grounds restricted to members of the family owning the land. Family plots are permitted in the A-1 district, not to exceed twelve grave sites, and only on lots of five acres or greater. Family plots must be located in the rear yard of said property, at least twenty-five (25) feet from the side and rear lot line. Such plots must comply with all other state regulations regarding burial.
- 9.7.2 Cemeteries. Cemeteries are burial grounds, generally where multiple burial plots are sold or provided for burial of persons beyond the immediate family. Cemeteries are permitted as conditional accessory uses to churches, and are permitted in the A-1 district as a conditional use. All cemeteries must be located on at least five acres, and shall have a twenty-five (25) foot vegetative buffer where adjacent to any residentially-zoned or used property.
- 9.7.3 Marking and Boundaries. All family plots and cemeteries must be marked on plats and surveys of property, and if not clearly ascertainable, the boundaries must be marked by fencing or other monuments or markers. All abandoned or historic cemeteries must be maintained by the property owner.

Sec. 9.8 SPECIAL EVENT PERMIT FOR FIREARMS-RELATED EVENTS

A special event permit shall be required for any event featuring the use or firing of firearms, such as shooting exhibitions, historical reenactments, target shooting matches, gun shoots, shooting festivals and similar events, unless taking place at an existing and lawfully-permitted firing range. The applicant shall apply to the Zoning Administrator at least 14 days prior to the event for the permit, providing such information as is required by the Zoning Administrator to make a determination. Any such event shall be permitted only on lots of at least 100 acres, with all firing to take place at least 1000 feet from the property line, and only between the hours of 8:00 a.m. and 5:00 p.m. The site must be adequate to provide sufficient parking for the event. The permit shall be denied if the event cannot meet these criteria, or if in the discretion of the Zoning Administrator, it would create a traffic hazard, safety hazard, or public nuisance. A denial may be appealed to the Commissioner of Bartow County. Permits shall be limited to one day. The Zoning Administrator shall notify the Bartow County Sheriff's Office

and Bureau of Alcohol, Tobacco and Firearms regarding the event. Organized hunting events such as dove shoots or quail hunting events are exempt from this requirement, but any such event featuring more than 25 participants must notify the Zoning Administrator at least five days in advance.

Sec. 9.9 SPECIAL ADMINISTRATIVE PERMIT FOR ACCESSORY RV CAMPING

In any manufactured house park (i.e., mobile home park) existing of record as of June 1, 2016, and containing at least 12 lots for rent, the owner of the park may apply for a special administrative permit to convert up to six of the spaces to RV campsites as an accessory use to the main park. This shall only apply in parks under unity of ownership and not to manufactured home subdivisions. The campsites must have power and sanitary facilities to accommodate RV's, substantially compliant with the requirements of sections 5.71 to 5.73 of appendix B of the County Code, the development regulations. The zoning administrator shall have the discretion to grant or deny the permit. In reviewing the application, the zoning administrator shall consider whether the physical facilities are adequate, whether the location or use will create a nuisance to adjacent lots in the park or to neighboring property, whether there is adequate road access and parking space, and the purposes of the ordinance. The spaces shall be for rental only and the RV's shall not be owned by the park owner or a related person or entity. It is not intended for RV's to become permanent residences by this provision. The zoning administrator can revoke this permit with 30 days' notice upon a determination that the use has become a nuisance or is otherwise detrimental to the community and the purposes of the ordinance, or not otherwise compliant with the requirements of this section.

ARTICLE X

HOUSING REGULATIONS

Sec. 10.1 INDIVIDUAL DETACHED SINGLE-FAMILY DWELLINGS

- 10.1.1 These provisions shall apply evenly to all individual single-family detached dwellings, including conventional, industrialized and manufactured homes.
- 10.1.2 Any single-family dwelling shall contain not less than 1,200 square feet of heated living space, and shall comply with the applicable standards of the zoning district. The county building code ordinance and the county building inspections department should be consulted for other applicable regulations and codes. An existing structure may not include an addition to fulfill the minimum square footage.
- 10.1.3 Any dwelling which is damaged beyond repair by fire or natural or manmade disaster shall be removed and disposed of within a time period not to exceed 60 days after said damage occurred. An extension of this time may be approved by the zoning administrator.
- 10.1.4 Any single-family dwelling shall have a minimum roof pitch of 5:12. Minimum roof pitch does not apply to architectural features such as porches, bay windows, etc.
- 10.1.5 Any single-family dwelling shall have porches or landings on at least two sides, within a minimum size of 5 feet by 5 feet.

Sec. 10.2 Reserved

Sec. 10.3 MANUFACTURED HOUSES

Any dwelling that is classified as a manufactured house by the definitions stated in this Ordinance shall be subject to the following provisions of this Ordinance:

- 10.3.1 Decal. A location decal application shall be required to be filed for a manufactured house in the office of the Tax Commissioner annually for each manufactured house that is henceforth located on an individual lot, in a manufactured house park, or subdivision in Bartow County.
- 10.3.2 Permanent placement. Any manufacture home used as a single-family dwelling shall be permanently affixed to the ground.
- 10.3.3 Use for Storage Prohibited. Manufactured house units (or mobile homes) may not be used for storage buildings. Manufactured houses may only be placed in compliance with the terms of this Ordinance and used as dwelling units.
- 10.3.4 Improper Placement. It is not permitted to place or store a manufactured house on a residential lot without compliance with this Ordinance and without first obtaining an installation permit from the Building Official. Manufactured houses may not be placed or erected in the front yard of a dwelling, or in the public right-of-way, or in

any setback or buffer area. An administrative variance to these provisions may be granted by the Zoning Administrator in hardship situations, but in no case for occupancy.

10.3.5 See the Bartow Building Code Ordinance (the Building Code) for additional regulations regarding installation of manufactured homes where permitted.

Sec. 10.4 Reserved.

ARTICLE XI

SIGN ORDINANCE

Sec. 11.1 GENERAL PROVISIONS AND DEFINITIONS

- 11.1.1 No sign shall be placed or maintained within the unincorporated area of Bartow County except in conformity with this Sign Ordinance.
- 11.1.2 Notwithstanding any other restrictions in this Sign Ordinance, any sign, display or device allowed under this Ordinance may contain any commercial or non-commercial message, or any political or non-political message; except that such messages cannot depict obscenity, as defined by O.C.G.A. § 16-12-80, nor can they depict sexual conduct or sexually explicit nudity, as defined in O.C.G.A. § 36-60-3, nor advertise any activity illegal under the laws of Georgia or the United States.
- 11.1.3 Definitions: As used in this section, the following words have the following meanings. The general definitions and interpretative rules of the zoning ordinance shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control.

ENTRANCE SIGN: A sign erected at the entrance to a development or subdivision. May only be single sided.

GROUND SIGN: A sign that is anchored to the ground and is wholly independent of a building for support. Freestanding signs are included in this definition, as are signs on poles, frames, or other mounting structures other than buildings.

PLANNED CENTER: A single office, commercial, or industrial property that is designed or intended for occupancy by two or more principal businesses that are separately owned and have no corporate relationship (e.g., strip shopping mall, office complex, industrial park, etc.).

SIGN: Any display of words, shapes or images designed to convey a message to the viewer, located on the exterior of any dwelling, building or structure, or located anywhere on a lot upon a dedicated supporting structure or device, including poles, banners, windows and similar devices.

SIGN FACE: The actual message-carrying portion of the sign that can be used to display content, including any area that can display or does display words, pictures or other communicative elements of the sign, including the background color.

SIGN STRUCTURE: This includes all the elements of the sign, including its supporting structure, base, lights and every portion of the sign.

WALL SIGN: A sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building, with the sign face parallel to the wall, and extending from the surface of the wall no more than 24 inches. A sign that is attached at an angle to the wall may extend outward no more than five (5) feet, and requires an administrative variance from the Zoning Administrator.

Sec. 11.2 PROCEDURES

11.2.1 Permits and Registration.

- (A) Sign Registration. No permit is required from the Zoning Administrator prior to erection of a sign. However, all parties are advised to consult with the Zoning Administrator to avoid erecting signs that violate this ordinance, and it is suggested that a sign registration be filed prior to construction to ensure the sign is in compliance with the ordinance. Zoning registration and compliance with this ordinance does not constitute full approval of a sign. Approval from other departments or agencies may be required for a sign to be lawful. (See paragraphs B and C, below). Sign registration is required for signs in the O/I, C-N, C-1, I-1, I-2, M-1 or commercial areas of PUD districts. Sign registration is not required for signs in A-1, R-1, R-2, R-3, R-4, RE-1 or RE-2 districts, or residential lots in PUD districts.
- (B) Building Permits. Signs using electrical wiring and connections (i.e. illuminated signs) may require a building permit, and the Bartow County Building Official should be contacted regarding such signs. However, issuance of a building permit should not be considered the only approval necessary to erect a sign; approvals from other departments or state agencies may be required. (See paragraph C, below).
- (C) Other Permits or Approvals. Other County ordinances (e.g., Bartow County Development Regulations) or state laws and regulations (e.g., MUTCD, DOT regs.) may be applicable to a sign. A party seeking to erect a sign should consult with the Georgia Department of Transportation (if on state road), the Bartow County Engineering Department, and the Bartow County Road Department prior to construction of a new sign to ensure that all applicable regulations are observed.
- (D) Time for Sign Registration. Within sixty (60) days of the erection of any permanent sign in the O/I, C-N, C-1, I-1, I-2, M-1 or commercial areas of PUD zoning districts, the sign or property owner is required to file a registration form regarding the sign. Sign registration is not required for signs in A-1, R-1, R-2, R-3, R-4, RE-1 or RE-2 districts or for signs on residential lots in PUD districts.
- (E) Information Required. The sign registration shall be on forms provided by the Zoning Administrator, and shall provide the following information, as well as any additional information required by the Zoning Administrator:
 - (i) the name and address of the property owner and sign owner, if different;
 - (ii) the address of the sign, and description of the parcel upon which the sign is located;
 - (iii) the zoning district of the property containing the sign;

- (iv) site plan showing the location of the sign on the lot, including indicating setbacks and distances to property lines and rights-of-way;
- (v) elevation drawing showing the height and dimensions of sign face, and height of sign structure;
- (vi) square foot area per sign face and the aggregate square foot area if there is more than one sign face; and
- (vii) the registration must be signed by either the property owner or sign owner.

11.2.2 Enforcement. **The County reserves the right to take legal action to remove signs erected in violation of this Ordinance.** Failure to file a sign registration in a timely fashion shall be a violation of this Ordinance.

Sec. 11.3 PERMITTED SIGNS BY ZONING DISTRICT

11.3.1 If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited. These regulations apply to signs located on any lot or development. See Sec. 11.1.3 for definitions in addition to general definitions of Article III. A double-sided (double-faced) sign is counted as one sign, but each face counts towards the maximum area permitted. Height is measured from grade to the highest portion of the sign structure.

11.3.2 Signs permitted in **A-1, RE-1, and RE-2** Zoning Districts.

- (A) Ground Signs:
Up to three double-faced signs per lot. No single sign face may exceed 16 square feet. Total maximum area for all sign faces is 32 square feet (e.g., two 16 sf sign faces, or four 8 sf faces, etc.). Height is limited to 5 feet.
- (B) Window Signs:
Two per dwelling, total of up to 8 square feet of window signs.
- (C) Wall Signs:
Not permitted.
- (D) Entrance Signs:
Two per subdivision development, maximum area of each sign is 32 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to a subdivision development. Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is 6 feet.

11.3.3 Signs permitted in the **R-1, R-2, R-3, R-4 and R-6** Zoning Districts:

- (A) Ground Signs:
Up to three double-faced signs per lot. No single sign face may exceed 16 square feet. Total maximum area for all sign faces is 32 square feet (e.g., two 16 sf sign faces, or four 8 sf faces, etc.). Height is limited to 5 feet.
- (B) Window Signs:
Two per dwelling, total of up to 8 square feet of window signs.
- (C) Wall Signs:
Not permitted.
- (D) Entrance Signs:
Two per subdivision development, maximum area of each sign is 32 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to a subdivision development. Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is 6 feet.

11.3.4 Signs permitted in the **C-1, C-N and O/I** Zoning Districts, for individual uses:

- (A) Ground Signs:
One double-faced sign per lot. No sign face may exceed 100 square feet. Total maximum sign face area is 200 square feet.

If the lot contains a principal building of over 10,000 square feet, no sign face may exceed 200 square feet and total maximum sign face area is 400 square feet.

If the principal building exceeds 100,000 square feet, no sign face may exceed 300 square feet and total maximum sign face area is 600 square feet.

Maximum height for all ground signs is 25 feet in C-N and O/I, and 35 feet in C-1. For lots with frontage on a U.S. Highway or Georgia Highway, ground signs may have a maximum height of 40 feet.
- (B) Window Signs:
Total signage not to exceed 25% of the area of windows facing road frontage.
- (C) Wall Signs:
Up to four signs per lot. Total wall signage not to exceed 200 square feet on all walls (e.g., four 50 sf signs or one 200 sf sign).

If the lot contains a principal building of over 10,000 square feet, the total amount of permissible wall signage increases to 250 square feet.

If the lot contains a principal building of over 100,000 square feet, the total amount increases to 300 square feet. No single wall sign may exceed 250 square feet.

- (D) Entrance Signs:
Not permitted.

11.3.5 Signs permitted in **O/I, C-1 or C-N** Zoning Districts, for **Planned Centers**:

- (A) Ground Signs:
One double-faced sign of up to 200 square feet per face, for the entire planned center. Total maximum sign face area is 400 square feet.

If the development contains over 50,000 total square feet, no sign face may exceed 300 square feet. Total maximum sign face area is 600 square feet.

Maximum height for all ground signs is 25 feet in C-N and O/I, and 35 feet in C-1. For lots with frontage on a U.S. Highway or Georgia Highway, ground signs may have a maximum height of 40 feet.

- (B) Window Signs:
Total signage not to exceed 25% of the area of windows facing road frontage.
- (C) Wall signs:
Four signs per business. Total area of all signs is not to exceed 10% of the gross floor area of each business. No single wall sign shall exceed 250 square feet.
- (D) Entrance Signs:
Two per planned center, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the planned center. Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is 10 feet.

11.3.6 Signs permitted in the **M-1, I-1, and I-2** Zoning Districts, for individual uses:

- (A) Ground Signs:
One double-faced sign of up to 300 square feet per face; maximum total area is 600 square feet. Maximum height is 35 feet. For lots with frontage on a U.S. Highway or Georgia Highway, ground signs may have a maximum height of 40 feet.
- (B) Window Signs:
Total signage not to exceed 25% of the area of windows facing road frontage.

- (C) Wall Signs:
Total signage not to exceed 200 square feet on all walls. If the lot contains a principal building of over 50,000 square feet, the total amount increases to 300 square feet. No single wall sign may exceed 200 square feet.
- (D) Entrance Signs:
Two per lot, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the lot. Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is 10 feet.

11.3.7 Signs permitted in **I-1 and I-2** Zoning Districts, for **Planned Centers**:

- (A) Ground Signs:
One double-faced sign of up to 300 square feet per face, for the entire planned center. Total maximum sign face area is 600 square feet. Maximum height is 35 feet. For lots with frontage on a U.S. Highway or Georgia Highway, ground signs may have a maximum height of 40 feet.
- (B) Window Signs:
Total signage per business not to exceed 25% of the area of windows facing road frontage.
- (C) Wall Signs:
Total area of all signs is not to exceed 10% of the gross floor area. No more than four signs per business are permitted and no single wall sign shall exceed 250 square feet.
- (D) Entrance Signs:
Two per planned center, maximum area of each sign is 50 square feet. Entrance signs may only be single-sided, unless only one is erected, in which case it can be double-sided. Entrance signs are only permitted at the entrance to the planned center. Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for safety reasons, and cannot block traffic sight lines. Maximum height is 10 feet.

11.3.8 Signs permitted in the **PUD** Zoning District:

Within the residential portion of any PUD, the provisions of Section 11.3.3 apply. A sign plan for any commercial portion of a PUD shall be made a part of the PUD application process and approved during the rezoning process. PUD applicants should seek consistency with the signage provisions of commercial zoning districts as shown above.

Sec. 11.4 ADDITIONAL PERMITTED SIGNS

The following signs are permitted in any zoning district.

11.4.1 Class 1 Temporary Signs

Class 1 temporary signs are signs that may be erected after 1:00 p.m. on any Friday and must be taken down by 8:00 p.m. the following Sunday.

- (A) Class 1 temporary signs may not exceed three feet in height and four square feet per side, and shall not be more than two-sided.
- (B) Class 1 temporary signs must not be placed within five feet of the curb or pavement or within the public right-of-way.
- (C) Class 1 temporary signs erected in violation of this Ordinance may constitute a safety hazard and are subject to being removed without notice and being destroyed. Additionally, if such signs are erected unlawfully, or in improper areas, or beyond the permissible time frame, they are subject to being taken down and destroyed by the County without notice.
- (D) Class 1 temporary signs must meet the construction standards of Sec. 11.6.

11.4.2 Class 2 Temporary Signs

Class 2 temporary signs are permitted to be erected during any election cycle.

- (A) Class 2 temporary signs shall not exceed five feet in height and thirty-two (32) square feet per side, and shall not be more than two-sided.
- (B) The election cycle is the time period starting 150 days prior to any primary, special election, general election, or run-off, and ending 20 days after the primary, special election, general election, or run-off, is held. Election cycles may overlap. For example, the election cycle for a primary will typically overlap with the election cycle for the general election; if a run-off is then scheduled, it would be extended further. "Election," as used herein, shall refer to Federal elections, Georgia statewide elections, Bartow County elections, or municipal elections for any city in Bartow County.
- (C) Nothing in this section affects the regular sign ordinance provisions; these are extra signs allowed during the election cycle. Any message can be placed on Class 2 temporary signs. There is no limit on the amount of Class 2 temporary signs that can be erected on one lot, as long as they do not pose a traffic hazard nor create a nuisance, and comply with all other provisions of this ordinance (e.g. type, location, construction, etc.).
- (D) Signs erected in the beds of pick-ups are permitted during an election cycle, of not more than thirty-two (32) square feet.

- (E) Class 2 temporary signs erected or left erected before or after the election cycle, as defined above, constitute a public nuisance and may be removed by the County and disposed of without notice.
- (F) Class 2 temporary signs must meet the construction standards of Sec. 11.6.

11.4.3 Very Small Signs. Very Small Signs are signs of no more than one (1) square foot, and no more than four (4) feet in height. Any number of such signs are permitted in addition to all other signs permitted under this ordinance. However, the area of all such sign faces on a single lot, parcel, residence, development, business or property may not exceed 10 square feet, and such signs may not aggregate to form one message.

11.4.4 Internal Signs. Any sign not visible from the outside of a structure or to passing members of the public is not restricted or regulated by this Article.

Sec. 11.5 REGULATIONS FOR SIGNS

11.5.1 Location and Setback

- (A) The property owner must give permission for all sign placement on the owner's property. **Signs are not permitted in county road right-of-way without permission of the County Road Department Director.**
- (B) All signs must comply with all side and rear setbacks of the underlying zoning ordinance.
- (C) Signs can be located in front setback areas, but **all signs and sign structures**, except as noted below, **must be setback at least five feet from the road right-of-way.** No portion of a sign or sign structure erected on private property shall encroach on or overhang the public right-of-way or any other person's property. Furthermore, for safety reasons, **no sign erected on private property shall be located closer than 10 feet from the back of the curb of a public roadway, or if there is no curb, from the edge of the pavement.** See also Sec. 11.6.3 and 11.6.4. The Engineering Department and Road Department must review and approve placement of signs located within 20 feet of the right-of-way for compliance with the Manual on Uniform Traffic Control Devices, latest edition (MUTCD) and applicable County ordinances.
- (D) **Entrance signs must be setback from the right-of-way a distance equal to their height plus one foot for sight distance requirements, and must comply with any applicable provision in the MUTCD.** The Engineering Department and Road Department must review and approve placement of entrance signs for compliance with MUTCD and applicable County ordinances.
- (E) No sign on private property can be erected closer than 50 feet to the right-of-way of Interstate Highway 75.

- (F) Distances are measured from the closest portion of the sign (whether that be the base, sign face, or the sign structure) to the right-of-way, curb or pavement.
- 11.5.2 Height Limits. Height limitations in this Article control over the general height limitations of this Ordinance, and apply to any structure that contains a sign. For example, a church spire or radio antenna with a sign would be subject to the height limitations of this Article, rather than general height limitations. Height limitations apply to both the sign and the sign structure, whichever is the tallest.
- 11.5.3 Number. For the purpose of determining the number of signs, ground signs shall be equal to the number of sign structures. All other non-ground signs shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit. Where matter is displayed in random manner without organized relationship of elements, such elements shall be considered to be a single sign.
- 11.5.4 Illumination.
- (A) Ground signs cannot be internally illuminated in any residential or agricultural zoning district. All signs may be externally illuminated. External illumination of any sign in any district shall be positioned and shielded so that the light source cannot be seen directly by any passing motorists nor from adjacent dwellings or businesses.
- (B) Flashing, blinking or otherwise varying illumination is not permitted, except as specified below. No external or internal illumination that causes confusion with or distraction from any traffic signal or safety device shall be permitted. L.E.D. signs, LCD signs, Digital Signs, “TV” type signs, or similar signs with changing images or displaying moving pictures (collectively referred to as “Electronic Variable Message Center (EVMC) signs”) are not permitted, except under the special exception in paragraph (F) below.
- (C) All externally illuminated signs shall utilize low wattage luminaries, mounted in fixtures designed to direct the light and eliminate light trespass, such as light shining into residences or other neighboring structures.
- (D) All internally illuminated signs shall utilize low wattage luminaries designed to reduce light glow.
- (E) All signs over ten feet in height shall be internally illuminated or illuminated by external lighting fixtures located above the sign area, firing downward, and not visible to passing motorists.
- (F) EVMC Sign Exception. Limited EVMC signage (as defined in paragraph (B) above) is allowed in the C-1 and C-N district as follows. No more than 35 square feet of any ground sign face area may be used as an EVMC sign. The sign may be two-faced, with 35 square feet of EVMC sign per face. This amount is not in addition to sign face limits, but rather subtracts from the limits. Example: if a C-1 lot is permitted to have a single ground sign

with 100 square feet per sign face on a double-sided sign, 35 square feet of the 100 square feet may be converted to EVMC, and the remaining 65 be kept conventional sign, for each side (provided the other requirements herein are obeyed). No more than one ground sign on any lot may contain an EVMC.

- (i) The EVMC sign message may not change more than once per ten (10) seconds. "Motion picture" type images (multiple frames per second) are not permitted.
- (ii) In no case, with all lighting components energized, shall the lighting intensity of any EMVC sign, whether resulting from internal or external illumination, exceed 60 foot candles when measured with a standard light meter held at a distance of ten inches from the sign face.
- (iii) Maximum brightness levels for EVMCs shall not exceed 5,000 nits (candles per square meter) when measured from the sign's face at its maximum brightness during daylight hours and 500 nits when measured from the sign's face at its maximum brightness between dusk and dawn. In no case shall the light intensity exceed the standards set forth in subsection (ii). EVMC signs shall be required to have an automatic dimming function to reduce brightness at dusk.
- (iv) In the case of a planned center, only one sign in the entire planned center may contain an EVMC, subject to the restrictions listed above.

11.5.5 Calculation of Area. The area of a sign is calculated by determining the area of the sign face, and shall be determined by the Zoning Administrator. Signs of unusual shape, design, or supporting elements may have their area calculated by calculating the area of the smallest rectangle that will completely enclose all elements of the sign face and sign structure supporting the face. Parties seeking to erect an unconventional sign should check with the Zoning Administrator for compliance issues.

11.5.6 Projecting Signs. Any sign with an element that would project more than five feet outside the main body of the sign area, in any direction, requires an administrative variance from the Zoning Administrator. A sign that is attached at an angle to the wall may extend outward no more than five feet, and requires an administrative variance from the Zoning Administrator.

Sec. 11.6 SAFETY AND CONSTRUCTION STANDARDS

11.6.1 Official Confusion. Signs which contain or are in imitation of an official traffic sign or signal, or can be confused with an official traffic sign, are prohibited.

- 11.6.2 Fire Safety. No sign or sign structure may be erected or maintained which obstructs any fire escape, ventilation, or door; nor shall any sign or sign structure be attached to a fire escape.
- 11.6.3 Corner Visibility. No sign or sign structure above a height of three feet shall be maintained within 15 feet of the intersection of the right-of-way lines of two streets, or of a street intersection with a railroad right-of-way.
- 11.6.4 Traffic Visibility and Safety. No sign shall obstruct the traffic sight line, or the view of vehicles entering the roadway (i.e., the view of oncoming traffic by vehicles attempting to enter the road, or vice versa). No sign shall be erected on any traffic island. No sign shall create a traffic hazard. Sign locations shall be approved by the Road Department if a safety question is raised by the Zoning Administrator.
- 11.6.5 Good Repair. All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair.
- 11.6.6 Temporary Sign Standards. All temporary signs shall be made of waterproof material, and must be attached to an independent mounting device no more than forty (40) inches above ground level. The mounting must be secure to prevent the sign from blowing off the device. The mounting device shall bear the name and phone number of the party responsible for the device.
- 11.6.7 Removal of Unsafe Signs and Safety Hazards. The County may remove a sign in violation of this Ordinance, without giving notice to any party, if said sign is upon the public right-of-way or upon other public property; or said sign poses an immediate safety threat to the life or health of any members of the public.

Sec. 11.7 PROHIBITED SIGNS

The following types of signs are prohibited, as stated:

- 11.7.1 Roof Signs (which means signs mounted above a roof or projecting above the roof-line of a structure).
- 11.7.2 Rotating signs.
- 11.7.3 Portable signs (which means signs which are attached to vehicles, trailers, movable structures, or attached to sign structures which are not permanently anchored into the ground, or any sign which may be transported or is designed to be transported). Such signs include, but are not limited to, printed banners or billboards attached to vehicles and trailers. Inflatable figures and objects (e.g., creatures, beer cans) fall into this category.
- 11.7.4 Swinging or projecting signs, unless an administrative variance is granted by the Zoning Administrator. No such sign can project more than five feet, and in no case shall this type of sign exceed ten square feet in sign area. See Sec. 11.5.6.
- 11.7.5 Mechanical signs, or signs with moving parts. This includes signs with mechanized or moving elements; "trivision"-type signs; signs with waiving

elements, whether motorized or wind-powered; "multiple message signs" as defined in O.C.G.A. § 32-6-71; or similar moving signs. However, signs that do not move or change more than six times per day are permitted.

- 11.7.6 Signs with flashing or blinking lights. This includes, but is not limited to, signs of varying light intensity, and signs containing exposed neon tubing. Signs with reflective elements that sparkle in the sunlight or that contain luminous paint that glows in the dark are not allowed.
- 11.7.7 LED and electronic signs. This includes, but is not limited to, signs displaying moving pictures, images or animation; LED (light emitting diode) signs; LCD (liquid crystal display) signs; digital signs; "TV" type signs; EVMC (electronic variable message center) signs; signs that spell words or create images with numerous small lights or other internal illumination; and similar electronic or digital signs. A limited exception to this prohibition is permitted under section 11.5.4 above. Externally illuminated, electronically controlled, segmented sign display elements are not prohibited.
- 11.7.8 Courtesy benches, trash cans, and similar devices displaying signs.
- 11.7.9 Trailer signs (which means signs mounted on trailers, exceeding two square feet).
- 11.7.10 Sidewalk, A-type, sandwich or curb-type signs placed on sidewalks.

Sec. 11.8 PURPOSES; INTENT; STUDIES CONSIDERED; CASES CONSIDERED

11.8.1 Purposes.

It is the purpose of Bartow County in enacting Article XI to provide standards to safeguard life, public health, property and welfare by regulating the location, size, illumination, erection, maintenance and quality of materials of all signs. More specifically, signs have a powerful impact on the aesthetic environment of the community, and it is the purpose of this Ordinance to encourage an aesthetically attractive environment, allowing sufficient opportunities for communications to serve business, interest groups and the public, while complying with the Federal and State Constitutions and laws. Signs create visual clutter and therefore should be regulated in their size, location, construction and illumination. Signs can detract from the beauty of the neighborhood and lower property values. In seeking to comply with federal and state law, the County has determined the following: large signs are, as the U.S. Supreme Court has recognized, an aesthetic harm; the Georgia Supreme Court has upheld sign regulations on the basis of aesthetics and preserving the beauty of environment; and, the Eleventh Circuit has recognized portable signs are visual clutter and a potential traffic hazard. These holdings show that the County's ordinance is within the law and constitutional, which is a goal of the County. The goal of this Article is to avoid being an impermissible content-based regulation, and instead to be a permissible time, place and manner restriction.

Many signs can also be a hazard and negatively impact traffic safety, by distracting drivers and blocking views of other vehicles and dangers, by making intersections

more treacherous, and by making it difficult to see oncoming traffic when entering a roadway. The County finds that especially distracting to drivers are moving signs, digital signs and electronic signs that resemble televisions or computer screens. Therefore, it is also the purpose of this Ordinance to prevent those harms by regulating signs to safe locations, safe sizes, with proper and safe illumination and construction, or to prohibit signs that are too distracting.

Finally, it is the belief of the County that more communication is desirable during the election cycle, so that all citizens may freely express their viewpoints during the election campaigns, and therefore the ordinance allows increased opportunities to erect signs during these periods, without limiting content or favoring content in any fashion. At all times, any sign permitted under this regulation can carry any message, political or non-political, commercial or non-commercial.

11.8.2 Intent.

In adopting Article XI, it is the intent of Bartow County to:

- (A) balance the right of individuals to convey their messages through signs and the right of the public to be protected against the unrestricted proliferation of signs; and
- (B) further the objectives of the County's Future Land Use Map and sound planning principles and objectives; and
- (C) protect the public health, safety and welfare; and
- (D) reduce traffic and pedestrian hazards; and
- (E) maintain the historical and cultural heritage and image of the County; and
- (F) protect property values by minimizing the possible adverse effects and visual blight caused by signs; and
- (G) avoid the harmful aspects of the unrestricted proliferation of signs; and
- (H) promote economic development and tourism; and
- (I) protect private property values; and
- (J) ensure the fair and consistent enforcement of sign regulations.

11.8.3 Studies Considered.

Having considered the following studies, which the Bartow County Commissioner finds to be relevant, useful and applicable to Bartow County, Georgia, the County finds that the size, location and quantity of sign structures within the County must be regulated in order to achieve the above-stated intents and purposes:

University of Georgia Land Use Clinic (2003, June 26). Sign Control on Rural Corridors: Model Provisions and Guidance.

Wisconsin Department of Transportation (1994, December). Milwaukee County Stadium Variable Message Sign Study: Impacts of an Advertising Variable Message Sign on Freeway Traffic.

Scenic America (2007). Billboards in the Digital Age: Unsafe (and Unsightly) at Any Speed. *Scenic America Issue Alert*.

Nasar, Jack L. and Hong, Xiaodong (1999, September). Visual Preferences in Urban Signscapes. *Journal of Environment and Behavior*, 31(5), 671-691.

Office of Safety Research and Development, Federal Highway Administration (2001, September 11). Research Review of Potential Safety Effects of Electronic Billboards on Driver Attention and Distraction.

U.S. Department of Transportation.; New York State Department of State, Division of Local Government Services (2006, January). Municipal Control of Signs. *James A. Coon Local Government Technical Series*.

Weinstein, Alan C. *A Study of Local Regulation of Outdoor Advertising in 268 U.S. Jurisdictions*. Outdoor Advertising Association of America, Inc.

City Club of Portland (1996, September 6). Billboard Regulation in Portland. *City Club of Portland Bulletin*, 78(13), 1-40.

Smily, Alison and Persaud, Bhagwant, et al (2005). Traffic Safety Evaluations of Video Advertising Signs. *Transportation Research Record: Journal of the Transportation Research Board*, No. 1937, 105-112.

Such studies, which were considered by the Commissioner prior to adoption of this provision, are part of the official record of the adoption of this Ordinance.

11.8.4 Cases Considered.

In adopting these sign regulations, the Bartow County Commissioner especially recognizes the vast number of court decisions, coming from Georgia courts, the federal courts, and courts throughout the United States, which recognize that the regulation of the size, location and quantity of sign structures is a valid and lawful means of achieving the above-stated intents and purposes, and that such intents and purposes are valid and lawful governmental interests, which include the following:

Granite State Outdoor Advertising, Inc. v. Cobb County, Ga., 193 Fed.Appx. 900 (C.A.11th 2006)(finding that the stated goals within a sign ordinance of protecting against traffic hazards and the adverse impact on the county's aesthetic qualities are substantial government interests); Gregory v. Clive, 2007 WL 2914515 (Ga. S.Ct. 2007)(recognizing as within a local government's police power to enact legislation governing billboards and signs, as such legislation clearly addresses the public health, safety, or general welfare of the community); H & H Operations, Inc. v. City of Peachtree City, Ga., 248 Ga. 500 (1981)(holding that, under its police power, a municipality can enact and enforce reasonable regulations governing the erection and maintenance of signs within its jurisdiction); Harnish v. Manatee

County, Florida, 783 F.2d 1535 (C.A. 11th 1986)(finding that aesthetics is a substantial governmental goal which is entitled to and should be accorded weighty respect, and that the governmental entity charged with the responsibility of protecting the environment must be given discretion in determining how much protection is necessary and the best method of achieving that protection); Lamar Advertising Company v. City of Douglasville, Ga., 254 F.Supp.2d 1321 (N.D.Ga. 2003)(finding that where a sign ordinance asserts the goals of public safety, traffic safety, health, welfare and aesthetics, a municipality has shown an important or substantial governmental interest unrelated to the suppression of free speech); Metromedia, Inc. v. City of San Diego, 453 U.S. 490 (1981)(holding that the goals of traffic safety and aesthetics advanced by a municipality as justification for regulating signs is a substantial governmental interest); St. Louis Poster Advertising Co. v. City of St. Louis, 249 U.S. 269 (1919)(finding that billboards may be prohibited in the residential districts of a city in the interest of the safety, morality, health and decency of the community); Members of the City Council of the City of Los Angeles v. Taxpayers for Vincent, 466 U.S. 789 (1984)(finding that a government entity can regulate signs and billboards when necessary to advance a significant and legitimate state interest, such as the protection of the aesthetics and quality of life within its jurisdiction); City of Doraville v. Turner Communications, Corp., 236 Ga. 385 (1976)(finding that under its police power authority, a municipality can regulate the location and maintenance of outdoor advertising signs within their territorial jurisdiction); Spratlin Outdoor Media, Inc. v. City of Douglasville, 2006 WL 826077 (N.D.Ga. 2006)(upholding sign ordinance where the ordinance's height and setback restrictions were rationally related to its stated goals of promoting the health, safety, morality and general welfare of the community, promoting the orderly and beneficial development of the city, promoting adequate access to natural light and air, improving the aesthetic appearance of the city, and encouraging the most appropriate use of land and buildings in accordance with the city's comprehensive plan).

Such cases, which were considered by the Commissioner prior to adoption of this provision, are part of the official record of the adoption of this Ordinance.

ARTICLE XII

TELECOMMUNICATIONS TOWERS AND ANTENNAS

Sec. 12.1 PURPOSES

The purpose of this Article is to provide zoning classification requirements for the siting of all wireless, cellular, television and radio telecommunications towers and antennas; to encourage the location of towers in non-residential areas; to minimize the total number of towers within the community necessary to provide adequate personal wireless services to residents of Bartow County; to encourage the joint use of new and existing tower sites among service providers; to locate telecommunications towers and antennas in areas where adverse impacts on the community are minimized; to encourage the design and construction of towers and antennas to minimize adverse visual impacts; and to enhance the ability of the providers of telecommunications services to deliver such services to the community effectively and efficiently.

Sec. 12.2 DEFINITIONS

For the purpose of this Article, certain terms used herein shall be defined as follows. The general definitions and interpretative rules of the zoning ordinance shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control.

ALTERNATIVE TOWER STRUCTURE: Clock towers, bell towers, church steeples, light/power poles, electric transmission towers, on premises signs, outdoor advertising signs, water storage tanks, and similar natural or man-made alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.

ANTENNA: Any exterior apparatus designed for wireless telecommunication, radio, or television communications through the sending and/or receiving of electromagnetic waves.

CO-LOCATION: The placement of the antennas of two or more service providers upon a single tower or alternative tower structure.

DEPARTMENT: The Bartow County Planning, Zoning and Development Department.

FAA: The Federal Aviation Administration.

FCC: The Federal Communications Commission.

GEOGRAPHIC ANTENNA PLACEMENT AREA: The general vicinity within which the placement of an antenna is necessary to meet the engineering requirements of an applicant's cellular network or other broadcasting need.

HEIGHT: When referring to a tower or other structure, "height" means the distance measured from ground level to the highest point on the tower structure or appurtenance.

PREEXISTING TOWER AND ANTENNAS: Structures as set forth in Section 12.3.4 of this Article.

SCENIC VIEWS: Those geographic areas containing visually significant or unique natural features, as identified in the Bartow County Comprehensive Plan.

TOWER: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telecommunication towers, man-made trees (with accessory buildings/structures) and other similar structures.

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

Sec. 12.3 APPLICABILITY

- 12.3.1 General Application. Except as otherwise provided herein, the provisions, requirements and limitations of this Article shall govern the location of all wireless telecommunication, cellular telecommunication, television, microwave or radio transmission tower or antenna installed within unincorporated Bartow County. In the event of any conflict between any other provision of the Zoning Ordinance and this Article, this Article shall control.
- 12.3.2 Governmental Exemption. Except as otherwise specifically provided for in this Article, the provisions of this Article shall not apply to Bartow County's properties, facilities or structures. Private facilities and structures placed upon County property shall be governed by a lease agreement between the County and the provider.
- 12.3.3 Amateur Radio; Receive-Only Antennas. This Article shall not govern any tower, or the installation of any antenna, that is 75 feet or less in height and is owned and operated by a federally-licensed amateur radio station operator from the operator's residence, or is used exclusively as a receive-only antenna; provided, however, only one such tower or antenna per residence shall be excluded from this Article.
- 12.3.4 Pre-Existing Towers and Antennas. Towers and antennas permitted and erected as of September 7, 2001 shall be deemed pre-existing, and shall not be subject to the requirements of this Article. The placement of additional antennas on any nonconforming structure shall not create a vested right for the continued use of the structures should the nonconforming use cease. If an additional antenna is co-located on a preexisting tower after September 7, 2001, the requirement of this Ordinance shall be met.

Sec. 12.4 GENERAL PROVISIONS

- 12.4.1 Conditional Use Required. A conditional use permit shall be required for the placement of any tower or alternative tower structure, except as otherwise permitted herein. Procedures for conditional use permits sought under this Article are contained in Section 12.5.
- 12.4.2 Principal Or Accessory Use. A tower and/or antenna is considered a principal use if located on any lot or parcel of land as the sole or primary structure, and is considered an accessory use if located on a lot or parcel shared with a different

existing primary use or existing structures. An existing use or structure on the same lot or parcel shall not preclude the installation of an antenna or tower. For purposes of determining whether the installation of a tower or antenna complies with zoning district requirements, including but not limited to set-back, buffer and other requirements, the dimensions of the entire lot or parcel shall control, even though the antenna or tower may be located on a leased area within such lot or parcel. Towers that are constructed, and antennas that are installed, in accordance with the provisions of this Article shall not be deemed to constitute the expansion of a nonconforming use of structure.

- 12.4.3 Co-location of Antennas Required. Applicants for the erection of a tower or antenna, except amateur radio operators, shall be required to co-locate upon an existing tower structure, if possible. An exception to co-location shall only be made if the applicant submits a report from an engineer demonstrating that an existing tower suitable for co-location does not exist in the geographic antenna placement area, and that no suitable alternative tower structure is available, or if the applicant submits an affidavit from an employee that while a suitable tower may exist, no space is available thereon. Co-location is permissible provided the new antenna will add no more than ten (10) feet to the height of the tower and related equipment or appurtenances. Increasing the antenna height more than 10 feet requires a conditional use permit. Co-location requires only a building permit, and the information described in Sec. 12.7.2.
- 12.4.4 Variances. The County may grant variances from the strict enforcement of this ordinance where it finds that a substantial justification exists, where the goals of this ordinance can be met without strict compliance with the terms of this ordinance, and where such variance will not unduly prejudice any other property.
- 12.4.5 Time Limits. Except where delay is caused by the applicant, the County shall make a final decision on applications for a conditional use permit for a new tower within 150 days of the filing of a complete application; the County shall make a final decision on co-location requests within 90 days of the filing of a complete application.

Sec. 12.5 CONDITIONAL USE PERMIT REQUIRED

12.5.1 General.

- (A) A Conditional Use Permit shall be required for the construction of a tower in any zoning district. All such uses shall comply with requirements set forth in this Article and all other applicable codes and ordinances, unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.
- (B) In granting a Conditional Use Permit, the County may impose conditions to the extent that it concludes such conditions are necessary to minimize adverse effects from the proposed tower on adjoining or nearby properties as set out in

Section 12.5.6.

- 12.5.2 Application; contents; fee. All applications for Conditional Use Permits shall be submitted to the Bartow County Planning, Zoning and Development Department. Each application shall contain as a part thereof detailed plans and specifications as set forth in Section 12.7. An application for a Conditional Use Permit shall not be accepted for processing without the information required in Section 12.7. An application fee shall be charged by the Department in the amount stated in Section 12.8.
- 12.5.3 Independent Expert Review. The County may engage a licensed professional engineer as an independent expert to review any of the materials submitted by an applicant for a Conditional Use Permit and render an opinion regarding any concerns about the proposal, including but not limited to, structural integrity and the feasibility of alternative sites or co-location. Following the review of an independent expert, the County shall convey its concerns to the applicant in writing and shall allow the applicant a reasonable opportunity to address those concerns. If the applicant is unable to satisfactorily address those concerns, the applicant shall be allowed a reasonable amount of time, not to exceed thirty (30) days, following the receipt of the letter, in which to modify the application to alleviate the County's concerns or withdraw the application altogether. The expert's opinion shall be considered determinative, unless the applicant agrees to pay the expenses of submitting both opinions for a peer review, which review shall then be considered final. If the independent third-party expert supports the applicant's expert, then the Department shall pay the expenses of said third-party expert. If the independent third-party expert supports the position of the Department, then the applicant shall pay the expenses of said third-party expert.
- 12.5.4 Public hearing. Before taking action upon the proposed Conditional Use Permit, the County shall hold a public hearing on the matter. At least 15 days prior to the date of the public hearing, the County shall cause the following notice requirements to be instituted by the Department:
- (A) A sign shall be erected, in a conspicuous location, on or adjacent to the property under consideration. The sign shall state the time, place, location, and purpose of the public hearing.
 - (B) A letter shall be sent by first class mail, with proof of mailing obtained from the post office, to all property owners of record of abutting parcels, and to all property owners of residentially-used parcels lying in whole or in part within a distance of two (2) times the height of the proposed tower as measured from its base, giving notice of the public hearing. The letter shall state the same information as required for the sign. Proof of mailing means either a "Certification of Mailing" or a "Certified Mail" receipt; a "Return Receipt" showing delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. The letter shall be mailed at least fifteen (15) days before the hearing. Proof of mailing shall be filed with the Zoning Administrator prior to any hearing.
 - (C) A public notice shall be published in the newspaper in which the sheriff's advertisements appear once a week for two (2) consecutive weeks prior to the

date of the hearing.

- (D) Subsections (B) and (C) above shall be the responsibility of, and at the expense of, the applicant. Failing to comply with the requirements shall render the application out-of-order, and it shall be tabled for one month. If the application is still out-of-order at the next meeting, it shall be considered withdrawn, and the applicant shall have to wait six (6) months to reapply.

12.5.5 Considerations in Approval or Denial of Conditional Use Permits. Any denial of a request to place, construct or modify a telecommunications facility shall be in writing and supported by substantial evidence contained in a written record. The following factors may be taken into consideration in acting upon a Conditional Use Permit application under the provisions of this Article:

- (A) The height and setbacks of the proposed tower or antenna(s);
- (B) The proximity of the tower or antenna(s) to residential structures and residential district boundaries;
- (C) The nature of uses on adjacent and nearby properties;
- (D) The surrounding topography;
- (E) The surrounding tree coverage and foliage;
- (F) The design of the tower or antenna(s), with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (G) The proposed ingress and egress;
- (H) The availability of suitable existing towers or other structures for antenna co-location;
- (I) The impact of the proposed tower or antenna(s) upon scenic views and visual quality of the surrounding area;
- (J) The needs of the applicant as balanced against the detrimental effects on surrounding properties; and
- (K) The impact of the proposed tower or antenna(s) on adjacent and nearby properties.

12.5.6 Requirements for Issuance of Conditional Use Permit. The Conditional Use Permit may be issued by the County only upon satisfaction of the following requirements:

- (A) A proper application filed in accordance with the requirements of Section 12.7;
- (B) The application is otherwise in compliance with or otherwise is satisfactory in considering the standards contained in Section 12.5.5;

- (C) The applicant complies with the conditions proposed by the County for the purpose of reducing the harmful effects of the use on surrounding uses and ensuring compatibility with surrounding uses;
- (D) The County determines that the benefits and need for the proposed conditional use are greater than any possible depreciating effects or damages to neighboring or nearby properties; and
- (E) All fees, including expert fees, have been paid in full.

12.5.7 Resubmittal of Conditional Use Application. An application for a Conditional Use Permit which has been denied shall not be resubmitted for a period of twelve (12) months and then only if the applicant can document a substantial change in need for a tower or antenna at the same location.

Sec. 12.6 GENERAL REQUIREMENTS FOR TOWERS

12.6.1 Setbacks and Separation. The following setbacks and separation requirements shall apply to all towers.

- (A) Towers shall be setback a distance equal to the height of the tower from its base to any public right-of-way or occupied structure, or property line of the lot or parcel containing the tower, except when a property owner or adjoining property owner consents in writing to waive the setback and the applicant clearly demonstrates that the tower will collapse within the parent parcel.
- (B) Guy-wires and accessory buildings and facilities shall meet the minimum accessory use location and setback requirements.
- (C) In zoning districts other than I-2 and M-1, towers shall not be located closer than five hundred (500) feet from any existing tower. This requirement shall not apply to amateur radio towers.
- (D) Notwithstanding any other provision of this Article, no tower or antenna shall be permitted in a residential neighborhood or within one thousand (1,000) feet of any residential dwelling unless the applicant can show that the denial of a permit in such a location will cause a significantly harmful and permanent degradation of service which cannot be overcome by any other means including planned or potential locations which would provide the same or similar coverage or capacity.
- (E) The requirement of Section 12.6.1(D) (above) may be waived by the adjacent property owner(s). In such cases, the applicant shall submit a notarized affidavit from the adjacent owner(s), identifying the property owned, and affirming that he or she agrees that the tower can be erected at the proposed location, which shall be specifically described, including its distance from that owner's residential dwelling. The affidavit shall further specifically state that the affiant understands that he or she is waiving his or her rights under Section 12.6.1 of the Bartow County Zoning Ordinance. Waivers shall be required of all property owners whose dwellings are located within 1,000 feet of the

proposed tower.

- 12.6.2 Aesthetics. The guidelines set forth in this section shall govern the design and construction of all towers, and the installation of all antennas, governed by this Article and shall be approved by the Administrator.
- (A) Towers and/or antennas shall either maintain a galvanized steel or concrete finish or, subject to any applicable standards of the FAA, be painted a neutral color so as to reduce visual obtrusiveness.
 - (B) At all tower sites, the design of all buildings and related structures shall use materials, colors, textures, screening, and landscaping that will blend the tower facilities to the natural setting and building environment. Any equipment or cabinet that supports telecommunication facilities must be concealed from public view and made compatible with the architecture of the surrounding structures or placed underground. Equipment shelters or cabinets shall be screened from public view by using landscaping or materials and colors consistent with the surrounding backdrop. The shelter or cabinet must be regularly maintained.
 - (C) For antennas installed on a structure other than a tower, the antenna and supporting electrical and mechanical ground equipment shall be of a neutral color so as to make the antenna and related equipment visually unobtrusive.
 - (D) Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the County may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views. The lighting shall be dimmed or changed to red lights from the sunset to sunrise.
 - (E) No signage or other identifying markings of a commercial nature shall be permitted upon any tower or alternative tower structure within Bartow County.
 - (F) To the extent practical, telecommunication facilities shall not be placed in a direct line of sight with historic or scenic view corridors as designated by the governing body or by any state or federal law or agency.
 - (G) Access to the tower site shall be restricted so as to minimize visibility of the access. Where possible, existing roads shall be used. Where no roads exist, access shall follow the existing contours of the land.
 - (H) Such other additional requirements as the Administrator shall reasonably require to minimize the visual impact of the site on the surrounding area.
- 12.6.3 Security Fencing/Anti-Climbing Devices. All towers and supporting equipment shall be enclosed by fencing not less than six (6) feet in height and shall also be equipped with appropriate anti-climbing devices. Fencing shall be of chain link, wood or other approved alternative.
- 12.6.4 Landscaping. The following requirements shall govern landscaping surrounding all towers.

- (A) Where adequate vegetation is not present, tower facilities shall be landscaped with a landscaped strip of plant materials which effectively screens the view of the tower compound. Landscaped strips shall be a minimum of ten (10) feet in width and located outside the fenced perimeter of the compound.
 - (B) Existing mature tree growth and natural landforms on the site shall be preserved to the maximum extent possible. Where natural vegetation around the perimeter of the site would provide an adequate visual screen, an undisturbed buffer may be utilized. The applicant shall provide a site plan showing existing significant vegetation to be removed, and vegetation to be replanted to replace that lost.
 - (C) Landscaping shall be maintained by the provider and shall be subject to periodic review by the Administrator to assure proper maintenance. Failure to maintain landscaping shall be deemed a violation of this Article.
 - (D) Amateur radio towers and antennas, or receive-only antennas shall not be subject to the provision of this section unless required by the County through the Conditional use Permit process.
- 12.6.5 Maintenance Impacts. Equipment at a transmission facility shall be automated to the greatest extent possible to reduce traffic and congestion. Where the site abuts or has access to a collector or local street, access for maintenance vehicles shall be exclusively by means of the collector or local street, utilizing existing access to the property on which such facility is to be located, where possible.
- 12.6.6 Review of Tower and Antenna Erection by the Airport Authority. If, upon receipt of an application for the erection of any tower or alternative tower structure governed by this Article, the Department deems that the proposed structure may interfere with or affect the use of the airways of the County by the public or interfere with or affect the operation of existing or proposed airport facilities, a copy of the application shall be submitted by the Department to the Cartersville-Bartow County Airport Authority for review and recommendation.
- 12.6.7 Federal Requirements; Removal of Towers. All towers must meet or exceed current standards and regulations of the FAA, the FCC, and any other agency of the federal government with the authority to regulate towers and antennas. If such standards and regulations are changed, the permittee or the lessee of the tower and antenna governed by this Article shall bring such tower and/or antenna into compliance with such revised standards and regulations within six (6) months of the effective date of such standards and regulations unless a more or less stringent compliance schedule is mandated by the controlling federal agency. Failure to bring such tower and/or antenna into compliance with such revised standards and regulations shall be deemed to be a declaration of abandonment of the tower and constitute grounds for the removal of the tower or antenna at the owner's, permittee's, or lessee's expense. Any such removal by the County shall be in the manner provided in the Bartow County Unfit Property Ordinance then in effect.
- 12.6.8 Building Codes; Safety Standards; Removal of Towers. To ensure the structural integrity of towers, the owner, permittee or subsequent lessee of a tower or

alternative tower structure shall ensure that it is maintained in compliance with standards contained in applicable Standard Building Codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the Department concludes that a tower fails to comply with all applicable codes and standards, or constitutes a danger to persons or property, then upon receipt of written notice by the owner, permittee or lessee of the tower, said party shall have fifteen (15) days to bring the tower into compliance with such standards. Failure to bring such tower into compliance within fifteen (15) days shall be deemed a declaration of abandonment of the tower and constitute grounds for removal of the tower as provided in the Bartow County Unfit Property Ordinance. Prior to the removal of any tower, the Department may consider detailed plans submitted by the owner, permittee or subsequent lessee for repair of substandard towers, and may grant a reasonable extension of the above-referenced compliance period. Abandoned towers or towers deemed unsafe may also be removed under the Bartow County Unfit Property Ordinance procedures.

- 12.6.9 Change of Ownership Notification. Upon the transfer of ownership of an interest in any tower, alternative tower structure, or lot upon which such a structure has been erected, the tower permittee shall notify the Department of the transaction in writing within 30 days.

Sec. 12.7 APPLICATION PROCEDURES

- 12.7.1 General Application Requirement. Application for a permit for any telecommunication facility shall be made to the Department by the person, company or organization that will own and operate the telecommunications facility. An application will not be considered until it is complete. The Administrator is authorized to develop application forms to assist in providing the required information and facilitate the application process. Except for a co-location information submittal under Section 12.7.2 of this Article, the following information shall be submitted when applying for any permit required by this Article and must be submitted for an application to be considered complete:
- (A) Site plan or plans to scale specifying the location of telecommunications facilities, transmission building and/or other accessory uses, access, parking, fences, landscaped areas, and adjacent land uses. Applicants shall submit both a paper location map and a digitized location map in a format compatible with the GIS software currently utilized by the County Information Services Department.
 - (B) Landscaped plan to scale indicating size, spacing and type of plantings required in Section 12.6.4.
 - (C) A full description of the environment surrounding the proposed telecommunications facility, including any adjacent residential structures and districts, structures and sites of historic significance, streetscapes or scenic view corridors.
 - (D) A description of anticipated maintenance needs for the telecommunications facility, including frequency of service, personnel needs, equipment needs,

and traffic or safety impacts of such maintenance.

- (E) Report from a professional qualified engineer licensed in the State of Georgia, or other appropriate qualified industry expert, documenting the following:
 - (i) Tower or antenna type, height, and design;
 - (ii) Engineering, economic, and other pertinent factors governing selection of the proposed design;
 - (iii) Total anticipated capacity of the telecommunications facility, including numbers and types of antennas which can be accommodated;
 - (iv) Evidence of structural integrity of the tower or alternative tower structure;
 - (v) Structural failure characteristics of the telecommunications facility and demonstration that site and setbacks are of adequate size to contain debris;
 - (vi) Certification that the antenna(s) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety;
 - (vii) Certification that the proposed height of the tower is the minimum height necessary for coverage; and
 - (viii) A propagation study which documents the proposed location is the only location for the tower that reduces alleged gaps in coverage.
- (F) Identification of the geographic service area for the subject installation, including a map showing the proposed site and the nearest or associated telecommunications facility sites within the network. Describe the distance between the telecommunications facility sites. Describe how this service area fits into and is necessary for the service network (i.e., whether such antenna or tower is needed for coverage or capacity.)
- (G) If the proposed site is zoned C-1, C-N, I-1, R-1 through R-6, RE-1, RE-2, or O/I, applicants must describe why an alternate site zoned A-1, I-2, or M-1 was not proposed by identifying:
 - (i) what good faith efforts and measures were taken to secure such an alternate site;
 - (ii) why such an alternate site was not technologically, legally or economically feasible and why such efforts were unsuccessful; and
 - (iii) how and why the proposed site is essential to meet service demands for the geographic service area.

The Department will review with special care justifications that appeal only to undue expense and/or to undue difficulties in entering into a lease agreement. The Department shall carefully weigh such claims, and the evidence presented in favor of them, against a project's negative impacts at the proposed site.

- (H) The applicant must provide a utilities inventory showing the locations of all water, sewage, drainage and power line easements impacting the proposed tower site.
 - (I) The applicant must provide any other information which may be requested by the Department to fully evaluate and review the application and the potential impact of a proposed telecommunications facility.
- 12.7.2 Tower Co-location Information Submittals. Any person or entity co-locating an antenna or antennas on a tower for which a permit has already been issued shall submit the following information only:
- (A) The name of the person or entity co-locating the antenna.
 - (B) The name of the owner of the tower.
 - (C) The tower's permit number.
 - (D) The location of the tower.
 - (E) The remaining structural capacity of the tower.
 - (F) Certification that the antenna(s) and related equipment or appurtenances comply with all current regulations of the FCC, with specific reference to FCC regulations governing non-ionizing electromagnetic radiation (NIER), and that the radio frequency levels meet the American National Standards Institute (ANSI) guidelines for public safety.

Sec. 12.8 APPLICATION AND PERMIT FEES

- 12.8.1 Conditional Use Permit. The fee for an application seeking a conditional use permit to erect a new tower on an alternative tower structure shall be \$3,000.00.
- 12.8.2 Co-Location. There shall be no fee for an application seeking a conditional use permit for co-location on an existing tower or alternative tower structure other than the building permit fee.
- 12.8.3 Building Permit Fees. In addition to the application fees set forth herein, the applicable construction and utility inspection permit fees in effect at the time of the application for the permit shall apply.

ARTICLE XIII

ENFORCEMENT

Sec. 13.1 ZONING ENFORCEMENT OFFICER; APPEALS

The provisions of this Ordinance shall be administered and enforced by the Zoning Administrator. Requests for an administrative variance from the requirements of this Ordinance shall be heard and decided by the Zoning Administrator in accordance with the guidelines set forth in Section 14.1. Decisions of the Zoning Administrator may be appealed in accordance with the provisions of Article XIV. Requests for a variance other than an administrative variance shall be heard and decided by the Board of Appeals in accordance with the guidelines set forth in Section 14.4.

Sec. 13.2 ENFORCEMENT ACTIONS

13.2.1 Enforcement Options. Enforcement of this ordinance may be through criminal prosecution, civil fines, or other civil proceedings. Any person, firm, partnership, corporation or other legal entity who shall do anything prohibited by this Ordinance as the same exists or as it may hereafter be amended or which shall fail to do anything required by this Ordinance as the same exists or as it may hereafter be amended shall be subject to an enforcement action. The County shall also be authorized to bring actions *in rem* against the property itself.

(A) Representatives of the County shall have the power to conduct such investigations as may reasonably be deemed necessary to assure or compel compliance with the requirements and provisions of this Ordinance, and for this purpose to enter at reasonable times upon any property for the purpose of investigation and inspection, as permitted by law. Officers and officials may seek inspection warrants or search warrants on probable cause of a violation occurring inside a structure. No warrant shall be required to investigate visible and open violations or uses.

(B) No person shall obstruct, hamper or interfere with any County representative while in the process of carrying out his official duties in the enforcement of this Ordinance.

13.2.2 Persons Who May Be Cited. Owners are ultimately responsible for the condition of their property and ensuring that their property and all activity occurring on such property are in compliance with this Ordinance. For any violation, both the owner of the property and/or the individual agent, tenant or invitee of the owner responsible for the violation may be cited, where appropriate. Agents of the owner would include, but not be limited to, developers, builders, contractors, and sub-contractors. Tenants and invitees would include, but not be limited to, any renter, leaseholder, owner of any vehicle or structure on the property, or other person conducting an activity on the property who is not a trespasser. Corporations and companies responsible for the work may be cited in lieu of or in addition to citations issued to the actual individuals on-site committing violations. In addition, the County shall also be authorized to bring actions *in rem* against the property itself.

- 13.2.3 Daily Violations. Each day during which the violation or failure or refusal to comply continues shall constitute a separate violation, subjecting the offender to a new citation, or other civil or criminal proceeding.
- 13.2.4 Multiple Violations. Each separate action, omission, or occurrence relating to any specific provision of this Ordinance shall be a separate violation, subjecting the offender to a separate citation. Multiple junk cars count as one violation, but the fee increases as shown in Section 13.3 below.
- 13.2.5 Criminal Prosecution. The Zoning Administrator, or designated code enforcement personnel, or other authorized personnel, may issue criminal citations for violations of this ordinance, or violation of any stop-work order.
- (A) Criminal prosecutions for violation of this Ordinance shall be commenced by the completion, signing, and service of a citation by an authorized county official or zoning enforcement officer. No warning need be issued prior to a citation being issued. The original of the citation shall be personally served upon the accused, his or her authorized representative or, if a corporation, an officer of the corporation or its on-site representative or the person or persons in charge of the activity on the property; a copy shall be promptly filed with the magistrate court. A stop-work order may be issued in conjunction with a citation.
- (B) Each citation shall state the time and place at which the accused is to appear for trial in magistrate court, shall identify the offense with which the accused is charged, shall have an identifying number by which it shall be filed with the Court, shall indicate the identity of the accused and the date of service, and shall be signed by the deputy sheriff or other authorized officer who completes and serves it.
- (C) Any Defendant who fails to appear for trial shall thereafter be arrested on the warrant of the Magistrate and required to post a bond for his or her future appearance.
- (D) The District Attorney, County Attorney, or another attorney designated by Bartow County may act as prosecuting attorney for violations of this Ordinance.
- (E) Fines shall be assessed in accordance with Sec. 13.3.
- 13.2.6 Civil Fines and Proceedings. In addition to or in lieu of any other remedy, the County may seek injunctive, mandamus or other appropriate relief in superior court to enjoin or prevent a violation of any provision of this Ordinance. Such action may also seek civil fines at the mandatory rates specified in Section 13.3 for violation of this Ordinance, and may additionally seek the costs of restitution, and any other costs associated with the action to enjoin or prevent any violation of any provision of this Ordinance. The County shall be entitled to its reasonable attorney's fees and costs for bringing an action in superior court wherein any relief is granted or fine assessed.
- 13.2.7 Stop Work Orders. Upon notice from the Zoning Administrator, designated code enforcement officers, or other authorized personnel, work on any project that is being done contrary to the provisions of this Ordinance shall be immediately stopped.

- (A) Stop work orders shall affect all work being done on a project or development (including work done on other lots in the subdivision owned by the same violator). Stop work orders stop not only the work in violation, but all other work by contractors or sub-contractors on the same property. Only work to remedy the deficiency shall be allowed until the stop work order is lifted.
- (B) A stop work order shall be in writing and shall be given to the owner of the property, his authorized agent or the person or persons in charge of the activity on the property, and shall state the conditions under which work may be resumed. Where an emergency or other exigent circumstances exist, no written notice shall be required, and a verbal stop work order may be issued, with a written order to be provided within three working days.
- (C) Stop work orders may be issued on their own, or in conjunction with criminal citations, or civil proceedings in superior court.
- (D) Issuance of a stop work order may be appealed to the Board of Appeals.

13.2.8 Additional Criminal Penalties. Persons cited criminally are also subject to the other penalties within the jurisdiction of the magistrate court, including incarceration up to 60 days, community service, and probation.

Sec. 13.3 FINES

13.3.1 Fine Schedule. Fines assessed under this Ordinance shall be assessed according to the following mandatory schedule, whether assessed as a civil fine in superior court, or assessed as a criminal penalty upon conviction in magistrate court. The maximum permissible fine shall be \$1,000 per offense. In no event shall a fine be reduced below the mandatory minimum, as set forth below. Fines may be increased by mandatory add-ons under State law. As a deterrent to violation, second and subsequent violations by the same offender of any provision of this Ordinance, whether violations of the same or different provisions of this Ordinance as the initial violation, and whether involving the same or different property, shall increase the fine owing. However, repeated citations for the same violation on a second and subsequent days shall not count as a subsequent violation, but shall rather be assessed at the same rate as the initial violation. Note: "Per vehicle" additions relate to violations such as junk vehicles, parking violations, and similar violations, where each vehicle is in violation of the Ordinance.

- (A) First Violation: For the first violation of any provision of this Ordinance by any violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of Article VI: \$250 (plus \$50 per vehicle, if applicable)
 Violation of any other Article: \$200

- (B) Second Violation: For the second violation of any provision of this Ordinance (whether the same or different as the first violation) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted:

Violation of Article VI: \$500 (plus \$75 per vehicle, if applicable)
Violation of any other Article: \$400

- (C) Third and Subsequent Violations: For the third and subsequent violation of any provision of this Ordinance (whether the same or different as the prior two violations) by the same violator (whether an individual or corporation), the fine shall be as follows, unless otherwise noted

Violation of Article VI: \$750 (plus \$100 per vehicle, if applicable)
Violation of any other Article: \$600

Sec. 13.4 RECORDS

The Zoning Department shall keep records of violators, whether corporate or individual, in order to determine when second or subsequent violations occur.

ARTICLE XIV

VARIANCES; BOARD OF APPEALS

Sec. 14.1 ADMINISTRATIVE VARIANCES

If in the judgment of the Zoning Administrator, the application of any particular numeric criteria, standard or requirement of this Ordinance causes undue hardship on the applicant, the Zoning Administrator shall be empowered to grant an administrative variance to alter said requirement by up to twenty (20) percent, if in doing so, the purposes of the ordinance are not impaired, and there is not a negative impact on the surrounding uses, properties, or neighbors. In granting an administrative variance, the Zoning Administrator may attach such conditions as the Zoning Administrator may deem advisable so that the purpose of this Ordinance will be served, public safety and welfare secured and substantial justice done. The Zoning Administrator shall not be authorized to grant a use variance to permit a use in a district in which the use is prohibited. An administrative variance shall be granted or denied in writing. Notice of the grant of an administrative variance shall be sent to all adjoining property owners via first class mail by the applicant. The notice shall describe the variance granted and state that interested parties have 30 days in which to file an appeal of the variance. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. Proof of mailing, as described in Sec. 14.5.3, shall be submitted to the Zoning Department within 10 days of grant of the variance. The thirty days shall be counted from the date of mailing of the notice.

Sec. 14.2 ESTABLISHMENT OF BOARD OF APPEALS

14.2.1 The Board of Zoning Appeals, also referred to as the Board of Appeals, was established by previous version of this Ordinance, and remains authorized under this Ordinance. Existing Board members shall continue in their current terms unaffected by the adoption of this Ordinance. The Board consists of five (5) members appointed by the County Commissioner for staggered terms of three (3) years. Each successive appointment shall be for three (3) years.

14.2.2 Members shall serve without pay but may be reimbursed for any expenses incurred while representing the Board. Any vacancy in the membership of the Board of Appeals shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the County Commissioner upon written charges and after public hearing. The Board of Appeals previously appointed under the authority of the prior zoning ordinance shall continue without change as if appointed under this Ordinance.

Sec. 14.3 PROCEEDINGS OF THE BOARD OF APPEALS

14.3.1 The Board of Appeals shall elect a chair-person and a vice chair-person from its members who shall serve for three years or until re-elected or until their successors are elected. The Board shall appoint a secretary, who may be a county officer, an employee of the county, or a member of the Board. The Board shall adopt such rules and bylaws as they deem appropriate. The Board shall meet every other month or on such schedule as it chooses to adopt, but no less than four times per year, providing there are matters to consider. If there are no agenda items, the regularly scheduled meeting shall be cancelled.

- 14.3.2 Meetings of the Board shall be held at the call of the chair-person and at such other times as the Board may determine. The chair-person, or in his absence, the vice chair-person, may administer oaths to witnesses.
- 14.3.3 The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board and may be a public record.
- 14.3.4 All meetings of the Board of Appeals shall be open to the public.

Sec. 14.4 POWERS AND DUTIES OF THE BOARD OF APPEALS

The Board of Appeals shall have the following powers and duties:

- 14.4.1 Appeals. To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this Ordinance. Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board, or bureau of Bartow County affected by any decision of the Zoning Administrator. Such appeal shall be taken within thirty (30) days of said decision by filing with the Zoning Administrator a written notice of appeal specifying the grounds thereof. Decisions on appeals shall be issued in writing within ten days of the appeal.
- 14.4.2 Variances. The Board of Appeals has the power to hear requests for variances from the provisions of this Ordinance. Variance may be granted only if the Board finds all of the following to exist:
 - (A) That one of the following is true, through no action or fault of the property owner or predecessor:
 - (i) the property is exceptionally narrow, shallow or unusually shaped,
 - (ii) the property contains exceptional topographic conditions,
 - (iii) the property contains other extraordinary or exceptional conditions, or
 - (iv) there are existing other extraordinary or exceptional circumstances; and
 - (B) That the strict application of the requirements of this Ordinance would result in practical difficulties to, or undue hardship upon, the owner of this property; and
 - (C) That the requested variance relief may be granted without substantially impairing the intent and purpose of this Ordinance.

Variance decisions shall be issued in writing within ten days of the hearing.

- 14.4.3 Conditions. In granting a variance, the Board of Appeals may attach such conditions regarding the location, character and other features of the proposed

building, structure or use as it may deem advisable so that the purpose of this Ordinance will be served, public safety and welfare secured and substantial justice done.

- 14.4.4 Limitations on Variances; Improper Variance Requests. Variances cannot be given to totally remove a requirement or to exempt a property or applicant entirely from a requirement. If a variance is being sought that is, in the judgment of the Zoning Administrator, a request that would constitute a text amendment, then the application shall not be accepted. For example, a request to be exempted from the Etowah Valley Historic District requirements would not be the subject of a variance. The applicant shall instead be directed to file for a text amendment. Variances can only be given to alter a numeric value, such as a setback, height limit, area limit, and so forth. Furthermore, the Board of Appeals shall not be authorized to grant a density variance or a use variance to permit a use in a district in which the use is prohibited. A variance application shall not be accepted if the variance seeks something that cannot be varied. A variance application shall not be accepted if the variance is contradictory to the ordinance (such as reducing a requirement to zero or totally eliminating a requirement).
- 14.4.5 Self-Inflicted Hardship. The Board shall not grant variances when the hardship was created by the property owner or his predecessor, and shall not grant hardship variances based on shape or topography for lots of record not existing prior to February 21, 1996. Configuring a subdivision to create lots that are difficult to build is an example of a hardship created by the property owner or processor, that do not justify a variance.
- 14.4.6 Place of Worship. In compliance with Federal law, if the variance is requested by a place of worship or church, in connection with the exercise of religion, the Board shall additionally consider whether the regulation imposes a substantial burden on the exercise of religion, whether the regulation serves a compelling governmental interest, whether the denial is the least restrictive means to serve that interest, or whether the variance can be granted without harming that interest.
- 14.4.7 Group Homes. If the variance is related to a Group Home for Persons with a Disability, the Board shall additionally consider what reasonable accommodations in this Ordinance can be made to provide persons with a disability equal opportunities to use and enjoy dwellings, while not abrogating the purposes of this Ordinance. Any reasonable accommodation should only relate to the disability.

Sec. 14.5 APPLICATIONS, HEARING AND NOTICE

- 14.5.1 Applications. Applications for appeals or variances must be filed in accordance with the schedule set out by the Zoning Administrator. The contents of the application shall be determined by the Zoning Administrator. The Zoning Administrator shall forthwith transmit to the Board all documents constituting the record upon which the action appealed from was taken. Variances may be sought by filing an application on forms provided by the Zoning Administrator.
- 14.5.2 Published Notice. Due notice of the public hearings pursuant to this Article shall be published in the newspaper of general circulation within the county. Notice advertising the hearing on the appeal or variance and indicating date, time, place

and purpose of the public hearing shall be published at least fifteen (15) days but not more than forty-five (45) days prior to the date of the hearing. The cost of the advertisement shall be borne by the applicant. For variances, the Zoning Administrator shall post, at least fifteen (15) days prior to the Board of Appeals' public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application number, date, time and place of the public hearing.

14.5.3 Letters to Adjacent Property Owners. The applicant for said appeal or variance shall also give notice of the appeal or variance and the public hearing thereon to all property owners adjoining the property for which said appeal or variance is made or sought. Said notice shall be given to each adjoining property owner by first class mail, with proof of mailing obtained from the Post Office. Proof of mailing means either a First Class "Certificate of Mailing" or a First Class "Certified Mail" receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Proof of mailing for each recipient shall be provided to the Zoning Administrator before the public hearing. Said notice must be mailed at least fifteen (15) days prior to the date of said scheduled public hearing.

14.5.4 Information in Notice. The notice required herein to be published and to be served upon adjacent property owners shall contain the following information:

- (A) name and address of the applicant;
- (B) address and location of the property for which the appeal or variance is sought;
- (C) current zoning of the property for which the appeal or variance is sought;
- (D) the variance requested or the subject matter of the appeal and the reason for the requested variance or the appeal; and
- (E) the date, time and place of the public hearing on said requested appeal or variance.

14.5.5 Recording Hearing. The Applicant may arrange for and provide a certified court reporter to transcribe the hearing before the Board of Appeals, at the expense of the Applicant. Upon appeal of the decision of the Board of Appeals, said transcript shall be made part of the record for review. Board hearings shall also be recorded by video or audio tape.

Sec. 14.6 STAY OF PROCEEDINGS

An appeal stays all legal proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Appeals after the Notice of Appeal shall have been filed with him, that by reason of facts stated in the Certificate, a stay would in his opinion cause imminent peril to life and property. In such case, proceedings shall not be stayed otherwise than by a stay granted by the Board of Appeals or by a restraining order

issued by a court of record on application, on notice to the Zoning Administrator, and for due cause shown.

Sec. 14.7 ACTION BY THE BOARD OF APPEALS

- 14.7.1 In exercising its powers, the Board of Appeals may, in conformity with the provisions of this Ordinance, reverse or affirm, wholly or partly, or may modify the order, requirements, decision, or determination, and to that end shall have all the powers of the Zoning Administrator.
- 14.7.2 The concurring vote of a majority of the members present of the Board shall be necessary to reverse any order, requirement, decision or determination of the Zoning Administrator, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance or to affect any variation of this Ordinance.
- 14.7.3 On all appeals, applications and other matters brought before the Board of Appeals, said Board shall inform, in writing, all the parties involved of its decisions and the reasons therefore. Such written decision shall be prepared by the zoning staff or county attorney and signed by the secretary.

Sec. 14.8 CONDUCT OF THE BOARD OF APPEALS' HEARING

- 14.8.1 Sign Up. All persons who wish to address the Board of Appeals at a hearing concerning an appeal or variance under consideration by the Board of Appeals shall first sign up on a form to be provided by the County prior to the commencement of the hearing.
- 14.8.2 Matter Presented; Out of Order Applications. The Secretary of the Board of Appeals will read the proposed appeal or variance under consideration in the order determined by the Zoning Administrator. The Zoning Administrator, or his designee, shall then present the basis of the appeal or variance, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed appeal or variance. Any appeal or variance that has not complied with all notice and other requirements of this Ordinance shall be deemed out of order and shall not be considered at that hearing. It shall be postponed until the next meeting, and if it is still out of order at the next meeting, the application shall be deemed denied.
- 14.8.3 Speakers. The Secretary of the Board of Appeals shall call each person who has signed up to speak on the appeal or variance then before the Board of Appeals in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his/her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the members of the Board of Appeals present at the hearing allow the person to speak to the appeal or variance, notwithstanding the failure of the person to sign up prior to the hearing.
- 14.8.4 Time Limits. The applicant or appellant and those in favor of the variance or appeal shall have fifteen (15) minutes to speak, total. Those opposed to the

application or appeal shall have fifteen (15) minutes to speak, total. The Board may extend these times upon majority vote. Each individual speaker shall have no more than three minutes to speak, except the applicant, who can take as much of the fifteen minutes as is desired. The applicant may reserve time for rebuttal. Upon vote of a majority of the Board, either side may be granted additional time in any amount the Board desires, but in such event, the other side shall be granted the same additional time.

- 14.8.5 Evidence, Cross-Examination. Each side shall have the opportunity to present evidence and witnesses which shall be entered into the record. Cross-examination of opposing witnesses shall be allowed by the Chair, but decorum shall be maintained. The Board may require the applicant and opponents to designate one person to conduct any desired cross-examination.
- 14.8.6 Decorum and Order. Each speaker shall speak only to the merits of the proposed appeal or variance under consideration and shall address his/her remarks only to the members of the Board of Appeals. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed appeal under consideration. The chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on the appeal or variance is conducted in a fair and orderly manner.

Sec. 14.9 APPEALS TO THE COMMISSIONER AND TO SUPERIOR COURT

- 14.9.1 Appeal to Commissioner. Recourse from a decision by the Board of Appeals shall be to the Commissioner of Bartow County, by filing a written notice of appeal within thirty days of the Board of Appeal's decision. The Commissioner shall have a hearing on said appeal within 60 days of completion of preparation of the record and transcript, which shall be certified to the Commissioner by the County Attorney or other designee. The Commissioner's hearing shall be noticed according to the requirements of 14.5.2, 14.5.3 and 14.5.4, including published notice, sign, and letters to adjacent property owners. The hearing shall be open to the public, but public comment shall not be taken. At the hearing, the Commissioner shall review the evidence presented below, which shall automatically include the Zoning Ordinance, Official Zoning Map, the County's file on the application, and any other County Ordinance relevant to the dispute. No new evidence not presented to the Board of Appeals may be presented on an appeal to the Commissioner; only argument of counsel (or unrepresented parties) is permitted. The Commissioner may issue a decision at the hearing or may issue a written decision within ten days. Appeals can be taken by the applicant, any opponent, or the County staff.
- 14.9.2 Appeals to Superior Court. Parties seeking an appeal from a final decision of the Commissioner reviewing the Board of Zoning Appeals' decision shall file a petition for mandamus in Bartow Superior Court within thirty days of the decision, naming and serving Bartow County as defendant. Such appeals, being from quasi-judicial decisions, are on the record. The County shall cause a certified copy of the record to be filed in response to the petition.

ARTICLE XV

AMENDMENTS

Sec. 15.1 INITIATION OF AMENDMENTS

- 15.1.1 Text Amendment. An application to amend the text of this Ordinance may be initiated by the Planning Commission or be submitted to the Planning Commission by the Commissioner, zoning staff, or by any person having an interest in the county.
- 15.1.2 Map Amendment. An application to amend the Future Land Use Map or the official zoning maps may be initiated by the Planning Commission or be submitted to the Planning Commission by the Commissioner or zoning staff, property owner or agent of the owner. Unless initiated by the Commissioner, the Planning Commission or zoning staff, all applications to amend the Future Land Use Map or official zoning maps must be submitted by an owner of the affected property or an authorized agent of an owner, following procedures set forth in Sections 15.2 and 15.3. If submitted by an agent of the owner, such authorization shall be notarized and attached to the application. If a property has multiple owners, only one owner need file the application, and it will be assumed that the other owners consent; however, if any owner does not consent to the application (or otherwise objects), the rezoning application will not go forward. If owned by a corporation or other entity, the application must be filed by a person with proper corporate or entity authority, and the zoning administrator may require documentation to support a claim of authority.
- 15.1.3 Resubmission after Denial. In the event an application for an amendment to the zoning map has been denied, another rezoning application affecting the same property shall not be submitted nor accepted until twelve (12) months have passed from the date of the final decision by the Commissioner. In the event an application for an amendment to the Future Land Use Map has been denied, another land use map application affecting the same property shall not be submitted nor accepted until twelve (12) months have passed from the date of the final decision by the Commissioner. The Commissioner may reduce either twelve-month time interval by resolution, to a minimum of six (6) months.
- 15.1.4 Alter Conditions. An application to alter conditions of rezoning may be submitted at any time after the final decision of the Commissioner. The Applicant must show a change in circumstances or additional information not available to the Applicant at the time of the original decision by the Commissioner to impose the condition. Another application to alter the same condition shall not be submitted more than once every twelve (12) months, such interval to begin on the date of the final decision by the Commissioner on said application to amend the condition.
- 15.1.5 Withdrawal. An application may be withdrawn without prejudice at any time prior to 6:00 p.m. on the day of the Planning Commission hearing. The Planning Commission may give permission for a withdrawal without prejudice at its hearing. Withdrawal after the Planning Commission's hearing shall mean such application may not be resubmitted for consideration for a period of six (6) months, counting from the date of withdrawal to the date of renewed application. Unless withdrawn

at the hearing, the withdrawal must be in writing, signed and dated by the applicant.

- 15.1.6 Reduced Requirements for County Applications. The requirements of Section 15.2 (including limitation as to number accepted) do not apply to any application for amendment initiated by the zoning department staff, the Planning Commission or the Commissioner, and such applications shall only contain such information as is required by the Zoning Administrator. County initiated map changes do not require that the County send letters to property owners or post signs on properties affected. Such notice is not required under the Zoning Procedures Law and is not practical when the County changes large numbers of parcels at one time.
- 15.1.7 Simultaneous Applications. If multiple amendments are submitted on one parcel, they are considered in the following order: 1) text amendments; 2) Future Land Use Map amendment; 3) zoning map amendment; 4) conditional use permit; 5) zoning condition amendment. Each application shall be voted on separately, in the above-stated order. If a rezoning change is denied and the proposed conditional use is not permitted in the original zoning district, that application shall be denied.
- 15.1.8 Campaign Contribution Disclosures. Applicants and opponents to rezoning actions that change the zoning district on a parcel are requested to consult the Conflict of Interest in Zoning Act, O.C.G.A. § 36-67A-1, which requires disclosure of campaign contributions, made within two years of the rezoning application, and aggregating \$250.00 or more, to any Planning Commission member or the Commissioner. Such disclosures should be filed at least five calendar days prior to the Planning Commission's hearing on forms available at the Zoning office. Violation of this Act shall not affect the validity of the rezoning, but such action may be a misdemeanor under O.C.G.A. § 36-67A-4.

Sec. 15.2 APPLICATIONS FOR AMENDMENTS

- 15.2.1 Applications. Each application required by this Ordinance, including without limitation, to amend this Ordinance, the Future Land Use Map, or the official zoning maps shall be filed with the Zoning Administrator. The following requirements for information are mandatory, unless the requirement is deleted by the Zoning Administrator. The Zoning Administrator may require additional information to evaluate the application, the suitability of the proposed use, and other aspects of any proposed development, and any such information shall be provided. Such information is not required for County-initiated applications.
- 15.2.2 Maximum Number. A maximum of ten (10) applications shall be accepted by the Zoning Administrator for consideration at any public hearing before the Planning Commission and/or the Commissioner.
- 15.2.3 Procedure. Zoning numbers will be issued to applicants, in order of request, starting on the first day applications are accepted. A schedule may be obtained from the Zoning Office. All applications must be complete and submitted by the end of the business day on the date the zoning number is issued. Incomplete applications will not be accepted, except with permission of the Zoning Administrator. Furthermore, applicants not filing a complete application on the date the zoning number is issued will forfeit their assigned number, and will have to

request a new number no sooner than the next available date to accept applications, once their application is complete and ready for submission.

15.2.4 Text Amendment Applications. Text amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the Zoning Administrator. Additional information may also be requested by the Zoning Administrator:

- (A) Name and current address of the applicant;
- (B) Current provisions of the text to be affected by the amendment;
- (C) Proposed wording of text change; and
- (D) Reason for the amendment request.

15.2.5 Future Land Use Map Amendment. Future Land Use Map amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the Zoning Administrator. Additional information may also be requested by the Zoning Administrator:

- (A) An identification of the geographic area in the county that is to have a revised land use under the applicant's proposal;
- (B) All permitted land uses for the identified area under the existing Future Land Use Map;
- (C) All changes to existing land use designations that are proposed by the application;
- (D) All land uses immediately adjacent to the subject property under the existing Future Land Use Map;
- (E) All reasons for the amendment application;
- (F) Names and addresses of the applicant owners and their agents, if any, authorized to apply for an amendment; and
- (G) An initiating party shall also file any other information or supporting materials that are required by the Commissioner, Planning Commission, or Zoning Administrator.

15.2.6 Zoning Map Amendment. Official zoning map amendment applications shall include the following minimum information, unless the requirement(s) listed below are waived by the Zoning Administrator. Additional information may also be requested by the Zoning Administrator:

- (A) A tax parcel card from the Bartow County Tax Assessor identifying the parcel to be rezoned, or the parent parcel of the parcel to be rezoned, if a split or subdivision is occurring;

- (B) One (1) copy of a plat, drawn to scale, showing north arrow, land lot and district, the dimensions, acreage and location of the tract prepared by an architect, engineer, landscape architect or land surveyor whose state registration is current and valid. The preparer's seal shall be affixed to the plat. If a new plat is prepared, the plat must be prepared in compliance with the County's GPS Control Network and Digital Enterprise GIS system (consult the Engineering Department for details). For subdivision or non-residential developments, an additional electronic copy of the plat shall be submitted by the applicant, owner or developer to the Engineering Department;
- (C) The present and proposed zoning district for the tract;
- (D) Existing and intermediate regional floodplain and structures, as shown on the Federal Emergency Management Agency FIRM rate maps for Bartow County, if any; and the Bartow County Regulatory Floodmaps.
- (E) The names and addresses of the owners of the land and their agents, if any;
- (F) The names and addresses of all adjoining property owners. In determining the adjoining property owners, streams and road, street or railroad rights-of-way shall be disregarded;
- (G) No application for the rezoning of any property for a residential subdivision shall be accepted for filing unless the application is accompanied by a letter from the local government that will supply water to the property stating that public water is available to the property;
- (H) On any rezoning of three or more acres to be subdivided into a residential subdivision, a soil survey prepared by a Soil Scientist, registered in the State of Georgia, shall be submitted to the Health Department prior to application submittal to the Zoning Department, unless the property is served by sewer, or unless all lots in the subdivision are three acres or larger in size, or unless the requirement is administratively varied by the Zoning Administrator; and
- (I) Such other and additional information as may be requested by the Zoning Administrator.
- (J) Applicants submitting an application to rezone property for residential development, or multi-family, commercial, mining or industrial zonings, as well as Conditional Use permits, are required to include a professional type rendering of structures to be placed on the site. The rendering shall depict the project in detail sufficient for the public and the commission to understand the dimensions, location, nature and scope of the proposed development. There is no requirement that the rendering be in color or be drawn to scale.
- (K) A conceptual site plan depicting the proposed use of the property including:

1. A drawing of the subject district and immediate surrounding area, drawn to a scale of one inch equals 100 feet. The Zoning Administrator may allow a smaller scale if deemed to be legible.
2. A correct scale and north arrow.
3. The proposed land use, zoning, and building outline as it would appear should the zoning map amendment application be approved.
4. The present zoning classification of all adjacent parcels.
5. The building outline, and maximum proposed height of all buildings, and/or structures.
6. The proposed location of all drives, streets, off-street parking and loading areas, and entry/exit points for vehicular traffic, using arrows to depict direction of movement.
7. Required yard setbacks appropriately dimensioned.
8. The location and extent of required buffer areas, depicting extent of natural vegetation and type and location of additional vegetation if required.
9. A location map showing all arterial and collector streets, and other significant landmarks, within two miles of the proposed district (no scale is required).
10. Topography at 2-foot contour intervals including source of datum.
11. Location and elevation of the 100-year floodplain and the Bartow County Regulatory Floodplain on the property subject of the proposed zoning.
12. Location and acreage of all major utility easements greater than 20 feet in width, if applicable.
13. Acreage of property and proposed number of residential lots or dwelling units, if applicable.
14. Approximate location of septic and drain-field lines, replacement areas for septic system, stormwater detention structures, lakes, ponds, and any other improvements as required by the Zoning Department.

(L) Conceptual site plans shall be required with any rezoning application in which the application is to establish or expand any zoning district. Within ten (10) working days of the receipt of such site plan, the Zoning Administrator shall determine its compliance with this ordinance, and shall either accept it as being "sufficient" or reject as being "insufficient." If it is so rejected, a sufficient plan must be submitted at least 5 working days prior to the Planning Commission hearing for the application to proceed.

15.2.7 Application Schedule. Applications shall be submitted according to the schedule set by the Zoning Administrator and adopted by the Planning Commission. Application fees for an application to amend this Ordinance, the official zoning maps, or the Future Land Use Map shall be established by the Commissioner and made available by the Zoning Administrator. A fee shall not be charged for applications initiated by the zoning staff, Commissioner or Planning Commission.

15.2.8 Proposed Conditions. With respect to amendments to the official zoning maps, an applicant may file site plans, renderings, construction specifications, written development restrictions and other conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application.

Sec. 15.3 PUBLIC NOTIFICATION

- 15.3.1 Legal Notice. Due notice of the public hearings pursuant to this Article shall be published in the newspaper of general circulation within the county. Notice advertising the application and indicating date, time, place and purpose of the public hearings shall be published at least fifteen (15) days prior to the date of the scheduled hearing of the Bartow County Commissioner but not more than forty-five (45) days prior to the date of the first scheduled hearing conducted by the Commissioner. If the application is to amend the Future Land Use Map, the notice shall include location, current land use category and proposed land use category. If the application is for amendment to the official zoning maps, then the notice shall also include the location of the property, the present zoning district of the property, and the proposed zoning district of the property. The cost of the advertisement shall be borne by the applicant. The notice shall also state, "Notice is hereby given that the Commissioner has the power to impose a different zoning classification from the classification requested, and impose or delete zoning conditions that may change the application considerably." If the notice does not run in the newspaper in conformance with these requirements, the application is void and cannot be considered as scheduled. The applicant shall coordinate with the zoning office and re-advertise for a future hearing, as assigned by the staff.
- 15.3.2 Signs Posted. The Zoning Administrator shall post, at least fifteen (15) days prior to the Planning Commission's public hearing, in a conspicuous place in the public right-of-way fronting the property or on the property for which an application has been submitted, a sign or signs containing information as to the application and date, time and place of the public hearing.
- 15.3.3 Letters to Property Owners. The applicant shall notify each owner of property adjoining the property for which the amendment (other than a text amendment) is sought by mailing to each property owner a letter by first class mail, with proof of mailing obtained from the Post Office. Proof of mailing means either a First Class "Certificate of Mailing" or a First Class "Certified Mail" receipt; a proof of delivery is not required. Only owners reflected on the records of the tax assessors as of the date of the application shall be entitled to notice. In determining the adjoining property owners, road, street or railroad rights-of-way shall be disregarded. Notice shall also be provided by letter to such other impacted property owners or interest holders as the Zoning Administrator directs. The form letter provided by the County shall be used, or a letter conveying substantially the same information. Proof of mailing for each recipient shall be provided to the Zoning Administrator before the public hearing. Said notice must be mailed at least fifteen (15) days prior to the date of said scheduled public hearing.
- 15.3.4 County Exemptions. The provisions of Sections 15.3.2 and 15.3.3 shall not apply if the application is initiated by the zoning department staff, the Planning Commission or the Commissioner.

Sec. 15.4 ACTION BY THE PLANNING COMMISSION

- 15.4.1 A Planning Commission was established by previous version of this Ordinance, and remains authorized under this Ordinance. Existing Commission members shall continue in their current terms unaffected by the adoption of this Ordinance. The

Planning Commission of Bartow County consists of seven (7) members appointed by the Commissioner for staggered terms of three (3) years. The Commission shall meet every other month or on such other schedule as it chooses to adopt, but in no event less than four times per year. If there are no agenda items, the regularly scheduled meeting shall be cancelled.

- 15.4.2 Members. Members shall serve without pay, but may be reimbursed for actual expenses incurred while representing the Commission. Appointments shall be made by Resolution of the Commissioner. Any vacancy in the membership of the Commission shall be filled for the unexpired term in the same manner as the initial appointment. Members shall be removable for cause by the County Commissioner upon written charges and after a public hearing; provided, however, that any member who fails to attend three (3) consecutive meetings, without cause, may be removed without a public hearing. The Commission may adopt such by-laws as it deems necessary to provide for the orderly conduct of its business. The Commission previously appointed by the Commissioner shall continue to serve without change as if appointed under this Ordinance.
- 15.4.3 Public Hearing. The Planning Commission shall hold a public hearing on each application for an amendment pursuant to this Article in accordance with a schedule adopted by the Commission. As to each application, the Planning Commission shall make a recommendation for approval, approval with conditions, or denial. A tie vote on any motion shall equate to denial. The Planning Commission may grant the applicant's request to withdraw without prejudice at its hearing.
- 15.4.4 Tabling or Remand. The Planning Commission may table an application if new information has been submitted, or to provide the applicant time to revise an application. At the hearing in which the tabling is granted, the Planning Commission shall specify the date of the next hearing and this action shall constitute public notice of such hearing, and no additional notices shall be required prior to the hearings.
- 15.4.5 Report. A written report or summary of the Planning Commission's recommendation shall be prepared by the zoning staff, and shall be a public record. The Planning Commission's action may recommend amendments or conditions to the applicant's request which would reduce the land area for which the application is made, change the district requested and recommend conditions of rezoning which may be deemed advisable so that the purpose of this Ordinance will, if applicable, be served, and health, public safety and general welfare secured.

Sec. 15.5 CONDUCT OF THE PLANNING COMMISSION'S HEARING

- 15.5.1 Sign Up. All persons who wish to address the Planning Commission at a hearing on the proposed amendment under consideration by the Planning Commission shall first sign up on a form to be provided by the County prior to the commencement of the hearing.
- 15.5.2 Matter Presented; Out of Order Applications. The Secretary of the Planning Commission will read the proposed amendments under consideration in the order determined by the Zoning Administrator. The Zoning Administrator, or his

designee, shall then present the amendment, along with the pertinent departmental reviews, if any, prior to receiving public input on the proposed amendment. If an application is not complete, or all requirements of this Ordinance have not been complied with, the application is out of order and may be taken off the agenda. It shall be postponed until the next meeting of the Planning Commission. If the application has already been advertised and persons wishing to speak have appeared for the hearing, the Commission may choose to hear from them, but an additional hearing shall be required. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six (6) months to reapply.

- 15.5.3 Speakers. The Secretary of the Planning Commission will then call each person who has signed up to speak on the amendment in the order in which the persons have signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless a majority of the Commission, in its discretion, allows the person to speak to the amendment, notwithstanding the failure of the person to sign up prior to the hearing.
- 15.5.4 Time Limits. Each speaker shall be allowed five (5) minutes to address the Planning Commission concerning the amendment then under consideration, unless the Planning Commission, by majority vote of the members present, votes to allow additional time for a particular speaker to address the Commission on said proposed amendment. The applicant shall have a minimum of ten (10) minutes for his presentation (including all related witnesses or experts). The applicant may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of his allotted time for rebuttal. Opponents are not allowed rebuttal or a second opportunity to speak, unless specifically granted by majority vote of the Commission. In all circumstances, in order to comply with state law, the proponent(s) and opponent(s) of each amendment shall have no less than ten (10) minutes per side for presentation of data, evidence, and opinion thereon; if there is only one applicant or opponent, such person shall have the full ten minutes if desired. In the event the opponents collectively take more than ten minutes, the applicant's time shall be extended similarly if desired. One member of the Planning Commission shall be designated as the time keeper to record the time expended by each speaker.
- 15.5.5 Decorum and Order. Each speaker shall speak only to the merits of the proposed amendment under consideration and shall address his remarks only to the members of the Planning Commission. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed amendment under consideration. The chair may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the chair from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed amendment is conducted in a fair and orderly manner.
- 15.5.6 These procedures shall be available in writing at each hearing.

Sec. 15.6 ACTION BY THE COMMISSIONER

- 15.6.1 Public Hearing. Before taking action on a proposed amendment and after receipt of the Planning Commission recommendations, the Commissioner shall hold a public hearing on the proposed amendment made pursuant to this Article, which shall be advertised as stated in Sec. 15.3 and conducted pursuant to Sec. 15.7.
- 15.6.2 Powers of the Commissioner. At the public hearing, the Commissioner shall review the analysis submitted by the initiating party and the recommendation prepared by the Planning Commission. So that the purpose of this Ordinance will be served, health, public safety and general welfare secured, the Commissioner may approve or deny the application, reduce the land area for which the application is made, change the district or land use category requested, or add or delete conditions of the application. The Commissioner shall have the power to impose a different zoning classification from the classification requested, and impose any zoning conditions which ameliorate the impact of the zoning, or serve other lawful purposes of this Ordinance. The submission of an application for a rezoning shall be deemed notice of this power and consent to any such action. The Commissioner may also remand the application, if it has been changed or for any reason, to the Planning Commission for further review and recommendation.
- 15.6.3 Tabling Application. The Commissioner shall have the power to table incomplete applications, or to seek more time for further information to be submitted. The action by the Commissioner to table the application shall include a statement of the date and time of the next meeting at which the application will be considered, which statement shall constitute public notice of the hearing on the application; and no further notice, such as that required by Section 15.3, is required. The application can be tabled for up to three months at a time to obtain necessary information or for other reasons of the Commissioner. The application can be tabled more than once if necessary, extending the duration the application remains on the table.

Sec. 15.7 CONDUCT OF THE COMMISSIONER'S HEARING

- 15.7.1 Sign Up. All persons who wish to address the Commissioner at a hearing concerning a proposed zoning decision under consideration by the Commissioner shall first sign up on a form to be provided by the County prior to the commencement of the Hearing.
- 15.7.2 Matter Presented. Proposed zoning decisions shall be called in the order determined by the Zoning Administrator. The Zoning Administrator or his designee will read the proposed zoning decision under consideration and summarize the departmental reviews pertaining thereto prior to receiving public input on said proposed zoning decision. If an application is not complete, or all requirements of this Ordinance have not been complied with, the application is out of order and will not be called at that meeting. It shall be tabled for one month. If the application is still incomplete or out of order at the next meeting, it shall be deemed withdrawn. The applicant shall have to wait six months to reapply.
- 15.7.3 Speakers. The Zoning Administrator or his designee shall call each person who has signed up to speak on the zoning decision in the order in which the persons have

signed up to speak, except the applicant who will always speak first. Prior to speaking, the speaker will identify himself or herself and state his or her current address. Only those persons who signed up to speak prior to the commencement of the hearing shall be entitled to speak, unless the Commissioner, in his discretion, allows the person to speak to the zoning decision, notwithstanding the failure of the person to sign up prior to the hearing.

15.7.4 Time Limits. Each speaker shall be allowed five (5) minutes to address the Commissioner concerning the zoning decision then under consideration, unless the Commissioner allows additional time for a particular speaker to address the Commissioner on said proposed zoning decision. The applicant shall have a minimum of ten (10) minutes for his presentation (including all related witnesses or experts). The applicant may initially use all of the time allotted to him to speak, or he may speak and reserve a portion of his allotted time for rebuttal. Opponents are not allowed rebuttal or a second opportunity to speak, unless specifically granted by the Commissioner. In all circumstances, the proponent(s) and opponent(s) of each amendment shall have no less than ten (10) minutes per side for presentation of data, evidence, and opinion thereon; if there is only one applicant or opponent, such person shall have the full ten minutes if desired. In the event the opponents collectively take more than ten minutes, the applicant's time shall be extended similarly if desired. A member of the Commissioner's staff shall be designated as the time keeper to record the time expended by each speaker.

15.7.5 Decorum and Order. Each speaker shall speak only to the merits of the proposed zoning decision under consideration and shall address his remarks only to the Commissioner. Each speaker shall refrain from personal attacks on any other speaker or the discussion of facts or opinions irrelevant to the proposed zoning decision under consideration. The Commissioner may limit or refuse a speaker the right to continue, if the speaker, after first being cautioned, continues to violate this subsection. Nothing contained herein shall be construed as prohibiting the Commissioner from conducting the hearing in an orderly and decorous manner to assure that the public hearing on a proposed zoning decision is conducted in a fair and orderly manner.

15.7.6 These procedures shall be available in writing at all hearings.

Sec. 15.8 APPEALS TO SUPERIOR COURT

Appeals of the grant or denial of a rezoning decision shall be taken within thirty (30) days of the decision by filing an appeal in superior court, pursuant to the provisions in Title 5 of the Georgia Code. Such appeals shall be de novo.

Sec. 15.9 STANDARDS FOR GOVERNING THE EXERCISE OF ZONING POWER

The following standards governing the exercise of the zoning power are adopted in accordance with O.C.G.A. 36-66-5(b):

- (A) The existing land uses and zoning classification of nearby property;
- (B) The suitability of the subject property for the zoned purposes;

- (C) The extent to which the property values of the subject property are diminished by the particular zoning restrictions;
- (D) The extent to which the diminution of property values of the subject property promotes the health, safety, morals or general welfare of the public;
- (E) The relative gain to the public, as compared to the hardship imposed upon the individual property owner;
- (F) Whether the subject property has a reasonable economic use as currently zoned;
- (G) The length of time the property has been vacant as zoned considered in the context of land development in the area in the vicinity of the property;
- (H) Whether the proposed zoning will be a use that is suitable in view of the use and development of adjacent and nearby property;
- (I) Whether the proposed zoning will adversely affect the existing use or usability of adjacent or nearby property;
- (J) Whether the zoning proposal is in conformity with the policies and intent of the land use plan;
- (K) Whether the zoning proposal will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools; and
- (L) Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the zoning proposal.

ARTICLE XVI

CONDITIONAL USE PERMITS

Sec. 16.1 PROCEDURES

- 16.1.1 An applicant for a conditional use permit shall file an application on forms provided by the Zoning Administrator. The grant or denial of a conditional use permit is a zoning decision and such decision shall follow the procedures for a rezoning, as specified in Sections 15.3 through 15.7, unless modified by the provisions of this Article.
- 16.1.2 Any use which may be authorized by a Conditional Use Permit may be approved by the Bartow County Commissioner only if, in the exercise of the Commissioner's legislative discretion, he finds that:
- (A) A proper application has been filed in accordance with the requirements of the Ordinance;
 - (B) A recommendation has been received from the Planning Commission in accordance with the provisions of Article XV;
 - (C) The applicant is in compliance with the particular conditions for the proposed conditional use that are required by this Ordinance;
 - (D) The use is consistent with the purposes and intent of this Ordinance; and
 - (E) After considering the application and the facts, and the Standards for making a zoning decision contained in Sec. 15.9 of this Ordinance, the Commissioner determines that the Standards are satisfied such that the benefits of and need for the proposed conditional use outweigh any possible harmful effects, negative impacts, or damages to the neighboring properties or the County in general.
- 16.1.3 In compliance with Federal law, if the conditional use is requested by a place of worship or church, in connection with the exercise of religion, the Planning Commission and Commissioner shall additionally consider whether the regulation imposes a substantial burden on the exercise of religion, whether the regulation serves a compelling governmental interest, whether the denial is the least restrictive means to serve that interest, or whether the conditional use can be granted without harming that interest.
- 16.1.4 If the conditional use is related to a Group Home for Persons with a Disability, the Board shall additionally consider what reasonable accommodations in this Ordinance can be made to provide persons with a disability equal opportunities to use and enjoy dwellings, while not abrogating the purposes of this Ordinance. Any reasonable accommodation should only relate to the disability.

Sec. 16.2 ACTION BY THE COMMISSIONER

The Commissioner shall consider all evidence in the record in making his decision. This Ordinance is automatically a part of the record in each case, as is the entire application file. The Commissioner shall have the power to table the application for further information to be presented, or to remand the application to the Planning Commission if new information has been presented that they have not considered. The Commissioner shall have the power to grant, deny, or grant with further specific conditions imposed.

Sec. 16.3 CONDUCT OF THE HEARING

Hearings on conditional use permits shall follow the procedures of hearings on rezoning amendments, except as modified below:

- 16.3.1 The applicant shall have up to 15 minutes to present his case, and submit all evidence and witnesses for the record, and opponents shall have equal opportunity to present their case. The applicant can request additional time if voluminous evidence is to be submitted, and may be granted at the discretion of the Commissioner. Equal time shall be allowed to the opponent. The County, as represented by the Zoning Administrator or his designee, or the County Attorney or his designee, shall have the right and equal time to present any witnesses and evidence into the record it chooses.
- 16.3.2 The applicant or his attorney shall have a right to cross-examine any witnesses in opposition to the application, and one representative or attorney of the opponents shall have a similar opportunity to cross-examine the witnesses. The County shall also have a similar opportunity to cross-examine all witnesses.
- 16.3.3 The Commissioner may question any witness, or request further information and table a decision for one month to await additional information or evidence. The Commissioner may also request expert reports or studies relating to the request, and shall similarly table the application in such cases. An application may only be tabled one time without the consent of the applicant.
- 16.3.4 The hearing shall be recorded in some fashion and that recording preserved for sixty (60) days after the decision, or during the pendency of any appeal that is filed in superior court.

Sec. 16.4 APPEALS TO SUPERIOR COURT

Appeals of any decision to deny or grant a conditional use permit shall be filed within 30 days by filing a petition for writ of mandamus to superior court. Such appeal shall be reviewed on the record presented before the Planning Commission and Commissioner, as held by the Supreme Court of Georgia in City of Roswell v. Fellowship Christian Sch., Inc., 281 Ga. 767, 768, 642 S.E.2d 824, 825 (2007).

Sec. 16.5 REAPPLICATION

An application for a conditional use which has been denied shall not be resubmitted for a period of twelve (12) months.

ARTICLE XVII

LEGAL STATUS PROVISIONS

Sec. 17.1 CONFLICT WITH OTHER REGULATIONS

Whenever the regulations of this Ordinance require a greater width or size of yards, courts, or other open spaces, or require a lower height of buildings or smaller number of stories, or require a greater percentage of lot to be left unoccupied, or impose other more restrictive standards than are required in or under any other ordinance or statute, the regulations and requirements of this Ordinance shall govern. Whenever the provisions of any other statute or ordinance require more restrictive standards than are required by this Ordinance, the provisions of such statute or ordinance shall govern.

Sec. 17.2 SEPARABILITY / SEVERABILITY

Should any section or provision of this Ordinance be declared by the courts to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid. It is the intent that any provision declared unconstitutional shall be severed from the Ordinance, and the remainder of the Ordinance remain in effect.

Sec. 17.3 REPEALER

This Ordinance replaces the prior Zoning Ordinance, adopted October 8, 2008, which in turn replaced the ordinance adopted August 6, 2008, which in turn replaced the ordinance adopted April 4, 2007, which in turn replaced the ordinance adopted November 9, 2005, which in turn replaced the ordinance adopted May 7, 2003. In the event all of this Ordinance is struck down as void, unconstitutional or invalid, including therefore this provision, the prior ordinances shall be considered to not have been repealed, and shall therefore still be in effect. In the event the prior ordinance is declared void, unconstitutional or invalid, the next prior ordinance shall be considered to not have been repealed, and shall therefore still be in effect; and so on.

Sec. 17.4 EFFECTIVE DATE

This Ordinance shall take effect and be in force as of the date of its adoption, the public welfare of Bartow County demanding.

Adopted this 16th day of June, 2016.

BARTOW COUNTY, GEORGIA

Steve Taylor, Commissioner of Bartow County

Attest:

Kathy Gill, Clerk of Bartow County

APPENDIX A

ADULT ENTERTAINMENT REGULATIONS

Sec. A.1 PURPOSE

It is the purpose of this appendix to regulate adult establishments in order to promote the health, safety, and general welfare of the citizens of the County, and to establish reasonable and uniform regulations to prevent the deleterious secondary effects of adult establishments within the county. The provisions of this appendix have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this appendix to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this appendix to condone or legitimize the distribution of obscene material.

Sec. A.2 FINDINGS AND RATIONALE

Based on evidence of the adverse secondary effects of adult uses presented in hearings and in reports made available to the commissioner, and on findings, interpretations, and narrowing constructions incorporated in the cases of *City of Littleton v. Z.J. Gifts D-4, L.L.C.*, 541 U.S. 774 (2004); *City of Los Angeles v. Alameda Books, Inc.*, 535 U.S. 425 (2002); *City of Erie v. Pap's A.M.*, 529 U.S. 277 (2000); *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986); *Young v. American Mini Theatres*, 427 U.S. 50 (1976); *Barnes v. Glen Theatre, Inc.*, 501 U.S. 560 (1991); *California v. LaRue*, 409 U.S. 109 (1972); *N.Y. State Liquor Authority v. Bellanca*, 452 U.S. 714 (1981); *Sewell v. Georgia*, 435 U.S. 982 (1978); *FW/PBS, Inc. v. City of Dallas*, 493 U.S. 215 (1990); *City of Dallas v. Stanglin*, 490 U.S. 19 (1989); and *Trop, Inc. v. City of Brookhaven*, 296 Ga. 85 (2014); *Oasis Goodtime Emporium I, Inc. v. City of Doraville*, 297 Ga. 513 (2015); *Flanigan's Enters., Inc. v. Fulton County*, 596 F.3d 1265 (11th Cir. 2010); *Peek-a-Boo Lounge v. Manatee County*, 630 F.3d 1346 (11th Cir. 2011); *Daytona Grand, Inc. v. City of Daytona Beach*, 490 F.3d 860 (11th Cir. 2007); *Jacksonville Property Rights Ass'n, Inc. v. City of Jacksonville*, 635 F.3d 1266 (11th Cir. 2011); *Artistic Entertainment, Inc. v. City of Warner Robins*, 331 F.3d 1196 (11th Cir. 2003); *Artistic Entertainment, Inc. v. City of Warner Robins*, 223 F.3d 1306 (11th Cir. 2000); *Williams v. Pryor*, 240 F.3d 944 (11th Cir. 2001); *Williams v. A.G. of Alabama*, 378 F.3d 1232 (11th Cir. 2004); *Williams v. Morgan*, 478 F.3d 1316 (11th Cir. 2007); *Gary v. City of Warner Robins*, 311 F.3d 1334 (11th Cir. 2002); *Ward v. County of Orange*, 217 F.3d 1350 (11th Cir. 2002); *Boss Capital, Inc. v. City of Casselberry*, 187 F.3d 1251 (11th Cir. 1999); *David Vincent, Inc. v. Broward County*, 200 F.3d 1325 (11th Cir. 2000); *Sammy's of Mobile, Ltd. v. City of Mobile*, 140 F.3d 993 (11th Cir. 1998); *Lady J. Lingerie, Inc. v. City of Jacksonville*, 176 F.3d 1358 (11th Cir. 1999); *This That And The Other Gift and Tobacco, Inc. v. Cobb County*, 285 F.3d 1319 (11th Cir. 2002); *DLS, Inc. v. City of Chattanooga*, 107 F.3d 403 (6th Cir. 1997); *Grand Faloon Tavern, Inc. v. Wicker*, 670 F.2d 943 (11th Cir. 1982); *International Food & Beverage Systems v. Ft. Lauderdale*, 794 F.2d 1520 (11th Cir. 1986); *5634 E. Hillsborough Ave., Inc. v. Hillsborough County*, 2007 WL 2936211 (M.D. Fla. Oct. 4, 2007), *aff'd*, 2008 WL 4276370 (11th Cir. Sept. 18, 2008) (per curiam); *Fairfax MK, Inc. v. City of Clarkston*, 274 Ga. 520 (2001); *Morrison v. State*, 272 Ga. 129 (2000); *Goldrush II v. City of Marietta*, 267 Ga. 683 (1997); *Flippen Alliance for Community Empowerment, Inc. v. Brannan*, 601 S.E.2d 106 (Ga. Ct. App. 2004); *Oasis Goodtime Emporium I, Inc. v. DeKalb County*, 272 Ga. 887 (2000); *Chamblee Visuals, LLC v. City of Chamblee*, 270 Ga. 33 (1998); *World Famous Dudley's Food & Spirits, Inc. v. City of College Park*, 265 Ga. 618 (1995); *Airport Bookstore, Inc. v. Jackson*, 242 Ga. 214 (1978); *Entm't Prods.,*

Inc. v. Shelby County, 721 F.3d 729 (6th Cir. 2013); *Lund v. City of Fall River*, 714 F.3d 65 (1st Cir. 2013); *Imaginary Images, Inc. v. Evans*, 612 F.3d 736 (4th Cir. 2010); *LLEH, Inc. v. Wichita County*, 289 F.3d 358 (5th Cir. 2002); *Ocello v. Koster*, 354 S.W.3d 187 (Mo. 2011); *84 Video/Newsstand, Inc. v. Sartini*, 2011 WL 3904097 (6th Cir. Sept. 7, 2011); *Plaza Group Properties, LLC v. Spencer County Plan Commission*, 877 N.E.2d 877 (Ind. Ct. App. 2007); *East Brooks Books, Inc. v. Shelby County*, 588 F.3d 360 (6th Cir. 2009); *Entm't Prods., Inc. v. Shelby County*, 588 F.3d 372 (6th Cir. 2009); *Sensations, Inc. v. City of Grand Rapids*, 526 F.3d 291 (6th Cir. 2008); *World Wide Video of Washington, Inc. v. City of Spokane*, 368 F.3d 1186 (9th Cir. 2004); *Ben's Bar, Inc. v. Village of Somerset*, 316 F.3d 702 (7th Cir. 2003); *H&A Land Corp. v. City of Kennedale*, 480 F.3d 336 (5th Cir. 2007); *Hang On, Inc. v. City of Arlington*, 65 F.3d 1248 (5th Cir. 1995); *Fantasy Ranch, Inc. v. City of Arlington*, 459 F.3d 546 (5th Cir. 2006); *Illinois One News, Inc. v. City of Marshall*, 477 F.3d 461 (7th Cir. 2007); *G.M. Enterprises, Inc. v. Town of St. Joseph*, 350 F.3d 631 (7th Cir. 2003); *Richland Bookmart, Inc. v. Knox County*, 555 F.3d 512 (6th Cir. 2009); *Bigg Wolf Discount Video Movie Sales, Inc. v. Montgomery County*, 256 F. Supp. 2d 385 (D. Md. 2003); *Richland Bookmart, Inc. v. Nichols*, 137 F.3d 435 (6th Cir. 1998); *Spokane Arcade, Inc. v. City of Spokane*, 75 F.3d 663 (9th Cir. 1996); *DCR, Inc. v. Pierce County*, 964 P.2d 380 (Wash. Ct. App. 1998); *City of New York v. Hommes*, 724 N.E.2d 368 (N.Y. 1999); *Taylor v. State*, No. 01-01-00505-CR, 2002 WL 1722154 (Tex. App. July 25, 2002); *Fantasyland Video, Inc. v. County of San Diego*, 505 F.3d 996 (9th Cir. 2007); *Gammoh v. City of La Habra*, 395 F.3d 1114 (9th Cir. 2005); *Starship Enters. of Atlanta, Inc. v. Coweta County*, No. 3:09-CV-123, R. 41 (N.D. Ga. Feb. 28, 2011); *High Five Investments, LLC v. Floyd County*, No. 4:06-CV-190, R. 128 (N.D. Ga. Mar. 14, 2008); *10950 Retail, LLC v. Fulton County*, No. 1:06-CV-1923, R. 62 Order (N.D. Ga. Dec. 21, 2006); *10950 Retail, LLC v. Fulton County*, No. 1:06-CV-1923, R. 84 Contempt Order (N.D. Ga. Jan. 4, 2007); *Z.J. Gifts D-4, L.L.C. v. City of Littleton*, Civil Action No. 99-N-1696, Memorandum Decision and Order (D. Colo. March 31, 2001); *People ex rel. Deters v. The Lion's Den, Inc.*, Case No. 04-CH-26, Modified Permanent Injunction Order (Ill. Fourth Judicial Circuit, Effingham County, July 13, 2005); *Reliable Consultants, Inc. v. City of Kennedale*, No. 4:05-CV-166-A, Findings of Fact and Conclusions of Law (N.D. Tex. May 26, 2005);

and based upon reports concerning secondary effects occurring in and around adult establishments, including, but not limited to, "Correlates of Current Transactional Sex among a Sample of Female Exotic Dancers in Baltimore, MD," *Journal of Urban Health* (2011); "Does the Presence of Sexually Oriented Businesses Relate to Increased Levels of Crime?" *Crime & Delinquency* (2012) (Louisville, KY); Metropolis, Illinois – 2011-12; Manatee County, Florida – 2007; Hillsborough County, Florida – 2006; Clarksville, Indiana – 2009; El Paso, Texas – 2008; Memphis, Tennessee – 2006; New Albany, Indiana – 2009; Louisville, Kentucky – 2004; Fulton County, GA – 2001; Chattanooga, Tennessee – 1999-2003; Jackson County, Missouri – 2008; Ft. Worth, Texas – 2004; Kennedale, Texas – 2005; Greensboro, North Carolina – 2003; Dallas, Texas – 1997; Houston, Texas – 1997, 1983; Phoenix, Arizona – 1995-98, 1979; Tucson, Arizona – 1990; Spokane, Washington – 2001; St. Cloud, Minnesota – 1994; Austin, Texas – 1986; Indianapolis, Indiana – 1984; Garden Grove, California – 1991; Los Angeles, California – 1977; Whittier, California – 1978; Oklahoma City, Oklahoma – 1986; New York, New York Times Square – 1994; the Report of the Attorney General's Working Group On The Regulation Of Sexually Oriented Businesses, (June 6, 1989, State of Minnesota); Dallas, Texas – 2007; "Rural Hotspots: The Case of Adult Businesses," 19 *Criminal Justice Policy Review* 153 (2008); "Stripclubs According to Strippers: Exposing Workplace Sexual Violence," by Kelly Holsopple, Program Director, Freedom and Justice Center for Prostitution Resources, Minneapolis, Minnesota; "Sexually Oriented Businesses: An Insider's View," by David Sherman, presented to the Michigan House Committee on Ethics and Constitutional Law, Jan. 12, 2000; Sex Store Statistics and Articles; Law Enforcement and Private Investigator Affidavits (Adult Cabarets in Forest Park, GA and Sandy Springs, GA); and Strip-Club Trafficking Documents,

the commissioner finds:

- (1) Adult establishments, as a category of commercial uses, are associated with a wide variety of adverse secondary effects including, but not limited to, personal and property crimes, human trafficking, prostitution, potential spread of disease, lewdness, public indecency, obscenity, illicit drug use and drug trafficking, negative impacts on surrounding properties, urban blight, litter, and sexual assault and exploitation. Alcohol consumption impairs judgment and lowers inhibitions, thereby increasing the risk of adverse secondary effects.
- (2) Adult establishments should be separated from sensitive land uses to minimize the impact of their secondary effects upon such uses, and should be separated from other adult establishments, to minimize the secondary effects associated with such uses and to prevent an unnecessary concentration of adult establishments in one area.
- (3) Each of the foregoing negative secondary effects constitutes a harm which the county has a substantial government interest in preventing and/or abating. This substantial government interest in preventing secondary effects, which is the county's rationale for this appendix, exists independent of any comparative analysis between adult establishments and other businesses. Additionally, the county's interest in regulating adult establishments extends to preventing future secondary effects of either current or future adult establishments that may locate in the county. The county finds that the cases and documentation relied on in this appendix are reasonably believed to be relevant to said secondary effects.

The county hereby adopts and incorporates herein its stated findings and legislative record related to the adverse secondary effects of adult establishments, including the judicial opinions and reports related to such secondary effects.

Sec. A.3 ADULT ENTERTAINMENT ESTABLISHMENTS

A.3.3 Definitions.

Adult establishment: An "adult arcade," an "adult bookstore," an "adult motion picture theater," a "semi-nude lounge," or a "sex paraphernalia store" as those terms are defined in Chapter 4 (Adult Establishments) of the Bartow County Code.

Licensed child day care center: A facility licensed by the State of Georgia, whether situated within the county or not, that is a "child day care" use as set forth in Article IX, section 9.1.1 of the Zoning Ordinance.