

UNIFIED ZONING ORDINANCE

OF

***THE CITY OF DALTON,
THE CITY OF VARNELL,
and
UNINCORPORATED WHITFIELD
COUNTY***

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WHITFIELD COUNTY, GEORGIA UNIFIED ZONING ORDINANCE

Article I - Introduction

Preamble. An Ordinance of Whitfield County, Georgia, the City of Dalton, Georgia, and the City of Varnell, Georgia, regulating the location, height, bulk, and size of buildings and other structures; the density of population; the uses of land, buildings and structures for business, industry, agriculture, conservation, recreation, residence, public activities and other purposes; defining certain terms used herein; creating districts for said purposes and establishing the boundaries thereof; providing for a method of administration, amendment, and enforcement and for the imposition of penalties for violation; repealing conflicting ordinances; and other matters.

Short Title. This Ordinance shall be known as, referred to as, and cited as the *Unified Zoning Ordinance of Whitfield County, Georgia*.

Purpose. The purpose of this Ordinance is to establish minimum standards for the use of land and improvements thereon within Whitfield County, Georgia and the participating municipalities. This Ordinance shall serve as a tool to promote health, safety, morals, convenience, order, prosperity, and/or the general welfare of the present and future residents of Whitfield County; to lessen congestion in the roads; to secure safety from fire, panic, and other dangers; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population; to provide adequate transportation, water, sewerage, parks and open spaces and other public requirements; to protect properties against blight and depreciation; to encourage the most appropriate use of land, building and other structures throughout the County; to protect and conserve irreplaceable natural resources; to secure economy in government expenditures; to minimize visual blight and enhance scenic characteristics and for other purposes, all in accordance with the Joint Comprehensive Plan of Whitfield County. The Governing Authority does hereby ordain and enact into law the following Articles, Sections and Maps of the *Unified Zoning Ordinance of Whitfield County, Georgia*.

Rules of Construction of this Ordinance. In the construction of this Ordinance, the rules contained in this Article shall be observed and applied, except when the context clearly indicates otherwise:

1-4-1 Words used in the present tense include the future tense.

1-4-2 Words used in the singular number include the plural number and words used in the plural include the singular.

1-4-3 The word "shall" or "must" are mandatory and not discretionary.

1-4-4 The word "may" is permissive.

1-4-5 The word "structure" includes the word "building."

- 1-4-6 The word "erected" includes the word "constructed," "moved," "located," or "relocated."
- 1-4-7 The word "lot" includes the word "plot" or "parcel."
- 1-4-8 The word "map" or "zoning map" means the Zoning Map of Whitfield County, Georgia.
- 1-4-9 The word "person" includes the words "individual," "firms," "partnerships," "corporations," "associations," "governmental bodies," and all other similar legal entities.
- 1-4-10 The words "used" or "occupied" include the words "arranged or designed here to be used or occupied" here.
- 1-4-11 The word "and" indicates that all of the conditions, requirements, or factors so connected must be met or fulfilled, while the word "or" indicates that at least one condition, requirement, or factor so connected must be met.
- 1-4-12 The term "such as" is intended to introduce one or more examples in illustration of a requirement or point, and is intended to mean "including, but not limited to, the following."
- 1-4-13 The masculine gender includes the feminine and vice-versa.
- 1-4-14 All measured quantities shall be to the nearest integral unit of measure, and if a fraction is one-half (1/2) or greater, the next highest integral unit shall be used, except when computing density, in which case next lowest whole unit shall be used.
- 1-4-15 Where requirements are set based upon numbers of days, days are computed based upon the calendar, except that when the final date falls on a weekend or holiday, in which case the day due shall continue until the next regular working day.

Article II - Definitions

2-1 **Use of Definitions.** For purposes of this Ordinance, certain words, terms, or phrases are defined hereinbelow. These definitions and all other provisions of this Ordinance are subject to the rules of interpretation as provided hereinabove. Any word or term not herein defined shall be as defined elsewhere in this Ordinance or, if not defined elsewhere in this Ordinance, as defined in *Webster's Collegiate Dictionary*, latest edition, the said definition to be read in context with the purposes and provisions of part of the ordinance it is being used to define. The following is not intended to be an exhaustive listing of all words or phrases used within this Ordinance. Several sections hereinafter contain definitions of words or phrases which relate particularly to the subject matter of such section.

2-2 **Definitions:**

Accessory Structure. A structure detached from a principal building on the same lot and customarily incidental and subordinate to the principal building or use. Accessory structures include, but are not limited to: satellite dishes, open sheds and shelters that contain two hundred (200) square feet or less, or water or storage tanks for either liquid, semi-liquid, or gaseous substances, of one thousand (1,000) gallons or more. A building permit shall not be required for accessory structures.

Accessory Use. A use of land or of a structure, or portion thereof, customarily incidental to and subordinate to the principal use of the land or structure and located or utilized upon the same lot or parcel as the principal use.

Adult Business. 1) any business where employees or patrons expose specified anatomical areas, or engage in specified sexual activities, or 2) any other business or establishment which offers its patrons services, products, or entertainment characterized by an emphasis on matter depicting, describing, discussing, or relating to specified sexual activities or specified anatomical areas.

Agritourism. A portion of the travel industry which, for a fee, offers education, entertainment, relaxation, hospitality, shopping, or dining experiences in the context of outdoor adventures, while visiting working farms, orchards, ranches, wineries, and other agricultural operations.

Alley. A public or private thoroughfare which affords only a secondary means of access to abutting property and not intended for general traffic circulation.

Alteration of Building. Any change in the supporting members of a building (such as bearing walls, beams, columns, or girders) except such change as may be required for its safety; any addition to a building; or of a building from one location to another.

Amusements, Commercial. Businesses that operate for a profit by amusing or entertaining patrons through the use of electronic/ video pinball games; pool/ping pong tables; miniature racetracks, gaming devices, etc.; services may include light

food/refreshment services, but not including establishments serving alcoholic beverages or indoor/outdoor shooting ranges.

Animal Hospital. A building used for the treatment, housing, or boarding of small domestic animals such as dogs, cats, rabbits, birds, or fowl by a veterinarian.

Animal Shelter. See “Kennel.”

Apartment. See "Dwelling, Multi-family."

Assisted Living Home. Synonymous with Personal Care Home.

Bed and Breakfast Home. A dwelling, not a hotel, which while retaining its residential appearance and character, offers nightly lodging and a morning meal for a combined fee to persons who are unrelated to the resident owner or resident tenant of the dwelling. Such accommodations shall be provided in not more than five (5) bedrooms on any given night and shall be provided to no person for more than five (5) consecutive nights.

Bed and Breakfast Inn. A dwelling, not a hotel, which while retaining its residential appearance and character, offers nightly lodging and a morning meal for a combined fee to persons who are unrelated to the resident owner or resident tenant of the dwelling. Such accommodations shall be provided to no greater than eighteen (18) persons on any given night and shall be provided to no person for more than five (5) consecutive nights.

Berm. A mound of earth, or the act of pushing earth into a mound.

Board of Zoning Appeals, Unified. The Board authorized to hear and decide appeals and variance requests relating to the enforcement of this Ordinance.

Boarding House – See Rooming House.

Boutique Hotel. A small lodging facility with fifty (50) or fewer guest rooms that are rented to occupants on a daily basis for not more than 14 consecutive days. Access to each guest room shall be through an inside lobby supervised at all times.

Brewery/Distillery/Winery. Facilities using traditional brewing/distilling/vintnering practices and producing more than 10,000 barrels per year. Also subject to other locally adopted ordinances.

Brewpubs. Any eating establishment in which beer or malt beverages are manufactured or brewed, subject to the barrel production limitation prescribed in O. C. G. A. 3-5-36 (10,000 barrels per year for on-site consumption and 5,000 barrels per year for sale to a licensed wholesale dealer) for retail consumption on the premises and solely in draft form. As used in this definition, the term “eating establishment” is one which is licensed to sell distilled spirits, malt beverages, or wines and which derives at least 50 percent of its total annual gross food and beverage sales from the sale of prepared meals or food. Also, per O.C.G.A. 3-5-36 (2) (C), barrels of beer sold per year to licensed wholesale dealers shall

not be used when determining the total annual gross food and beverage sales. Also subject to other locally adopted ordinances.

Buffer, Stream. The area of land immediately adjacent to the banks of State waters in its natural state of vegetation, which facilitates the protection of water quality and aquatic habitat. In contrast, see “Buffer, Zoning.”

Buffer, Zoning. An area of natural vegetation or man-made construction that is intended to provide a visual and dimensional separation between dissimilar land uses. In contrast, see “Buffer, Stream.”

- a. **Natural buffer:** A visual screen created by vegetation of such density so as to present an opaque visual separation when viewed from one side to the other throughout the year.
- b. **Structural buffer:** A visual screen created through construction of a solid wooden fence, decorative masonry wall, earthen berm, or combination of fence or wall with an earthen berm, which may be supplemented with vegetation, so as to present an opaque visual separation when viewed from one side to the other throughout the year.

Building. Any structure attached to the ground which has a roof and which is designed for the shelter, housing, or enclosure of persons, animals or property of any kind.

Building Height. The vertical distance measured from the finished grade of a building measured from the middle of the front of the building to the highest point of roof surface of a flat roof or parapet wall; the deck line of a mansard floor; and to the mean height level between eaves and ridges of a gable, hipped, or gambrel roof. Height shall not include vertical projections from a building, including chimneys, flagpoles, flues, spires, steeples, belfries, and cupolas.

Building Line. A line parallel to the street right-of-way line at a distance therefrom equal to the depth of the front yard required for the zoning district in which the lot is located. When the lot frontage is an arc and less than the minimum required lot width, the building line is parallel to the chord of the arc and located where the minimum lot width requirement is obtained.

Building, Principal. A building in which is conducted the main use of the lot on which said building is located.

Camp, Private. A lot or parcel which may include multiple structures owned and/or operated for fraternal, social, educational, recreational, cultural, or religious enrichment and which may or may not be a for-profit operation. Such facilities may provide overnight camping, cabin, or lodging facilities when such accommodations are directly related to and utilized in connection with the overall purpose of the camp. A private camp shall not include for-profit campgrounds or motor lodges.

Cemetery. A place for the exclusive burial of dead persons, including a mausoleum and/or columbarium.

Cemetery, Pet. A parcel of land used for the interring of animal remains.

Chief Building Official. The officer or other designated authority charged with the administration and enforcement of the State of Georgia construction codes, as adopted.

Child Caring Institution, (also known as Group Home.) A child-welfare facility licensed by the Georgia State Department of Human Services, which either primarily or incidentally provides full-time room, board, and watchful oversight to six (6) or more children through eighteen (18) years of age outside their own homes.

Church. A building in which persons regularly assemble for religious worship of the same faith and which is publicly designated as a church, but shall not include a parsonage, thrift, or clothing store, food service, or accessory uses of a church.

Church, Accessory Use of. A use customarily incidental and subordinate to the principal use of a building as a church, including uses, such as day care facilities, kindergartens, family exercise or sport facilities, cemeteries, mausoleums, and columbariums.

Clinic. A building or a portion of a building where patients are not lodged overnight, but are admitted for medical examination and treatment by one or more physicians, licensed professional counselors, or dentists practicing together.

Club, Lodge, Civic or Fraternal Organization. An incorporated or unincorporated association for civic, social, cultural, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public. Excludes clubs which are operated for profit, shooting clubs, and places of religious worship or assembly.

Columbarium. A vault with niches for urns containing the ashes of cremated human remains.

Communication Transmission Tower. A structure that is intended to support antennae that or receive radio, television, or telephone communications, or for dispatching communications.

Community Center. A building or facility used to provide recreational, social, educational and cultural activities for an area of a community, which is owned and operated by the management agency of that community, or the Homeowner's Association of that community. A community can be an incorporated area, a developed subdivision, or a planned development.

Community Living Arrangement. An establishment regulated by the Georgia Department of Community Health and operated by any person, firm, partnership, association, proprietorship, company or corporation, which, for a fee, provides or arranges

for the provision of daily personal services, supports, care, or treatment exclusively for two (2) or more adults who are not related to the owner or administrator by blood or marriage and whose residential services are financially supported, in whole or in part, by funds designated through the Department of Behavioral Health and Developmental Disabilities (DBHDD.)

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

Conference/Convention Center. A facility typically designed to accommodate three hundred (300) or more people and used for conventions, conferences, seminars, product displays, recreation activities, and entertainment functions, along with accessory functions, including outdoor displays, food and beverage preparation, and service for on-premise consumption of alcoholic beverages. The accommodations can include sleeping, eating, and recreation. The site shall be of sufficient size to accommodate all off-street parking associated with an individual event.

Convenience Center. A site where one or more containers are located for temporary storage of solid waste brought to the site by persons transporting only their own household solid waste. A convenience center may also include a recycling collection station.

Convenience Store. Any retail establishment offering for sale prepackaged food products, household items, and other goods commonly associated with the same.

Crosswalk. A right-of-way within a block dedicated to public use, intended primarily for pedestrian use designed to provide access to adjacent roads and lots.

Cul-de-sac. A road having one end open to traffic and the other end terminated in a minimum right-of-way and paved turnaround with a minimum outside diameter of eighty (80) feet.

Cultural Facility. A structure or portion of a structure used as an art gallery, museum, historical display, performing arts theatre, library, and other uses similar in character to those listed.

Day Care Facility. A facility at which day time care, supervision, and recreation for children of pre-school age, for children before and/or after school, for adults with disabilities, or for the elderly is provided. There are four (4) separate sub-categories of day care facilities recognized by this Ordinance:

Family Day Care Home. A private residence operated by a resident thereof who, for a fee, supervises and/or cares for not less than three (3) and not more than six (6) children under eighteen (18) years of age who are (a) not related to such person; (b) whose parents or guardians are not residents thereof; and (c) and who remain at such establishment for not more than sixteen (16) hours per day.

Group Day Care Home. An establishment regulated by the Georgia Department of Family and Children's Services (DFCS) and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises and/or cares for not less than seven (7) and not more than eighteen (18) children under eighteen (18) years of age who remain at such establishment for not more than sixteen (16) hours per day.

Child Care Learning Center. An establishment regulated by the Georgia Department of Family and Children's Services (DFCS) and operated by any person, society, agency, firm, partnership, proprietorship, company, or corporation, which, for a fee, supervises and/or cares for not less than nineteen (19) children under eighteen (18) years of age, who remain at such establishment for not more than sixteen (16) hours per day.

Adult Day Center. An establishment regulated by the Georgia Department of Community Health and operated by any person, firm, partnership, association, proprietorship, company, or corporation which, for a fee, supervises, cares for, provides recreational and social services and/or health and rehabilitative services for three (3) or more persons eighteen (18) years of age or older who, because of some mental or physical impairment, which either limits either the person's major life activities or has a record of impairing such activities, remain at such establishment for not more than sixteen (16) hours per day.

Debris. All sand, gravel, slag, brickbats, rubbish, waste material, metal cans, refuse, garbage, trash, litter, dead animals, or discarded materials of every kind and description, including loose or scattered handbills, newspapers, posters and other such items which may be carried by the wind or water.

Density. The number of dwelling units per acre of land. Gross density refers to the number of units per acre of the total land to be developed. Net density refers to the number of units per acre of land devoted to residential use.

District. A section or sections of Whitfield County for which the zoning regulations governing the use of buildings and premises are uniform.

Dwelling. A building which is designed or used exclusively for residential purposes, including single-family, and multi-family residential buildings, boarding houses, fraternities, sororities, dormitories, manufactured homes, and industrialized homes, but not including hotels and motels.

Dwelling, Loft. A dwelling unit with the following characteristics:

- (1) A dwelling unit(s) located above the ground floor level of a building;
- (2) Each loft dwelling(s) shall have a private entry door;
- (3) Shall have either a private access stairway to the ground floor or a common stairway in conjunction with a common upstairs foyer;
- (4) Shall be located in the rear of the building if a commercial use is carried on in any

portion of a floor above the ground level of the building.

- (5) Where applicable, reference is made to Section 54-34 in the City of Dalton Code of Ordinances.

Loft dwelling(s) located on the first floor above ground level shall be permitted by right, but units proposed two or more floors above ground level shall require approval as a Special Use as set forth in this Ordinance.

Dwelling, Multi-family. A building in single ownership containing three (3) or more dwelling units, including what is commonly known as apartment buildings, triplexes and fourplexes, rooming and boarding houses, fraternities, sororities, dormitories, townhouses and condominiums.

Dwelling, Single-Family. A detached building containing one (1) dwelling unit only.

Dwelling, Single Family Attached. A structure subdivided by a coincidental property line and common wall which separates the structure into a maximum of two (2) dwelling units, each occupying its own lot. Such structure must meet all front, rear, and side yard setback requirements in the zoning district in which it is located, except for the coincidental property line and wall. Such wall shall be at a minimum two (2) hour fire rated masonry construction with no openings or penetrations and shall extend from the foundation through the roof line for a minimum of thirty (30) inches. The same fire wall shall extend front and rear for a minimum distance of eighteen (18) inches unless the units are staggered by three (3) feet or more. The fire wall separating single story units and units of two or more stories must extend only to the roof decking of the higher roof.

Dwelling, Two-Family (duplex). A single structure situated upon a single lot or parcel which contains two (2) separate and distinct dwelling units, each of which is completely separated from the other by an un-pierced wall, extending from ground to roof, or an un-pierced ceiling/floor, extending from exterior wall to exterior wall, except possibly for a common stairwell exterior to each unit.

Dwelling Unit. One or more rooms within a dwelling constituting a separate, independent housekeeping establishment, with provisions for cooking, eating, personal hygiene (sanitary and bathing facilities) and sleeping, and physically set apart from any other rooms or dwelling units in the same structure.

Dwelling, Urban. A dwelling unit with the following characteristics:

- (1) A dwelling unit(s) located within a structure that maintains a commercial storefront;
- (2) No more than 90 percent of the gross leasable floor area of the building in which such dwelling unit(s) is located is dedicated to residential purposes;
- (3) Each dwelling unit(s) shall have a private entry door which exits to the outside or to a common interior hallway;
- (4) Shall have no doorway or window inter-connection between other urban dwellings;
- (5) Where applicable, reference is made to Section 54-34 in the City of Dalton Code of

Ordinances.

To preserve the commercial purpose of the building in which the dwelling is located, any residential frontage shall be limited to the width of the exterior doorway providing ingress and egress to the dwelling unit.

Dwelling, Zero Lot Line. A type of single-family detached residence in which one interior side yard may be lawfully reduced to zero on any lot within an approved development for the purpose of creating larger, more useable, and more easily maintained yard spaces, particularly on smaller lots.

Easement. The right of a person, governmental agency, or public utility company to use public or private land owned by another for a specific purpose.

Event Center. A facility used for weddings, anniversaries, birthdays, showers, reunions, recitals, dances, and ethnic and religious celebrations, etc. The accommodations can include sleeping, eating, and recreation. The site shall be of sufficient size to accommodate all off-street parking associated with an individual event.

Facade. The architectural details of the face of a building which are intended to be viewed by the public. The front facade of the building is the wall which contains the primary entrance to the building.

Farming. The business of cultivating land, or employing it for the purposes of animal husbandry, including the cultivation and fertilization of the soil as well as caring and harvesting the crops. (Also see Organic Farming and Processing.)

Fence. An artificially constructed barrier of any materials or combination of material erected to enclose or to screen areas of lands. A privacy fence is one which is solid and is otherwise designed to limit visibility.

Flea Market. A commercial marketing use, temporary or permanent in nature, held in an open area or structure where groups of individual sellers, leasing or renting spaces from the owner, offer goods for sale to the public.

Flood plain. Any land area susceptible to being inundated by from any source.

Floor Area, Heated. The gross floor area of all spaces within a building that are heated by mechanical means, known also in dwelling units as “living area.” Heated floor area does not include garages, unheated basements or cellars, attic storage areas, partially unenclosed decks or lanais, and areas open to the sky.

Frontage. The side of a lot abutting upon a road.

Garage, Parking. A building or portion thereof designed or used primarily for the parking and storage of motor-driven vehicles.

Garage, Private. An accessory building designed or used for the storage of motor-driven vehicles owned and used by the occupants of the buildings to which it is accessory.

Garage, General Service. A building or portion thereof, other than a private storage or parking garage, designed or used for equipping, servicing, repairing, hiring, selling or storing of motor-driven vehicles, but not including the storage of wrecked or junked vehicles.

Garage, Yard or Carport Sales. Any sale of used household goods, clothes, or other items of personal property conducted at or near a residential dwelling by the owner or occupant of said dwelling who is not a merchant with respect to the goods sold.

Governing Authority. With respect to unincorporated Whitfield County, Georgia, the Governing Authority is the duly elected Whitfield County Board of Commissioners. With respect to any city located within Whitfield County, the Governing Authority is the duly elected Mayor and Council of such city.

Gross Floor Area. The floor area within the inside perimeter of the exterior walls of the building under consideration, exclusive of vent shafts and courts, without deductions for corridors, stairways, closets, the thickness of the interior walls, columns or other features. The floor area of a building, or portion thereof, not provided with surrounding exterior walls shall be the useable area under the horizontal projection of the roof or floor above. The gross floor area shall not include shafts with no openings or interior courts.

Group Home, (also known as Child Caring Institution.) A child-welfare facility licensed by the Georgia State Department of Human Services, which either primarily or incidentally provides full-time room, board, and watchful oversight to six (6) or more children through eighteen (18) years of age outside their own homes.

Habitable Floor Area. The total floor area of all habitable rooms within a dwelling unit. No portion of any room which is less than seven (7) feet in width shall be included in determining habitable floor area.

Habitable Room. Any room within a dwelling unit other than kitchens, bathrooms, toilet rooms, laundry rooms, mud rooms, pantries, dressing rooms, storage spaces, closets, foyers, hallways, utility rooms, garages, car ports, boiler rooms, heater rooms, recreation rooms, interior rooms not provided with natural light and ventilation, and special purpose rooms shared by more than one (1) dwelling unit.

Halfway House. A building for temporary residence by non-related persons, who are recovering from alcohol abuse or other chemical-based substances, with one or more surrogate parents that provide services that include room, meals, supervision, rehabilitation, and counseling to enable residents to move back into society and live independently.

Health Clubs. A facility designed for the major purpose of physical fitness or weight loss which includes, but is not limited to, such equipment as weight resistance machines,

whirlpools, saunas, showers, and lockers. This shall not include municipal or privately owned recreation buildings.

Health Department. Depending upon the proper context, either the Georgia Department of Community Health, and/or the Whitfield County Health Department and/or the Whitfield County Board of Health.

Historic Preservation Commission. The duly appointed group of persons who are authorized by a Governing Authority to administer any historic or similar ordinance within the territorial boundary of the respective Governing Authority.

Holiday Tree and Produce Farm. A lot or parcel whereby pumpkins, corn, gourds, and the like, evergreen trees, and/or greenery for use as holiday decorations are grown or produced. A corn maze may be included thereon.

Holiday Tree Lot, temporary. A lot or parcel whereby retail sales of Holiday trees, wreaths, garlands, and related accessories are conducted seasonally during the months of November and/or December only.

Home Occupation. An occupation, profession, business activity, or use which is clearly customary, incidental, and subordinate to the use of a residential dwelling unit and which is carried on wholly within such dwelling unit by a member of the family who resides upon the premises. General farming and gardening activities are not considered home occupations. See Article VII.

Hospice. A building or portion thereof in which terminally ill persons live in order to receive appropriate Medicare-certified hospice services.

Hotel. A building offering overnight sleeping accommodations for travelers; ingress and egress to and from all rooms are made through an inside lobby or office supervised by a person in charge at all hours. Such use has eighty (80%) percent of the rooms occupied by a different registered guest at least every five (5) days, provides patrons with daily maid service and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the applicable requirements of the Health Department and **OCGA § 31-28-1 et seq.**, and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

Hotel, Boutique. A small lodging facility with 35 or fewer guest rooms that are rented to occupants on a daily basis for not more than 14 consecutive days. Access to each guest room shall be through an inside lobby supervised at all hours.

Impervious Surface. A man-made structure or surface which prevents the infiltration of stormwater into the ground below the structure or surface. Examples are buildings, roads, driveways, parking lots, decks, swimming pools, or patios.

Industrialized Building. Any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for

installation on a building site and has been manufactured in such a manner that all parts or processes cannot be inspected at the installation site without disassembly, damage to, or destruction thereof.

Inert Waste Landfill. A disposal site accepting only wastes which 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, rock, bricks, yard trimmings, stumps, limbs, and leaves. This definition excludes industrial and demolition wastes as defined by Georgia Department of Natural Resources, Environmental Protection Division Rules and Regulations, Solid Waste Management.

Junk Vehicles. Any automobile, vehicle, or part thereof which is in an inoperative condition, by reason of its having been wrecked, dismantled, partially dismantled, abandoned, or discarded, and which does not have a valid license plate and current year tag attached thereto. For purposes of this Ordinance, a vehicle is "inoperative" if it is incapable of movement by its own power. This definition shall not apply to any vehicle in a carport, shed, or other accessory structure.

Junk Yard. A property used for indoor or outdoor storage, keeping or abandonment, whether or not for sale or resale, of junk, including scrap metal, rags, paper or other scrap materials, used lumber, household appliances or furniture, salvaged house wrecking and structural steel materials and equipment or for the dismantling, demolition or abandonment of automobiles or other vehicles or machinery or parts thereof.

Kennel, Commercial. Any premises at which three (3) or more dogs, cats, or other domestic or non-domestic animals, four (4) months old or older, are kept either permanently or temporarily for the purpose of sale, care, breeding, or training, and for which a fee is incurred by the owner of such animal.

Livestock. The term "livestock" as used herein shall mean and include cattle, horses, goats, sheep, swine, poultry, ducks, geese, and other fowl; and rabbits, minks, foxes and other fur or hide-bearing animals customarily bred or raised in captivity for the harvesting of their skins; whether owned or kept for pleasure, utility or sale.

Lot. A developed or undeveloped tract of land in single ownership, legally transferable as a single unit of land. Synonymous with "Parcel."

Lot Area. The gross area of any lot shall be the area bounded by the lot lines, the right-of-way line of any road adjoining the lot, and the centerline of the right-of-way of any private access easement adjoining the lot.

Lot Area Requirement. For the purpose of determining the lot area per dwelling unit, the total lot area shall be measured with the exclusion of land in the public or private road right-of-way/easement and land dedicated for park or school purposes or common purposes.

Lot, Corner. A lot or parcel of land abutting upon two (2) or more roads at their intersection and having two (2) front setbacks and two (2) side lines.

Lot Depth. The mean horizontal distance between the front and rear lot lines measured within the lot boundaries.

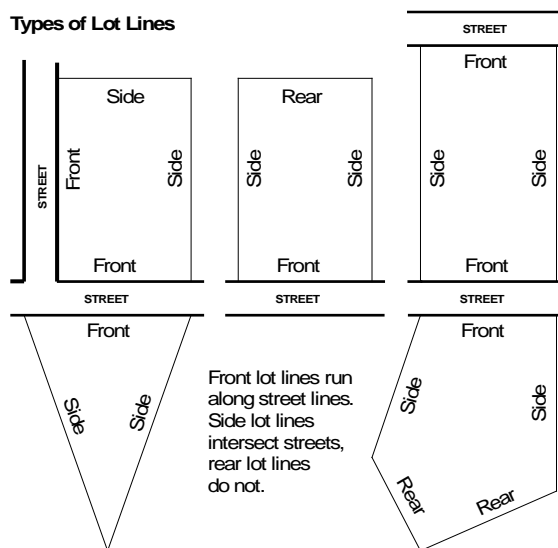
Lot, Double Corner. A corner lot which has frontage on three (3) or more roads.

Lot, Flag. Lots or parcels where the panhandle is an access corridor to a lot located behind lots or parcels with normal street frontage.

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

Lot Line. The boundary dividing a given lot from the street or adjacent lots; the boundary defining the limit of ownership of a property.

1. **Front lot line:** Any boundary line of a lot that abuts a street. A lot adjacent to more than one street will have more than one front lot line.
2. **Rear lot line:** Any boundary line of a lot that does not intersect with a street right-of-way line and is not a front lot line.
3. **Side lot line:** Any boundary line of a lot that intersects with a street right-of-way line and is not a front lot line.



Lot of Record. A lot which lawfully existed prior to the adoption or subsequent amendment of this Ordinance, as shown or described on a plat or deed in the records of the Whitfield County Superior Court Clerk.

Lot, Through (Also known as Double Frontage Lot). A lot which fronts upon two (2) parallel roads, or which fronts upon two roads which do not intersect at the boundaries of the lot.

Lot Width. Measured along the established front building line, the lot width shall be the distance between the side lot lines, and measured at right angles to the lot depth.

Lot Width, curvilinear road. For a lot or parcel having frontage upon a curvilinear road, the lot width shall be the distance between the side lines of the lot or parcel where the minimum lot width is obtained, measured parallel to the chord formed by the two (2)

outermost points of intersection of such lot or parcel with the road right-of-way line. The lot width line is synonymous with the building line in this circumstance.

Manufactured Home. A building, transportable in one or more sections, built on a permanent chassis and designed to be used with or without a permanent foundation when connected to the required utilities. Such Buildings shall be constructed in accordance with the Federal Manufactured Home Construction and Safety Standard, which came into effect June 15, 1976, and shall bear an insignia issued by the U. S. Department of Housing and Urban Development (HUD).

Mausoleum. A building where bodies are interred above ground in stacked vaults.

Microbrewery. A craft or designer facility, absent food service, for the brewing of beer that produces less than 10,000 barrels per year and can include a tasting room and retail space to sell the beer to patrons for consumption on the premises or sale of packaged products to wholesalers. Also subject to other locally adopted ordinances.

Micro-distillery/winery. A craft or designer facility, including a tasting room, in which wine or alcoholic spirits are produced from non-animal agricultural products (fruits, grains, or vegetables), subject to production limits of 60,000 gallons per year, and subject to applicable Georgia law, as amended. Also subject to other locally adopted ordinances.

Mini-Warehouse. A building in a controlled access and fenced compound that contains varying sizes of individual, compartmentalized and controlled-access stalls or lockers for storing the excess personal property of an individual or family when such is not with their residence, such as a passenger motor vehicle, house trailer, motorcycle, boat, camper, furniture, limited commercial storage (items of local retail merchants, small contractors, and professionals), and other items of personal property generally stored in residential accessory structures. No business activities other than the rental of storage units shall be conducted on the premises.

Mobile Home. A structure, transportable in one or more sections, which, in the traveling mode, is eight (8) body feet or more in width or forty (40) body feet or more in length or, when erected on site, is three hundred twenty (320) or more square feet and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air-conditioning, and electrical systems contained therein and manufactured prior to June 15, 1976. In contrast, see the definition of “Manufactured Home.”

Modular Home. See “Industrialized Building.”

Motel. A permanent building or group of permanent buildings in which overnight sleeping accommodations are provided for travelers and having a parking space near or adjacent to the entrance of the room. Such use has eighty (80%) percent of the rooms occupied by a different registered guest every five (5) days, provides patrons with daily maid service, twenty-four (24) hour desk/counter clerk service, and a telephone switchboard service to receive incoming/outgoing messages, and shall comply with the

applicable requirements of the Health Department and *OCGA §31-28-1 et.seq.*, and may provide additional services such as restaurants, retail gift shops, meeting rooms, swimming pools, and exercise facilities.

Motor Lodge. Synonymous with “Motel.”

Non-Conforming Use. A use or activity that was lawfully established prior to the adoption or amendment of this Unified Zoning Ordinance, but which, by reason of such adoption or amendment, is no longer a use or activity permitted by right or no longer meets or conforms to the use regulations of this Ordinance.

Non-Conforming Structure. A structure or building whose size, dimensions, location on a property or other features were lawful prior to the adoption or amendment of this Unified Zoning Ordinance, but which, by reason of such adoption or amendment, no longer meets or conforms to one or more such requirements of this Ordinance.

Non-Conforming Lot. A lot of record whose area, frontage, width or other dimensions, or location were lawful prior to the adoption or amendment of this Ordinance, and which, by reason of such adoption or amendment, no longer meets or exceeds one or more such requirements of the applicable zoning district.

Nuisance. An interference with the enjoyment and use of real property.

Nursing Home. An extended or intermediate care facility licensed or approved to provide full-time convalescent or chronic care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. A twenty-four (24) hour facility providing skilled nursing care.

Office, Professional. Includes offices for professionals such as accountants, architects, attorneys, chiropractors, dentists, doctors, engineers, etc.

Office, Business. Includes offices for general business, insurance, real estate, etc.

Off-Street Parking Space. The area required to park one motor vehicle.

Off-Street Loading Space. The area designated for the loading or unloading of goods or other material.

Open Space. [Synonymous with “Greenspace,” as defined at *OCGA §36-22-3(3)*] shall mean permanently protected land and water, including agricultural and forestry land, that is in its undeveloped, natural state or that has been developed only to the extent consistent with, or is restored to be consistent with, one or more of the following goals:

- (a) Water quality protection for rivers, streams, and lakes;
- (b) Flood protection;
- (c) Wetlands protection;

- (d) Reduction of erosion through protection of steep slopes, areas with erodible soils, and stream banks;
- (e) Protection of riparian buffers and other areas that serve as natural habitat and corridors for native plant and animal species;
- (f) Scenic Protection;
- (g) Protection of archaeological and historic resources;
- (h) Provision of recreation in the form of boating, hiking, camping, fishing, hunting, running, jogging, biking, walking, and similar outdoor activities; and
- (i) Connection of existing or planned areas contributing to the goals set out in ***OCCA §36-22- et seq.***

Organic Farming and Processing. A unique farm environment often holding State or National certifications regarding the natural purity of grown or raised farm products free from typical agricultural chemicals or vaccines. Such farms, an integral part of the agritourism business, can process some of those same agricultural products for retail purchase or public consumption on-site, or for off-site wholesale or retail marketing.

Parking Lot. An off-street, ground level area, usually surfaced and improved for the temporary storage of motor vehicles.

Personal Care Home. Any dwelling, whether operated for profit or not, which undertakes through its ownership or management to provide or arrange for the provision of housing, food service, and one (1) or more personal services for two (2) or more adults who are not related to the owner or administrator by blood or marriage. For purposes of this Ordinance, Personal Care Homes are sub-classified, as follows:

Family Personal Care Home. A home for adults in a family type residence, non-institutional in character, which offers care to two (2) to six (6) persons.

Group Personal Care Home. A home for adults in a residential setting, non-institutional in character, which offers care to seven (7) to fifteen (15) persons.

Congregate Personal Care Home. A home for adults which offers care to sixteen (16) or more persons.

Planning Commission. The Dalton-Whitfield County Planning Commission or any successor entity.

Premises. A lot, parcel, tract, or plot of land together with all buildings and structures existing thereon.

Principal Use. The primary and/or predominant reason for which a lot or parcel is occupied and/or used.

Putrescible Wastes. Wastes that are capable of being quickly decomposed by microorganisms. Examples of putrescible wastes includes, but are not necessarily limited

to, kitchen wastes, animal manure, offal, hatcher and poultry processing plant wastes, and garbage.

Recreational Facilities, Indoor. Any commercial or non-commercial indoor facility such as bowling alley, shooting gallery, video game center etc.

Recreational Facilities, Outdoor. Any commercial or non-commercial outdoor facility such as a miniature golf course, a golf or baseball driving range, tennis courts, swimming pools, drive-in theater, etc.

Recreational Vehicles. A vehicular type portable structure without permanent foundation, which can be towed, hauled or driven and primarily designed as temporary living accommodation for recreational, camping and travel use and including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes.

Recycling Center. A non-governmental facility in which recoverable resources, such as paper, glass, plastics, and metal cans are stored, flattened, crushed or bundled by hand or machines. Vehicles, internal combustion engines, vehicle parts, tires, and the like shall not be considered recoverable resources within the meaning of Recycling Center for the purposes of this Ordinance.

Recycling Collection Station. An incidental use which serves as a neighborhood drop off point for temporary storage of recoverable resources. No processing of such items shall be allowed. Such facility would generally be located in a commercial parking lot, or at other public/quasi-public areas, such as churches or schools.

Right-of-way. A strip of land occupied or intended to be occupied by a road, crosswalk, railroad, electric transmission line, gas pipeline, water main, sanitary or storm sewer main, shade trees, or other special use.

Rooming House (or “Boarding House” or “Boarding Home.”) A dwelling, not a hotel, where for a fee and by prearrangement for definite periods of time, either meals or meals and lodging are provided for three (3) or more persons, who are unrelated to the residents of the dwelling.

Salvage Yard. Synonymous with “Junk Yard.”

Screening. A method of visually shielding or obscuring one abutting or nearby structure or use from another by fencing, walls, berms or densely planted vegetation.

Service Buildings. A building, housing facilities such as recreational, maintenance, laundry, and offices necessary to the successful management of a manufactured home park.

Setback. The required minimum distance from the road right-of-way line or any other lot line that establishes the area within which the principal structure(s) and accessory structure(s) must be erected or placed.

Sewage Management System, Central On-Site. A community-wide on-site sewage management system regulated by EPD (Environmental Protection Division of the Department of Natural Resources.)

Sewage Management System, On-Site. A sewage management system other than a public or community sewage treatment system, whether serving single or multiple buildings, mobile homes or manufactured homes, recreational vehicles, residences or other facilities designed or used for human occupancy or congregation. Included are conventional septic tank systems, chamber septic tank systems privies, experimental and alternative on-site sewage management systems that may be approved by the Health Department.

Sewage Treatment System, Public or Community. Any sewage treatment system, including pipe lines or conduits, pumping stations, force mains and all other construction, devices, and appliances appurtenant thereto, designed for treating or conducting sewage for treatment and disposal into lakes, streams, or other bodies of surface water.

Shopping Center. A group of commercial establishments planned, constructed and managed as a total entity with customer and employee parking provided on-site, and including provision for goods delivery separated from customer access.

Small Animals. Domestic small livestock, poultry and fowl, including rabbits, chinchillas, or similar animals, chickens, turkeys, pigeons, and small birds and ducks kept for non-commercial purposes.

Solid Waste. Putrescible and non-putrescible wastes, except water-carried body waste, but shall include garbage, rubbish, ashes, road refuse, dead animals, sewage sludge, animal manures, industrial wastes, abandoned automobiles, dredging wastes, construction wastes, hazardous wastes and other waste material in a solid or semi-solid state not otherwise defined in these regulations.

Solid Waste Handling Facility. Any facility, the primary purpose of which is the storage, collection, transportation, treatment, utilization, processing, or disposal, or any combination thereof, of solid waste. This term encompasses the terms Solid Waste Landfill, Inert Waste Landfill and Transfer Station.

Solid Waste Landfill. A disposal site where putrescible wastes are disposed of using solid waste landfilling techniques.

Solid Waste Landfilling. An engineered method of disposing of putrescible wastes on land by spreading them in thin layers, compacting them to the smallest practical volume, placing an earthen cover thereon, and such other measures as are necessary to protect human health and the environment.

Specialty Food Stores. A retail store specializing in a specific type or class of foods such as an appetizer store, bakery, butcher, delicatessen, fish, gourmet and similar foods.

Structure. Anything constructed or erected with a fixed location on or in the ground, or attached to something having a fixed location on the ground. Structures include, but are not limited to the following: site built buildings, industrialized buildings, manufactured homes, mobile homes, billboards, swimming pools, advertising signs, fall-out shelters, stadiums, reviewing stands, platforms, staging, observation towers, radio and television towers, trestles, and open sheds, garages, carports, and shelters, any of which have a floor area over one hundred forty-four (144) square feet.

Swimming Pool. A body of water in an artificial or semi-artificial receptacle or other container intended for swimming, which has a minimum depth of eighteen (18) inches of water.

Temporary Structure. A structure with neither foundation nor footings which is removed, when either the designated time period or activity or use for which the temporary structure was erected has ceased.

Townhouse (Row House) A single-family dwelling unit constructed in a group of three (3) or more attached units. Each unit extends from foundation to roof, not more than three (3) stories in height, with a separate means of egress, and with an open space/yard or public way on at least two (2) sides. Each townhouse shall be considered a separate building with independent exterior walls and shall be separated by a two-hour fire-resistance-rated wall assembly.

Transfer Station. A facility used to transfer solid waste from one (1) transportation vehicle to another for transportation to a solid waste handling facility.

Transitional Housing. A single or multi-family dwelling housing persons experiencing an abrupt transition in lifestyle such as, but not limited to, recently incarcerated individuals, displaced families, or elderly individuals, operating as a single housekeeping unit under a common housekeeping management plan based on an intentionally structured relationship providing the organization and stability of home environment.

Utility Facilities. Structures that provide for the distribution of services of public or private utilities, such as electrical transformer stations, gas regulator stations, telephone exchanges, water pump stations, and sewer lift stations, etc.

Vendor Stands. Any cart, table, equipment, or apparatus which is not a structure, which is designed and intended so as to not be a permanent fixture on a lot, and which is used for the retail sale, display, and accessory advertising of merchandise or food.

Yard. An area that lies between the principal building on a lot and the nearest lot line.

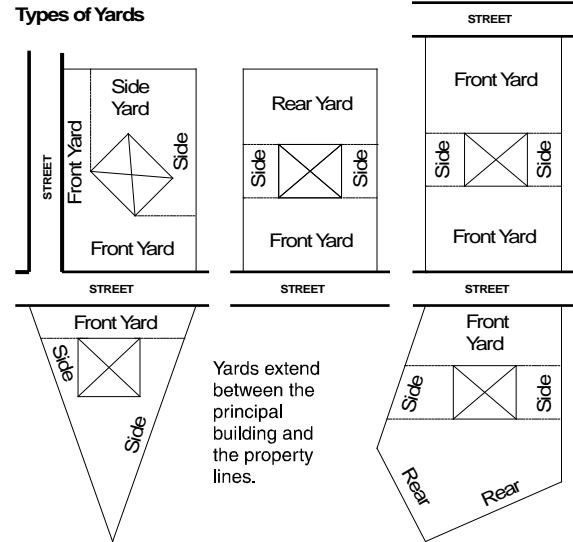
1. **Front yard:** a yard extending the full width of the lot, located between the street line and the front line of a principal building, projected to the side lines of the lot.

2. **Rear yard:** a yard extending the full width of the lot and situated between the rear lot line of the lot and the rear of a principal building projected to the side lines of the lot.
3. **Side yard:** a yard located between the side of a principal building and the side line of the lot and extending from the rear line of the front yard to the front line of the rear yard.

Work Day. Monday through Friday of any week, exclusive of official holidays established by the federal, state or local government during which the local government is not open for business.

Zoning. The power of local governments and local governing authorities within Whitfield County to provide, within its respective territorial boundaries, for the zoning of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation or development and the improvement of real estate within such zones or districts in accordance with the uses of property for which said zones or districts were established.

Zoning Administrator. The official designated by a Governing Authority to manage, administer and coordinate enforcement of this Unified Zoning Ordinance on behalf of the Governing Authority.



Article III - General Provisions

3-1 Interpretation of this Ordinance.

3-1-1 In their interpretation and application, the provisions of this Ordinance shall be held to be the minimum requirements for the promotion of the public health, safety, morals and welfare, including those purposes, intents, objectives, or similar language as set forth throughout this Ordinance.

3-1-2 Where the conditions imposed by any provision of this Ordinance upon the use of land or buildings or upon the bulk of buildings are either more restrictive or less restrictive than comparable conditions imposed by any other provisions of this Ordinance or of any other law, ordinance, resolution, rule, or regulation, the regulation which is more restrictive (or which imposes higher standards or requirements) shall govern.

3-2 **Scope of Regulations.** All existing structures, uses, and buildings, and all structures, uses of land or buildings that are erected or established after the adoption or subsequent amendment of this Ordinance, including all structural alteration or relocation of existing buildings or the enlargements of or additions to existing uses shall be subject to the provisions of this Ordinance, which are applicable to the zoning districts in which such structures, uses, or lots or parcels shall be located.

3-3 **Building Permits.** Building permits shall be required for all structures erected, converted, enlarged, restructured, moved, or structurally altered.

3-4 Access to Lots or Parcels.

3-4-1 Lot Access to Roads.

Except as may be set for herein below, every principal structure or building erected hereafter shall be upon a lot or parcel having not less than fifty (50) feet of frontage upon either a public road or upon a private road, which meets the same standards and requirements of a public road but whose ownership remains with the developer or a property owners association, either of which shall meet the requirements of the applicable *Subdivision Regulations* and any other applicable road design and standards regulations.

3-4-2 **Acknowledgment of Responsibility for Maintenance of Private Road.** When a building permit is requested for a lot which fronts upon a private road described in Section 3-4-1 above, such permit shall contain a signed statement that the property owner acknowledges the private access to his property and that the Governing Authority is not responsible for its maintenance, upkeep, or repair.

3-4-3 Driveway Access upon Corner Lot. On any lots having frontage with more than one (1) road at any intersection, driveway access shall not be located within twenty-five (25) feet of the intersection of any right-of-way lines.

3-5 Lots of Record. Any lot of record lawfully established and recorded as of the date of the enactment of this Ordinance, the size of which does not meet current minimum lot size requirements, may be used as a non-conforming lot, as set forth hereinafter, for zoning purposes, provided that such lot meets current setback requirements. However, lots of record shall remain subject to current Health Department requirements concerning the placement of on-site sewage management systems thereon.

If two (2) or more adjoining lots with continuous frontage area shall come in to single ownership after the enactment of this Ordinance and such lots individually are too small to meet the requirements of the district(s) in which they are located, such groups of lots shall be considered as a single lot or several lots of minimum permitted size and such lots shall be subject to the requirements of this Ordinance.

3-6 Density. No building or structure shall hereafter be erected, constructed, reconstructed, or altered in any way which accomplishes any of the following:

3-6-1 Houses a greater number of dwelling units per acre or occupies a smaller lot area per dwelling unit than are herein permitted.

3-6-2 Has a narrower or smaller front, rear, or side yard than are herein required.

3-7 Lot Area, Floor Area, Setback, Yard, and Height Requirements are set forth in chart 3-7 herein below.

CHART 3-7

AREA, FLOOR, SETBACK, YARD AND HEIGHT REQUIREMENTS

DISTRICT	MINIMUM LOT AREA IN SQUARE FEET		MIN. SITE AREA	ADDIT'NL REQ'MNT	MIN LOT WIDTH AT BLDG LINE	MIN. FLOOR AREA	FRONT YARD ³ SETBACK		SIDE ¹ YAR D	REAR YARD	MAX BLDG HEIGHT
							MAJ. & COLLECTR STREETS	LOCAL STREET			
GA	All Uses	---	5 acres		100	---	50	25	25	25	35
SA	All Uses	---	3 acres		100	---	50	25	25	25	35
R-1	Single-Family Detached	(on-site) (sewer)	1 acre		100 50	1500 s.f.	50	25	25	25	35
R-2	Single-Family Detached	27,500 (on-site) 15,000 (sewer)	---		100 80	1200 s.f.	40	25	10	15	35
R-3	Single-Family Detached	7,500	---		50	1000 s.f.	40	25	10	15	35
R-4	Single-Family Detached	4,356 gross sq. ft / unit	2 acres	Sec 4-6-25	40	900 sf (Dalton only)	20	20	10	10	35
R-5	Single-Family Detached	TBD (on-site) 7,500 (sewer)	---		100 50	900 sf (Dalton only)	40	25	10	15	35
	Duplex/Single- Family Attached	TBD (on-site) 10,000 (sewer)	---		100 50	---	40	25	10	15	35
R-6	Single-Family Detached	TBD (on-site) 7,500 (sewer)	---		100 50	900 sf (Dalton only)	40	25	10	15	35
	Duplex/SF Attached	TBD (on-site) 10,000 (sewer)	---		100 50	---	40	25	10	15	35
	Triplex	TBD (on-site) 12,000 (sewer)	---		100 60	---	40	25	10	15	35
	Fourplex	TBD (on-site) 15,000 (sewer)	---		100 80	---	40	25	10	15	35
	Fee-Simple Townhouse (max 4 units)	5,445/gross per unit (sewer)	---	Sec 3-8	Sec3-8-7	---	40	25	10	15	35
R-7 ³	Multi-Family/ Condominiums	7,500 s.f. for 1 st unit, 1,000 s.f. for 2 nd unit, plus 1,945 s.f. for units thereafter/acre	---	Sec 3-8	100	Dalton- See footnote #4	40	25	10	15	35 Dalton- See footnote #5
	Fee-Simple Townhouses	5,445/gross per unit (sewer)	---	Sec 3-8	Sec 3-8- 7		40	25	10	15	35
PUD	Planned Unit Development (PUD)		15acre	Sec 4-7;4-5	To Be Determined						
MU	All Uses	TBD	---	Sec 4-7;4-5	To Be Determined						
C-1A	All Uses	No minimum required			---	---	25	15	10	20	40

DISTRICT	MINIMUM LOT AREA IN SQUARE FEET		MIN. SITE AREA	ADDIT'NL REQ'MNT	MIN LOT WIDTH AT BLDG LINE	MIN. FLOOR AREA	FRONT YARD ³ SETBACK		SIDE ¹ YAR D	REAR YARD	MAX BLDG HEIGHT
							MAJ. & COLLECTR STREETS	LOCAL STREET			
C-1	All Uses	No minimum required			---	---	25	25	15	20	40
C-2	All Uses	No minimum required			---	---	25	25	15	20	140
C-3	All Uses	No minimum required			---	---	0	0	0	0	100
C-4	All Uses	No minimum required			---	---	25	15	10	20	100
M-1	All Uses	No minimum required			---	---	25	15	15	25	75
M-2	All Uses	No minimum required			---	---	25	20	15	25	75

FOOTNOTES

1. Side setbacks apply to buildings; for zero lot line dwellings the side yard is waived on one side of the lot.
2. Measured at the building line.
3. The maximum allowed density shall not exceed 20 dwelling units per gross acre; the formula within the table is used to compute density for areas less than one (1) acre. (For example: A site containing 2.3 acres allows 40 units + 4 = 44 units)
4. 70% of the total dwelling units must be 900 SF or larger and no dwelling unit shall be less than 700 SF. (Dalton only)
5. No maximum height. (Dalton only)

3-8 Townhouses and Condominiums. Townhouses and condominiums shall comply with the following requirements:

3-8-1 Separation between buildings. The front or rear face of a building shall be not less than fifty (50) feet from the front or rear face of another building. The unattached side of a building shall be not less than twenty feet from the side face of another such building. The unattached side of a building shall be not less than forty (40) feet from the front or rear face of another such building.

3-8-2 Alignment. No dwelling unit shall be situated so as to face the rear of another dwelling unit unless terrain differences or vegetation will provide effective visual separation, as determined by the Zoning Administrator.

3-8-3 Public Sewerage. Townhouse and condominium developments shall be served with public sewer or approved package system and a public water system.

3-8-4 Common Open Space. If a portion of the land is set aside for common open space to be developed for recreational use, such areas shall be developed in accordance with the approved site development plan. Common open space shall be preserved and maintained by a Homeowners

Association created by the developer in accordance with the *Georgia Condominium Act*.

- 3-8-5 **Subdivision Rules.** The development of townhouses involves a subdivision of land and all applicable rules of the applicable *Subdivision Regulations* shall apply.
- 3-8-6 **Contiguous Dwelling Units.** Not more than eight (8) contiguous townhouses shall be built in a single building in the R-7 district.
- 3-8-7 **Minimum Width.** The minimum allowed width for the portion of the lot upon which a townhouse is to be constructed shall be sixteen (16) feet, but the average width of units in a contiguous group of three (3) or more units shall be twenty (20) feet.
- 3-9 **Maximum Occupancy of Dwellings.** In order to protect the health, safety, and welfare of the public, no person shall occupy any dwelling which does not meet the following minimum size requirements per occupant thereof: There shall be at least one hundred fifty (150) square feet of habitable floor area within a habitable room for the first occupant of each dwelling, with at least seventy-five (75) square feet of habitable floor area within a habitable room for each additional occupant thereof. For purposes of this requirement, an occupant shall be considered any person who spends, on average, more than two (2) nights per week or eight (8) nights per month, whichever is greater, at such dwelling.
- 3-10 **Health, Safety, and Aesthetics Standards.**
- 3-10-1 All structures shall be sound in construction and safe for human use.
- 3-10-2 No item not ordinarily designed for exterior use shall be permitted in open areas or yards. This shall include, but is not limited to, plumbing fixtures and household appliances.
- 3-10-3 No lot or parcel shall be allowed by the owner, tenant, resident, or occupant thereof to become unsafe or to endanger the health, safety and welfare of the neighborhood because of growth of vegetation or the accumulation of brush, trash, or debris.
- 3-10-4 No junk vehicles shall be allowed to remain upon any lot or parcel not operating as a conforming junk yard. It shall, however, be an affirmative defense hereto if the owner shall provide current paid receipts for parts which shall confirm that the vehicle in question is then being actively restored.

Article IV - District Uses and Regulations

4-1 Establishment of Districts. For purposes of this Ordinance, Whitfield County is hereby divided into the following zoning districts:

4-1-1 General Agriculture (GA.) This district is established to protect and to preserve agricultural and forest resources and associated rural characteristics by allowing only low-density residential uses, farming, animal husbandry, forestry, saw milling, and other similar uses upon lots or parcels not less than five (5) acres. Provided the applicable lot or parcel conforms to all requirements herein, no more than two (2) single-family detached dwelling units per lot or parcel shall be allowed in this district. Under certain conditions as set forth hereinafter, an accessory structure may contain tools, currently tagged vehicles and/or equipment utilized in the trade or business occupation of the person or persons occupying the principal dwelling structure thereon.

4-1-2 Suburban Agriculture (SA.) This district is established as a transitional district for low density residential uses in conjunction with typical agricultural pursuits primarily for the residents living there, including, but not limited to the growing of food, flowers, the raising of chickens, and the tending of horses and cattle for personal pleasure. Lots and parcels in this district shall be not less than three (3) acres. Only one (1) single family dwelling unit per lot shall be allowed in this district. Under certain conditions as set forth hereinafter, an accessory structure may contain tools, currently tagged vehicles and/or equipment utilized in the trade or business occupation of the person or persons occupying the principal dwelling structure thereon.

4-1-3 Estate Residential (R-1.) This district is established to preserve open space in both urban and rural environments and typically rural environments by encouraging larger than average lot formats of at least one (1) acre or more for low density single family detached dwellings in excess of one thousand five hundred (1,500) square feet heated floor area. There shall be no manufactured or mobile homes within this district, in order to maintain the traditional residential character of such districts. Only one (1) single family dwelling unit per lot shall be allowed in this district.

4-1-4 Low Density Single Family Residential (R-2.) This district is established to protect single family detached dwellings, including typical residential subdivisions, on lots of not less than twenty-seven thousand five hundred (27,500) square feet if served by on-site sewage management systems and not less than fifteen thousand (15,000) square feet if served by public sewer or an approved central on-site sewage management system. All dwellings in this district shall contain in excess of one thousand two hundred (1,200) square feet of heated floor area upon a permanent foundation and shall have the electrical meter base serving such dwelling

attached directly to such dwelling. There shall be no manufactured or mobile homes within this district in order to maintain the traditional residential character of such districts. If served by on-site sewage management system, the lots in this district shall conform at least with the minimum standards for lot sizes as promulgated by the Health Department or other authority having proper jurisdiction over such minimum lot sizes, as amended from time to time. Only one (1) dwelling unit per lot shall be allowed in this district.

4-1-5 Medium Density Single Family Residential (R-3.) This district is established to protect single-family detached dwellings, typically within a more urban atmosphere, including residential subdivisions, on smaller lots of not less than seven thousand five hundred (7,500) square feet and which are served by public sewer or an approved central on-site sewage management system. All dwellings in this district shall contain not less than one thousand (1,000) square feet of heated floor area. There shall be no manufactured or mobile homes within this district, in order to maintain the traditional residential character of such districts. Only one (1) dwelling unit per lot shall be allowed in this district.

4-1-6 Zero Lot Line Residential (R-4.) This district is established for single family detached dwellings, configured upon "zero lot lines," which may be located upon lots at a density of up to ten (10) dwellings per acre, exclusive of rights-of-way or other restrictive easements. Any such lots must be served by public sewer or an approved central on-site sewage management system. Such districts encourage the creation of compatible open spaces for enjoyment by several surrounding dwellings. There shall be no manufactured or mobile homes within this district, in order to maintain the traditional residential character of such districts. Only one (1) dwelling unit per lot shall be allowed in this district.

4-1-7 Rural Residential (R-5.) This district is established to protect single family detached dwellings, including typical residential subdivision development of all varieties of housing stock, and duplexes. Manufactured housing in this district shall remove all wheels and the tongue (or hitch,) so as to maintain the site-built residential character of the district. The lots in this zoning district that are served by on-site sewage management systems shall conform at least with the minimum standards for lot sizes as promulgated by the Health Department or other authority having proper jurisdiction over such minimum lot sizes, as amended from time to time. The lots in this zoning district that are served by public sewer or an approved central on-site sewage management system shall be not less than seven thousand five-hundred (7,500) square feet for a single family dwelling and not less than ten thousand (10,000) square feet for a duplex. Only one (1) principal structure, containing two (2) dwelling units or less, per lot shall be allowed in this district.

Under certain conditions as set forth hereinafter, an accessory structure

may contain tools, currently tagged vehicles and/or equipment utilized in the trade or business occupation of the person or persons occupying the principal dwelling structure thereon.

- 4-1-8 **Transitional Residential (R-6.)** This district is established as a transition residential district of either medium or high density, which may accommodate dwellings such as single family detached dwellings, individual manufactured homes, duplexes, triplexes, or four-plexes only. No more than one (1) principal structure per lot, containing not more than one (1) four unit building shall be allowed in this district.
- 4-1-9 **High Density Residential (R-7.)** This district is established as a high-density residential district allowing as many as twenty (20) dwelling units per acre. Multiple structures per lot shall be permitted in this district. Because of the increased density allowed in this district, any such lots must be served by public sewer or an approved central on-site sewage management system.
- 4-1-10 **Planned Unit Development (PUD.)** This district is established to permit greater flexibility and more imaginative design for the development of compatible, multi-use residential and neighborhood commercial land uses on a scale larger than not less than fifteen (15) acres. The PUD district is intended to promote an orderly and harmonious variety of housing options, along with higher levels of amenities and preservation of open space. To be considered for the PUD district, a full and complete application for rezoning shall include a preliminary site plan. Establishing a PUD district requires the implementation and adherence to the approved site plan as required by: 1) these regulations; 2) any other applicable regulations; or 3) any conditions resulting from the review process. Once submitted, if there are any material alterations to the site plan, the altered site plan shall be resubmitted.
- 4-1-11 **Limited Commercial (C-1A.)** This transitional district is established to provide for specific limited commercial uses, including professional service establishments, often conducted within structures converted from residential uses.
- 4-1-12 **Neighborhood Commercial (C-1.)** This district is established to provide for limited retail activities and personal or professional services designed to serve the convenience needs of nearby neighborhoods. The size of the buildings and parking allowed in this district are limited to create minimal negative impact upon nearby neighborhoods. This district allows uses which will result in a minimum of traffic from outside the surrounding neighborhoods.
- 4-1-13 **Mixed Use (MU.)** This transition district is established to provide for appropriate mixed use opportunities on parcels smaller than those required

for the PUD district. Typically, such uses would include apartment or condominium style multi-family housing situated above compatible retail/service commercial or light manufacturing uses that are intended to serve such residents and the general public. However, the use(s) may also be entirely commercial or light manufacturing, creating more flexibility with respect to access, setbacks, etc., as shown on an approved site plan. To be considered for the MU district, a full and complete application for rezoning shall include a preliminary site plan. Establishing a MU district requires the implementation and adherence to the approved site plan as required by: 1) these regulations; 2) any other applicable regulations; or 3) any conditions resulting from the review process. Once submitted, if there are any material alterations to the site plan, the altered site plan shall be resubmitted.

4-1-14 General Commercial (C-2.) This district is established to provide for and to encourage appropriate development along collector and arterial thoroughfares, which includes the broadest mix of commercial retail and service uses with associated storage capabilities, and other commercial activities which will both accommodate the needs of residents and those of the traveling public. Shopping centers and large retail stores would be common, along with a host of supporting commercial uses.

4-1-15 Central Business District (C-3.) The central business district is the historic center of town, city, or community for commercial retail and service uses, financial institutions, office, and government uses, with limited residential uses. This district would typically be characterized by shared parking and loading, and by buildings occupying most, if not all, of the lot or parcel on which it is located. The central business district defines the core activity center around which the community has historically developed.

4-1-16 Transitional Commercial (C-4.) This district is considered an expansion and transitional area out from the central business district, allowing uses similar to those allowed in the central business district, but with conventional lot designs, requiring off street parking and loading, and typical setbacks. This district is envisioned to accommodate lower traffic, lower visibility commercial operations that are nonetheless near the Central Business District.

4-1-17 Light Manufacturing (M-1.) This district is established to act as a transition between heavy industrial uses and other commercial or residential uses by providing for industrial activities which are more limited in scope, size, or negative impacts upon surrounding properties. Permitted uses in this district will create a minimum of environmental pollution in the form of traffic, noise, odors, smoke, fumes, glare, or heat.

- 4-1-18 **Heavy Manufacturing (M-2.)** This district is established to provide suitable areas for general industrial, carpet manufacturing, distribution, or warehousing activities and/or other intensive activities of industrial nature which may generate external traffic and may include moderate amounts of environmental pollution in the form of traffic, noise, odors, smoke, fumes, glare, or heat.
- 4-2 **Zoning District Map.** The boundaries of the various zoning districts are shown upon that map designated as the Official Zoning Map of Whitfield County, Georgia, which is sometimes referred to as the “Zoning Map.” The Zoning Map and all notations, references and other information shown thereon are a part of this Ordinance and have the same force and effect as if the Zoning Map and all the notations, references, and other information shown thereon were fully set forth and described herein, which Zoning Map is properly attested and is on file with the Clerks of Whitfield County and of each city, and with the Zoning Administrator, and is available for public inspection during normal business hours.
- 4-3 **District Boundaries.** All roads, alleys, and railroad rights-of-way, if not otherwise specifically designated, shall be deemed to be in the same zone as the property immediately abutting upon such alleys, roads and railroad right-of-way. Where the center line of a road, alley or railroad right-of-way serves as a district boundary, the zoning of such areas, unless otherwise specifically designated, shall be deemed to be the same as that of the abutting property up to such center line. Where district boundary lines are indicated as approximately following lot lines, such lot lines shall be construed to be such boundaries. Wherever any uncertainty exists as to the boundary line of any use district as shown on the zoning map incorporated herein, the following rules shall apply:
- 4-3-1 Where a lot held in one ownership contains more than one actual principal use, such actual uses may be delineated and assigned zone designations consistent with such uses within the parcel. The existence of principal uses and the area assigned to such uses shall be based upon objective physical evidence of separate actual uses of the parcel present at the site at which it occurs. Any disputes regarding actual principal uses shall be resolved by the Zoning Administrator.
- 4-3-2 In all other cases, the district boundary lines shall be determined by use of the scale appearing on the Official Zoning Map.
- 4-3-3 Certain parcels located within any historic district designated by any historic preservation commission and noted on the Official Zoning Map shall also be subject to any regulation set forth by the applicable governing authority specifically related to historic properties or historic districts.
- 4-4 **Permitted Uses.** No principal structure, accessory structure, or land use shall be allowed except in the zoning districts indicated and for the purposes or uses as set forth upon the permitted use table set forth hereinafter.

4-5 **Approval Procedures.**

4-5-1 **Preliminary Site Plan.** For all parcels which seek rezoning/annexation to R-6, R-7, MU, or PUD for a proposed use or which require a Special Use for a proposed use, a Preliminary Site Plan, as described herein, shall be submitted with such application unless specifically waived, in whole or in part, by the Zoning Administrator. Such application shall remain incomplete without such required information. The Governing Authority may hereafter conditionally approve such request based upon information set forth in such site plan. Each Preliminary Site Plan shall include, but not be limited to, the following information:

- (a) Preliminary Name of the proposed development; name(s), address(es), and telephone number of the owner(s) and the designer(s) of the site plan.
- (b) Scaled Boundaries. Scaled boundaries of the entire tract and their relationship to adjoining properties, public rights-of-way, and easements.
- (c) Sewage Management Systems, On-Site (Septic Systems); Sewage Treatment System, Public or Community (Central Sewage Treatment Plant). Written statement from the Environmental Health Department indicating the optimum number of units the property will accommodate based on a soils report by a soils scientist and an on-site inspection by a county environmental specialist. If public sewer is available, written approval shall be provided from Dalton Utilities for the number of desired sewer taps.
- (d) Septic System Absorption Field and Replacement Area and Building Locations. Approximate location of the septic fields, all proposed buildings, their shape, size, and setback in appropriate scale.
- (e) Rights-of-Way. Location and right-of-way of streets, roads, alleys, railroads, public crosswalks, with lengths and widths, road names, or designations.
- (f) Buffers and vegetation. Existing and proposed vegetation and the use of vegetation to provide buffers and landscaping for the proposed development.
- (g) Flood Plain areas. Location of the 100-year flood plain as determined by the past history of flooding or the best available data.

- (h) Proposed improvements. The names, where appropriate, and locations and dimensions of proposed roads, alleys, sidewalks, easements, buildings, parking and loading, dumpsters, recreation areas and facilities, yards and other open spaces.

4-5-2 **Final Site Plan.** All other parcels zoned R-6, R-7, C-1A, C-1, C-2, C-3, C-4, MU, PUD, M-1, or M-2 which are already zoned for the use intended or for which a Special Use has been applied for and approved hereunder, shall submit a Final Site Plan prior to the issuance of a building permit, unless specifically not required in whole or in part by the Whitfield County Engineer or his or her designee. Each Final Site Plan shall include the following information:

- (a) Preliminary Name of the proposed development; name(s), address(es), and telephone number of the owner(s) and the designer(s) of the site plan.
- (b) Date, north arrow, and graphic scale.
- (c) Survey Boundaries. Surveyed boundaries of the entire tract and their relationship to adjoining properties, public rights-of-way, and easements.
- (d) Location Map. A general location map at a scale of one (1) inch equals two thousand (2,000) feet indicating existing zoning on or adjacent to the site, adjoining roads and the adjacent areas are required.
- (e) Sewage Management Systems, On-Site (Septic Systems); Sewage Treatment System, Public or Community (Central Sewage Treatment Plant). Written statement from the Health Department indicating the optimum number of units the property will accommodate based on a soils report by a soils scientist and an on-site inspection by a county environmental specialist. If public sewer is available, written approval shall be provided from Dalton Utilities for the number of desired sewer taps.
- (f) Building locations. Final location of all proposed buildings, their shape, size, and setback in appropriate scale.
- (g) Rights-of-Way. Location and right-of-way of streets, roads, alleys, railroads, public crosswalks, with lengths and widths, road names, or designations.
- (h) Buffers and vegetation. Existing and proposed vegetation and the use of vegetation to provide buffers and landscaping for the proposed development.

- (i) Environmentally sensitive areas. Location of major river corridors, water supply watersheds, groundwater recharge areas, wetlands, the boundary and elevation of the 100-year floodplain as determined by the past history of flooding or the best available data.
- (j) Proposed improvements. The names, where appropriate, and locations and dimensions of proposed roads, alleys, sidewalks, easements, buildings, parking and loading, dumpsters, recreation areas and facilities, yards and other open spaces.
- (k) Proposed protective covenants. A preliminary outline of proposed protective covenants, including provisions for the organization and financing of a Homeowners' Association where appropriate.
- (l) Soil Erosion and Sedimentation Control. Where applicable, the site development plan shall provide information on soil erosion and sedimentation measures according to the technical standards provided by the applicable jurisdiction's *Soil Erosion and Sedimentation Control Ordinance*.
- (m) Development Report. If the proposed development has more than one (1) phase, a report setting forth the proposed development schedule, indicating the sequences of the development, and the approximate time period for completion of each phase shall be required. Statistical or technical data as necessary to accurately describe the proposed development including, but not limited to, the following shall be included in the Development Report:
 - (1) Total land area.
 - (2) Total number of dwelling units and gross density by type of land use.
 - (3) Amount of space to be occupied by roads and parking areas.
 - (4) Amount of any submerged land within the project boundary.
 - (5) The total ground coverage and floor area of all buildings.
 - (6) A breakdown of the number of kinds of proposed buildings, including square footage, and number and range of lot sizes and proposed setback and yard dimensions for typical lots and/or building types.
 - (7) Deed record names of adjoining property owners or subdivisions.

- (8) The plat shall be drawn to a scale of not less than one (1) inch equals one hundred (100) feet.
- (9) Topography by contours at vertical intervals of not more than five (5) feet for subdivisions of more than twenty (20) lots unless necessary for determining road or sanitary sewerage system design.

4-6 Additional Requirements for Specific Uses.

4-6-1 Amusements Parks are permitted in the General Commercial (C-2) zone district, and motor vehicle racetracks are permitted in the General Agricultural (GA) and General Commercial (C-2) districts, provided that:

- (a) Any such development which is located closer than one thousand (1,000) feet from any property line for which the adjoining property is zoned GA, SA, R-1, R-2, R-3, R-4, R-5, R-6, R-7, PUD, or MU shall operate only vehicles with adequate muffler devices, unless the affected property owner(s) waive this provision, in writing. This requirement shall apply to all such operations whether currently in existence or to be built in the future.
- (b) No structures or racetracks shall be located within one hundred (100) feet of any property line.

4-6-2 Animal husbandry, including dairies, livestock raising, poultry and egg operations, fish hatcheries, and/or riding stables and academies are permitted within the General Agriculture (GA) district, provided that no structures for housing said animals shall be located closer than twenty-five (25) feet from any property line and the minimum required lot area for the above uses shall be five (5) acres.

4-6-3 Neither a Bed and Breakfast Home nor a Bed and Breakfast Inn may serve any meals to the general public, except for breakfast to its overnight guests only, unless such establishment is located within a C-1, C-2, C-3, or C-4 commercial zone district and such use as a restaurant or café otherwise qualifies as a permissible use thereunder. Additionally, regardless of the zone district in which such establishment shall be located, except in the C-3 district there shall be off street parking available for at least one (1) vehicle per available room and at least one (1) vehicle per employee.

4-6-4 Business and Professional Offices are permitted outright in the General Commercial (C-2) and Manufacturing (M-1, M-2) districts. Development of such uses in the Limited Commercial (C-1A) and Neighborhood Commercial (C-1) district shall limited to one (1) building per lot or parcel.

- 4-6-5 Cemeteries, not including governmentally-owned cemeteries, fraternal cemeteries, church or synagogue cemeteries, or family burial plots, are allowed in the GA, SA, R-1, R-2, R-5, and C-2 districts and shall have minimum site areas of twenty-five (25) acres and shall also comply with the *Georgia Cemetery Act of 1983*, as amended. Churches and synagogues, and fraternal organizations may operate cemeteries as an accessory use, wherever the principal use is allowed, but only if a minimum site area of five (5) acres is available for the cemetery. A minimum site area is not required for a columbarium that is an accessory use. In all zone districts, family burial plots shall only be allowed as an accessory use to a residential dwelling on parcels or tracts containing five (5) acres or more.
- 4-6-6 All commercial developments, including shopping centers, regional shopping malls, and retail outlet malls, shall meet the following requirements:
- (a) If adjoining parcels are interconnected to each other through access easements, such easements shall have a minimum width of twenty (20) feet.
 - (b) Shopping centers and shopping malls shall be permitted only in the General Commercial (C-2) district.
 - (c) Neighborhood shopping centers shall contain only the uses that are permitted in the Neighborhood Commercial (C-1) district, and the maximum size of the developed lot shall not exceed three (3) acres.
- 4-6-7 Convenience Stores in the Neighborhood Commercial (C-1) district shall have a gross floor area of less than five thousand (5,000) square feet and shall comply with the following if fuel service is available:
- (a) Convenience Stores, with fuel pump services located in the Neighborhood Commercial (C-1) district, are limited to four (4) pump islands with no more than two (2) pumps per island each as an accessory use to the convenience store.
- 4-6-8 All fuel pumps, canopies over fuel pumps (whether attached or detached,) and underground storage tanks shall be at least fifteen (15) feet from any road right-of-way.
- 4-6-9 All day care facilities, as defined hereinabove, are permitted as an accessory use in a church or place for religious worship, schools, commercial or manufacturing facilities, provided that such uses shall conform to all federal, state, and local day care requirements and shall comply with all health regulations.

4-6-10 Accessory Structures.

- (a) Accessory structures constructed concurrent with, or subsequent to, the primary dwelling structure, including, but not limited to, open sheds, garages, carports, and shelters are permitted upon a parcel less than three (3) acres in area and zoned for or used for single-family residential purposes only if the accessory structure is no larger than the gross floor area of the primary dwelling or fifteen hundred (1,500) square feet, whichever is lesser, and shall not exceed twelve (12) feet in height at the eave level for a single story or eighteen (18) feet in height at the eave level for two (2) stories.
- (b) Within the R-5, SA, or GA zoning districts, accessory structures constructed concurrent with, or subsequent to, the primary dwelling, may also store tools, currently tagged vehicles and/or equipment utilized in the trade or business occupation of the person or persons occupying the principal dwelling structure only if all of the following additional conditions are met:
 - (1) The accessory structure is no larger than the gross floor area of the primary dwelling or fifteen hundred (1,500) square feet, whichever is lesser, and provided that all applicable building setbacks are met.
 - (2) The accessory structure shall be constructed in accordance with applicable building codes, including, but not limited to, all setback requirements, and shall be fully enclosed.
 - (3) The accessory structure shall not be used for the manufacture, construction, shipping or processing of commercial goods or services.
 - (4) There shall be no business invitees or customers upon the residential property for business purposes.
 - (5) No more than two (2) commercially licensed or titled vehicles weighing not more than fourteen thousand pounds US (14,000 lbs.) gross vehicle weight (GVW) each shall be stored on site.
 - (6) Nothing herein shall be construed to allow large commercial equipment, including, but not limited to bulldozers, dump trucks, backhoes, earth moving equipment, and the like, within an accessory structure upon any residentially zoned lot or parcel.

- 4-6-11 Flea markets, farmers' markets, produce stands, and similar facilities are permitted in the General Commercial (C-2) district, provided that:
- (a) Permanent sanitary facilities are required and shall be approved by the Health Department or applicable authority.
 - (b) No overnight camping on the property is permitted.
 - (c) Such use shall be located upon a major or minor collector road only.
- 4-6-12 Garage, yard or carport sales shall be allowed on the lot or parcel occupied by the residential dwelling in the GA, SA, R-1, R-2, R-3, R-4, R-5, R-6, and R-7 zoning districts provided that:
- (a) No sale shall be allowed to continue for more than one (1) continuous seventy-two (72) hour period.
 - (b) Not less than three (3) months shall lapse between sales held at the same location.
- 4-6-13 Hazardous waste processing and handling facilities are permitted as a Special Use in the M-1 and M-2 districts provided that such facilities shall conform to all local, state, and federal regulations for hazardous waste management.
- 4-6-14 Junk Yards or Salvage Yards.
- (a) Such use shall not be located closer than twenty-five (25) feet to any adjacent boundary line or right-of-way.
 - (b) Such use shall be enclosed with a sight impermeable fence or earthen berms not less than eight (8) feet high.
- 4-6-15 Except for within certain Commercial (C-1, C-2, C-4) and Manufacturing (M-1, M-2) districts, recreational facilities within a public park shall meet the following requirements:
- (a) Lighting shall be established in such a way that no direct light is cast upon adjacent properties or roadway.
 - (b) All lighted recreational facilities shall be a least fifty (50) feet from any property boundary line.
- 4-6-16 Laundry services, including dry cleaning pick-up and delivery stations, are allowed in the Neighborhood Commercial (C-1) district, provided that the total floor area shall not exceed four thousand (4,000) square feet.

4-6-17 Animals.

- (a) Except within the City of Dalton, raising and keeping livestock, ten (10) or more pounds in weight shall be permitted upon a lot or parcel in the GA, SA and R-5 Residential zoning districts, or upon a lot in a commercial or manufacturing zoning district upon which there is located a non-conforming single family dwelling occupied as a residence, provided that there is a minimum of two (2) acres, with no more than four (4) total animals per two (2) acres prorated, and all structures used for housing and feeding the animals shall be located at least twenty-five (25) feet from any lot line.
- (b) Raising and keeping small animals, under ten (10) pounds in weight, shall be permitted upon a lot or parcel in the GA, SA and R5 Residential zoning districts, or upon a lot in a commercial or manufacturing zoning district upon which there is located a non-conforming single-family dwelling occupied as a residence, subject to the following:
 - (1) Condition, size. All such animals must be provided with adequate, secure enclosure(s) while not within the immediate presence of the owner. The pens or other enclosures wherein such animals are kept shall have a solid floor of suitable washable material, except when the pens are seventy-five (75) feet or more from the nearest neighbor's dwelling or place of business. Floor space in all such pens or enclosures, wherever located, shall contain not less than six (6) square feet per animal. In order to promote good hygiene and to eliminate nuisance odors, pens must be regularly cleaned and animal waste must be properly disposed.
 - (2) Location. Pens or yards where such animals are kept shall be placed at the following minimum distances from any dwelling or business structure:
 - i. Distance from any dwelling, except that of owner, or any business structure, fifty (50) feet
 - ii. Distance from owner's dwelling, five (5) feet.
 - (3) Maximum number. The maximum number of such animals, in any combination, which may be kept upon a single lot or parcel shall be limited as follows:
 - i. On lots up to five (5) acres in size, a total of no more than ten (10) small animals. No roosters, peafowl or any other fowl whose calls are audible to an adjoining lot shall be permitted.

- ii. On lots five (5) or more acres in size, there is no limit to the number of non-commercial small animals permitted.
- 4-6-18 Unless otherwise provided herein, all uses in the Neighborhood Commercial (C-1) district shall have a gross floor area of less than ten thousand (10,000) square feet, including outdoor storage and accessory structures.
- 4-6-19 RV parks and campgrounds are allowed outside the City of Dalton in the GA and C-2 districts provided that:
 - (a) Public water is supplied;
 - (b) If public sewer is not available, such developments shall provide an approved dump station of private sewer disposal.
 - (c) Occupancy shall be for a period of not more than fourteen (14) days.
- 4-6-20 Recycling Centers with processing facilities and Recycling Collection Stations shall comply with the following regulations:
 - (a) All operations and collections shall be set back at least twenty five (25) feet from each property line and shall comply with the screening standards as applicable and set forth in Article VIII of this Ordinance.
 - (b) The owner or operator of the station shall inspect the site at regular time periods to assure that no litter accumulates and that containers are emptied as often as necessary.
- 4-6-21 Restaurants and/or cafeterias in the Neighborhood Commercial (C-1) district, shall have a seating capacity of no more than eighty (80) patrons.
- 4-6-22 Only during the seasonal holiday months of October, November, and December, Holiday Tree Farms which are located within the General Agriculture (GA) or Suburban Agriculture (SA) zone district containing not less than five (5) acres shall be allowed to conduct retail sales of pumpkins, corn, gourds, hay bales, Christmas, or other holiday trees, garlands, or wreaths which are grown, cut, or produced thereon. Such Holiday Tree Farms may also conduct retail sales of other similar seasonal decorative items, such as tree stands or tree ornaments, or may provide hayrides, hay mazes, or other similar activities for its customers during such months only.
- 4-6-23 Temporary Holiday Lots shall be allowed to conduct retail sales only during the seasonal holiday months of November and December.

4-6-24 It is the intent of this article to act concurrently with the Dalton-Whitfield Regional Solid Waste Management Authority, Solid Waste Management Plan to protect the health, safety, and welfare of the citizens and natural resources of Whitfield County. As such, in addition to the requirements contained herein, any new, not yet operational, or expansion of any Solid Waste Handling Facility shall be consistent with the Dalton Whitfield Regional Solid Waste Management Authority, Solid Waste Management Plan.

- (a) Solid Waste Landfills are allowed as a Special Use in the General Agriculture (GA) district. Siting of a solid waste landfill shall meet all the criteria provided under the rules of the Georgia Department of Natural Resources, Environmental Protection Division, and Solid Waste Management Regulations.
- (b) Inert Waste Landfills are permitted as a Special Use in the General Agriculture (GA) or Suburban Agriculture (SA) district.
- (c) Solid Waste Transfer Stations are permitted as a Special Use in the GA, SA, M-1, and M-2 districts provided that:
 - (1) All transfer stations shall be located adjacent to a collector or arterial road so designated by the Georgia Department of Transportation on their Functional Classification Map for Whitfield County.
 - (2) Such facility shall have a minimum buffer of twenty-five (25) feet and comply with the screening standards set forth hereinafter.
 - (3) No portion of a new transfer station shall be located within a two (2) mile radius of the property lines of an existing transfer station or solid waste handling facility.
 - (4) The hours of operation shall be limited to not more than 6:00 a.m. to 6:00 p.m., Monday through Saturday.
 - (5) Transfer stations shall be sited and operated in accordance with State Regulations 391-3-4.06 Permit by Rule for Collection, Transportation, Processing, and Disposal; Official Code of Georgia Annotated 12-8-20 Georgia Comprehensive Solid Waste Management Act; and the Dalton Whitfield Regional Solid Waste Management Authority, Solid Waste Management Plan.

4-6-25 The R-4 district permits single-family detached dwellings to develop at a maximum density of ten (10) dwelling units per acre. All such developments are required to be reviewed subject to the presentation of a site plan, subdivision regulations, when applicable, and a rezoning

application, as set forth hereinabove. A minimum site area of two (2) acres is required. The minimum separation distance between all detached dwellings in the R-4 district, side to side, is ten (10) feet. The front setback shall be a minimum of twenty (20) feet and the rear setback shall be a minimum of ten (10) feet. Zero-lot line dwellings shall be constructed against the lot line on one (1) side of a lot or parcel, and no windows, doors, or other openings shall be constructed on that side. For the solid wall positioned upon the property line, a maintenance easement of not less than five (5) feet shall be designated on the adjacent lot; and the final subdivision plat for all zero-lot line developments shall show and provide for such maintenance easements.

- 4-6-26 Private Camps shall be located upon a lot or parcel with a minimum total area of eight (8) acres. All regulations of the Whitfield County Health Department regarding on-site sewage management systems shall be fully applicable. Such camp shall be served by public water rather than by individual water supply. Where such camps adjoin residentially used lots or parcels or residentially zoned lots or parcels, a minimum thirty (30) foot buffer, as set forth in Article VIII, shall be placed along any such borders and adjacent to any public or private road.
- 4-6-27 All facilities used in conjunction with an Event Center shall comply with all local, state, and federal building requirements with respect to group assembly, and shall comply with all local, state, and federal environmental requirements with respect to sewage disposal, flood plain management, erosion and sediment control, and storm water management.
- 4-6-28 In compliance with OCGA §36-66-4, any such halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency, location or relocation, shall require a public hearing at least six (6) months and not more than nine (9) months prior to the date of final action by the Governing Authority on any zoning decision (*e.g.* rezoning, annexation, or special use review). A sign posted on the subject property and a published notice shall contain a prominent statement that the proposed zoning decision relates to or will relocate a halfway house, drug rehabilitation center, or other facility for the treatment of drug dependency. The above public hearing is in addition to the public hearing that may be required nearest to making a zoning decision per the requirements of the governing authorities' applicable zoning procedures and standards ordinance. The latter posted and published notices shall appear at least fifteen (15) days and not more than forty-five (45) days prior to the date of this public hearing. For either public hearing, the published notice shall be at least six (6) column inches in size and shall not be located in the classified advertising section of the newspaper.

- 4-6-29 Agritourism and organic farming and processing shall be subject to the following minimum criteria: 1) in both the GA, SA, and R-5 zone districts the minimum tract size shall be five (5) acres; 2) facilities for processing products or those facilities on-site that are supportive of agritourism shall not be located within one hundred (100) feet of side or rear property lines, and shall be located in the interior of the property three hundred (300) feet or more from the public road R/W; and 3) on-site signage along any public road R/W shall be limited to an unlighted ground sign.
- 4-6-30 Kennels for boarding and breeding are permitted outright in the C-2 and C-4 zoning districts and are permitted on parcels with a minimum lot size of five (5) acres in the GA and SA zoning districts.
- 4-6-31 For Brewpubs, Microbreweries, Micro-distillery/wineries, special conditions shall apply as follows:
- (1) an off-street or alley loading dock is required;
 - (2) drive through service is not allowed.
- 4-6-32 Self Service Storage Warehouses or Climate Controlled are permitted as a Special Use in the C-3, Central Business District provided that:
- (1) Such use is prohibited in the local historic district boundary designated within the C-3 zoning district.
 - (2) Flammable, explosive, or any hazardous materials are prohibited.
 - (3) An interior sign and an exterior sign, each measuring at least one foot by two feet in size, shall be installed at the facility. The signage shall clearly state that hazardous and flammable materials are prohibited within the storage facility.
 - (4) Trucks or trailers with cargo space in excess of sixteen feet are prohibited.
- 4-6-33 Homeless Facilities are permitted as a Special Use in the C-3, Central Business District and C-4, Transitional Commercial district provided that:
- (1) Such use is prohibited in the local historic district boundary designated within the C-3 zone district.
 - (2) Any Homeless facility planned to redevelop and occupy an existing non-residential structure must submit a preliminary site plan.
- 4-6-34 Wholesale Trade, Warehouse and Distribution Facilities are only permitted for existing commercial or industrial structures within the C-4 zone district. No Wholesale Trade, Warehouse or Distribution Facility in excess of 10,000 square feet will be permitted within the C-4 zone district.

4-7 Additional Requirements for PUD and/or MU Districts.

- 4-7-1 No PUD shall be permitted upon less than fifteen (15) total contiguous acres. For purposes of this Section, lands bisected by streets, railroads, creeks, or gas/electricity/utility easements can be considered contiguous.
- 4-7-2 The maximum gross density per acre within the PUD district shall not exceed eight (8) dwelling units per acre.
- 4-7-3 No manufactured home nor mobile home shall be permitted within the PUD or MU district.
- 4-7-4 Not less than twenty percent (20%) of the total acreage or three (3) acres, whichever is greater, shall be set aside as open space within any PUD district.
- 4-7-5 No lot or parcel within the PUD district may be served by an on-site sewage management system but shall be served by a Public or Community Sewage Treatment System.
- 4-7-6 If a PUD is proposed to be developed in phases, not less than 80 percent of all lots and/or parcels within the first phase must be sold prior to the issuance of any permit for phase II, and so on.
- 4-7-7 Any proposed PUD shall provide for the creation of a homeowners' association, which shall provide for mandatory membership by all owners of a lot or parcel within the PUD, ownership of all common areas, and a perpetual maintenance responsibility for all such common areas.
- 4-7-8 Any minimum lot area and yard requirements may be waived upon the approval of the site plan.
- 4-7-9 All single family detached dwellings shall be limited to one principal building per lot.
- 4-7-10 Approval of a PUD site plan does not exempt the PUD from any applicable subdivision regulations.
- 4-7-11 The only signs that shall be permitted in PUDs are ground signs, window signs, and wall signs.
- 4-7-12 All building permits shall lapse twelve (12) months after issuance. Building permits may be renewed prior to expiration, for another twelve (12) month period.

Article V – Parking, Loading, and Driveway Standards

- 5-1 Intent. The intent of this Article is to provide regulations to:
- (a) Foster safe and efficient circulation of vehicles and pedestrians both on private and public streets.
 - (b) Minimize nuisances arising from on-street parking.
- 5-2 Off-Street Automobile Parking and Storage. Off-street automobile parking and storage space shall be provided on every lot on which any of the uses mentioned in this Article are established, except in the C-3 Commercial District. Such automobile parking or storage space shall be provided with vehicular access to a public road, street, or alley and shall be equal in area to at least the minimum requirements for the specific uses, as set forth below.
- All off-street automobile parking and storage space, except for single-family residential uses, shall be so arranged that vehicles will not be required to back onto a public street, road, or highway when leaving the premises. Each required off-street parking space and/or loading berth shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient access to a public or private street.
- 5-2-1 Submission of a Parking Plan. Except for single-family residential developments, a fully dimensioned parking plan shall accompany a permit application for any use required to provide over four (4) off-street parking spaces. All off-street parking plans shall provide a clear parking layout according to the requirements of Section 5-3-2.
- 5-2-2 Use of Spaces. Except as otherwise indicated, off-street parking facilities provided for uses shall be solely for the parking of motor vehicles of patrons, occupants, visitors, or employees of such uses.
- 5-2-3 Location.
- (a) On Same Lot. Except as otherwise provided herein, all off-street parking shall be provided on the same lot as the use served.
 - (b) Common Off-Street Parking Areas. Two (2) or more principal uses may use a common parking area to comply with off-street requirements, provided that the total number of individual spaces available in such common area is not less than the sum of the spaces required for the individual uses. The owner of said lot shall relinquish his development rights over the property until such time as parking space is provided elsewhere.

- (c) **Required Off-Street Parking Spaces on Other Property.** If the required off-street parking spaces cannot reasonably be provided on the same lot on which the principal use is located, such spaces may be provided on other off-street property lying not more than three hundred (300) feet from the property of the principal use. In this situation, the applicant shall submit a legal instrument, duly executed and acknowledged, citing the permanent availability of such off-street parking spaces to serve his principal use.

5-3 Design Standards for Off-Street Parking Facilities. All off-street parking facilities, whether public or private, shall meet the following requirements:

5-3-1 Size. A required off-street parking space shall be striped and provide a rectangular parking area at least eight and one-half (8 ½) feet in width and at least eighteen (18) feet in length (regardless of the angle of the space to the access aisle). The parking space shall have a vertical clearance of at least seven (7) feet.

5-3-2 Parking Layout.

- (a) The layout of parking spaces may be arranged parallel, perpendicular, or diagonal to the aisles. Minimum standards for aisle widths is one-way, twelve (12) feet; two-way, twenty-four (24) feet.
- (b) If a development includes a drive-in window or pick-up station, the driveway or stacking lane for such addition shall be at least ten (10) feet wide.

5-3-3 Improvement and Maintenance. All off-street parking areas intending to serve commercial uses, including ingress and egress, shall be graded to ensure proper drainage, surfaced with concrete, asphaltic material, or porous pavers (See Section 5-4-4) and maintained in a clean, orderly condition.

- (a) **Bumper Guards.** If bumper guards are placed on the edge of the property line adjacent to a sidewalk or right-of-way, the bumper guards must be arranged so that the bumper of each car will not extend over the sidewalk or right-of way.
- (b) **Marking.** Each off-street parking space shall be painted with stripes, not less than three (3) inches wide, running the length of each of the longer sides of the space or by other acceptable methods which clearly delineate the parking space within the parking lot.
- (c) **Fire Lanes.** Fire lanes shall be clearly striped and constructed to Fire Department standards.

5-3-4 Landscaping Standards. The owners of parking lots are required to landscape with trees and shrubs to reduce the visual impact of glare, headlights, and parking lot lights from the public right-of-way and from adjoining properties. See City of Dalton Landscaping Ordinance for additional requirements for parking lots within the city of Dalton.

5-3-5 Residential Parking. All parking areas serving single-family detached or attached dwellings shall conform to the following additional requirements:

- (a) If garages or carports are converted to living area, then the off-street parking requirements must be met elsewhere on the lot.
- (b) At no time shall such parked or stored camping and recreational vehicles be occupied or used for living, sleeping, or housekeeping purposes.
- (c) No commercial vehicle as licensed by the State with gross vehicle weight (GVW) exceeding eleven thousand (11,000) pounds or which shall have three (3) or more axles shall be allowed to park in the R-1, R-2, R-3, R-4, R-5, R-6, or R-7 residential zone districts.
- (d) Commercial vehicles, licensed by the State, buses, and recreational vehicles shall not be allowed to park overnight on the street in a residential district, but shall be permitted to park temporarily to make delivery or pickup of goods or to perform work at the residence.

5-4 Off-Street Parking Requirements for Uses. The minimum number of required off-street parking spaces for each use is provided in Chart 5-4. For uses not specifically listed, the off-street parking requirements shall be those of the most similar use. Gross leasable area (GLA) is the total building floor area in square feet that an owner may lease. Gross floor area (GFA) is the sum of the areas of several floors of a building, including all areas for human occupancy, as measured from the interior faces of the walls, but excluding unenclosed porches, interior parking spaces, or any space where the floor to ceiling height is less than six (6) feet, six (6) inches.

5-4-1 Computation. When determination of the number of off-street parking spaces required by this Ordinance results in a requirement of a fractional space, any fraction in excess of one-half shall be counted as one (1) parking space.

5-4-2 Handicapped Parking. Parking for the handicapped within a multi-family or non-residential district shall be provided at a size, number, and location according to the requirements of the Georgia Handicapped Accessibility Code.

5-4-3 In lieu of the specific standards shown in Chart 5-4, a detailed parking study that evaluates site-specific circumstances and demand or off-site parking relative to any uses or combination of uses, may be required in the discretion of the Building Inspector.

5-4-4 In lieu of the specific standards shown in Chart 5-4, a ten percent (10%) reduction in the total required minimum number of parking spaces may be allowed at the discretion of the Chief Building Official if presented with a detailed parking study that evaluates site-specific circumstances and demand or documented evidence relative to the uses or combination of uses that are proposed on-site. The Board of Zoning Appeals shall determine the standards beyond the discretion of the Chief Building Official.

CHART 5-4

Table: Minimum Parking Spaces Required by Use		
Use	Minimum Number of Parking Spaces:	Required for Each:
a. RESIDENTIAL		
1. Single-Family Residence	2	Dwelling Unit
2. Two-Family Residence	2	Dwelling Unit
3. Multi-Family Residence:		
(a) Efficiency apartment	1	Dwelling Unit
(b) 1-bedroom unit or larger	1.5	Dwelling Unit
(c) Manufactured Home Park	2	Per Unit
4. Retirement Community	1	Dwelling Unit
5. Nursing Homes, Personal Care Homes, Fraternity or Sorority Houses	1	Each 2 residents or beds
6. Bed & Breakfast, Rooming House, Boarding House	1 2	Room to be rented, plus Dwelling Unit
7. Hotel or Motel:		
(a) Convention hotel, or a motel with a restaurant or lounge.	1½	Room
(b) Non-convention hotel or a motel with no restaurant	1	Room
b. COMMERCIAL		
1. Offices: general and professional offices, insurance and real estate offices	3½	1,000 sf ¹ of GFA ²

1 Square feet.

2 GFA—Gross floor area as defined in this Article.

Table: Minimum Parking Spaces Required by Use		
Use	Minimum Number of Parking Spaces:	Required for Each:
2. Banks	3½	1,000 sf of GFA
3. Offices - Medical & Dental	5	1,000 sf of GFA
4. Funeral Home	20	Viewing Room
5. Daycare Center	1	400 sf of GFA
6. Movie Theater	1	4 Seats
7. Service Station, Gas Station, Auto Repair Shop or Garage	3 5	Service bay, plus 1,000 sf of retail space
8. Automobile, Truck, Recreation Vehicle, Manufactured Home or Utility Structure Sales	2 1 3	1,000 sf of indoor sales area, plus 2,500 sf of outdoor display, plus Service bay
9. Custom Service Restaurant:3 (a) Quality restaurant (b) Family Restaurant	16 9½	1,000 sf of GFA 1,000 sf of GFA
10. Fast Food Restaurant	14	1,000 sf of GFA
11. Bowling Center	4	Lane
12. Amusement Parlor, Recreational Attraction, Roller Skating or Ice Skating Rink	5	1,000 sf of GFA
13. Health Club or Fitness Center	4½	1,000 sf of GFA
14. Shopping Centers		
(a) Less than 100,000 sf of GLA ⁴	4 3 10	1,000 sf of total GLA, plus 100 movie theater seats, plus 1,000 sf of food service area
(b) 100,000-199,999 sf of GLA	4 3 6	1,000 sf of total GLA, plus 100 theater seats over 450, plus 1,000 sf of food service area
(c) 200,000-399,999 sf of GLA	4 3	1,000 sf of total GLA, plus 100 theater seats over 750
(d) 400,000-599,000 sf of GLA	4½ 3	1,000 sf of total GLA, plus 100 theater seats over 750
(e) 600,000 or more sf of GLA	5 3	1,000 sf of total GLA, plus 100 theater seats over 750
15. Supermarket	5	1,000 sf of GFA
16. Furniture or Carpet Store	1	1,000 sf of GFA

3 As defined in this Article.

4 GLA—Gross leasable area as defined in this Article.

Table: Minimum Parking Spaces Required by Use		
Use	Minimum Number of Parking Spaces:	Required for Each:
17. Building Supplies, Brick or Lumber Yard	2 1	1,000 sf of indoor sales area, plus 2,500 sf of outdoor display
18. Retail Sales or Service establishments not listed above	5	1,000 sf of GFA
c. INDUSTRIAL AND MANUFACTURING		
1. Wholesale, Office-Warehouse	1 1	200 sf of office space, plus 1,000 sf of storage area
2. Open storage of sand, gravel, petroleum, etc.	1	2,500 sf of outdoor sales area, if any
3. Warehouse, Transfer and Storage	1	600 sf of GFA
4. Warehouse including commercial sales to the public	1 1	200 sf of sales or office, plus 1,000 sf of storage area
5. Manufacturing	2½	1,000 sf of GFA
d. INSTITUTIONAL AND OTHER		
1. Hospital	1.8	Bed
2. Auditoriums, churches, theatres, stadiums, private clubs, fraternal lodges and other places of assembly	1 1 1	4 seats in the largest assembly room, or 12 feet of pew in the largest assembly room, or 100 sf in the largest assembly room
3. College (instructional space)	10	Classroom
4. Technical College, Trade School	10	Classroom
5. Senior High Schools	6	Classroom
6. Elementary & Jr. High Schools	2	Classroom
7. Library or museum	2	1,000 sf of GFA

5-5 General Regulations for Off-Street Loading/Unloading.

(a) Off-street truck loading; where required.

Areas proposed for loading and unloading motor vehicles in off-street locations shall be provided at the time of the initial construction of any building or structure used or arranged to be used for commercial, industrial, hospital, institutional, hotel/motel or multifamily residential purposes in any zoning district. Such off-street loading areas shall have access to a public alley or street and shall be provided and maintained in accordance with the following requirements, the computation of which shall not be included in the off-street parking requirements.

- (1) Loading spaces provided. Any such business or use shall provide adequate off-street facilities for the loading and unloading of merchandise, supplies, goods, freight, provisions or furnishings within or adjacent to the building as deemed appropriate by the owner or occupants of the property. Such loading facilities, if provided, shall not obstruct freedom of vehicular traffic or pedestrian movement on the public streets and sidewalks.
- (2) Location of off-street loading areas. Off-street loading and unloading areas shall in all cases be located on the same lot or parcel of land as the structure they are intended to serve. In no case shall the off-street loading space be considered as part of the area provided to satisfy off-street parking requirements as listed herein.
- (3) Adequacy of loading area. All such uses shall provide off-street loading areas sufficient for their requirements. Such space shall be adequate if no vehicle being loaded or unloaded in connection with normal operations shall stand in or project into a public street, walk, alley or way.

(b) Setback requirements; loading areas.

- (1) Off-street truck loading areas shall be set back from the front property line by at least 10 feet. An additional 10-foot setback from any buffer required along a side or rear property line shall also be maintained.
- (2) The required setback area between the front property line and the truck loading area shall be used for landscaping and/or screening as referenced in Section 5-3-4.

(c) Truck loading on public streets restricted.

The loading or unloading of business merchandise, supplies, goods or freight within a street right-of-way is prohibited in all zoning districts.

5-6 Driveway Regulations.

- 5-6-1 **Frontage and Boundaries.** The frontage of any parcel of property adjacent to a public highway shall be considered to be confined between lines drawn from the intersection of the property lines with the right-of-way lines of the highway, to the roadway surface or the curbing, if any, and perpendicular to the axis of the highway; or if the axis is a curve, to the center of curvature, or a combination of the two. Those lines shall be known as boundaries.
- 5-6-2 **Five-Foot Reserve.** No entrance or exit shall be so constructed that any part of such entrance or exit shall be less than five (5) feet from the boundaries, as defined in Section 5-6-1, except for returns which may extend to and become tangent at the boundary line but shall not extend beyond same. For the purposes of topography and/or public safety, the Zoning Administrator or Chief Building Official may consider and authorize the shared driveways on a common property line.
- 5-6-3 **Number of Driveways Authorized.** No more than two (2) combined entrances and exits shall be allowed to any parcel the frontage of which is less than two hundred (200) feet. Additional entrances or exits for parcels of property having a frontage in excess of two hundred (200) feet shall be permitted only after showing actual requirements of convenience and necessity. When frontage is fifty (50) feet or less, only one combined entrance-exit is permitted, the width of which shall not exceed the frontage.
- 5-6-4 **Driveway Design.** (1) **Width:** The width of any entrance or combined entrance-exit driveway shall not exceed fifty (50) feet measured parallel with the roadway or, if roadway is on a curve, parallel with the tangent of the curve at the point where the center line of the driveway intersects the curb, or edge of pavement where curb does not exist. (2) **Angle:** The angle of driveways shall not be less than forty-five (45) degrees with the edge of the road or street except on divided highways the entrance angle to roadside commercial establishments may be reduced to thirty (30) degrees. Exit drives from roadside commercial establishments on divided highways shall have an angle of not less than sixty (60) degrees with the roadway.
- 5-6-5 **Sight Distance.** No portion of an entrance or exit drive shall enter the right-of-way at a point less than twenty-five (25) feet from the intersection of the right-of-way lines or street property lines.

Article VI - Towers and Antennae

6-1 Purposes. The purposes of this Article shall be:

6-1-1 To provide for the appropriate location and development of tower facilities in such locations which promote public safety and general welfare and serve the residents and businesses of Whitfield County, while complying with the federal Telecommunications Act of 1996.

6-1-2 To minimize, through proper siting, screening, and design the potential for visual blight and incompatibility and the proliferation of towers and antennae.

6-1-3 To promote tower safety through proper engineering and siting.

6-1-4 To promote and maximize the shared-use or co-location of new and existing towers.

6-1-5 To encourage the use of existing structures for antenna locations as an alternative to the development of additional single use towers.

6-1-6 To accommodate the increased demand for tower facility development.

6-2 Definitions. For the purposes of this Article, the following specific terms shall be defined as follows:

Alternative Tower Structures: Shall mean man-made structures such as clock towers, bell towers, church steeples, water towers, light poles, man-made trees, existing conforming towers, warehouses, factories, commercial buildings, multi-family buildings fifty (50) feet or more in height and publicly-used structures, such as police and fire stations, libraries, community centers, civic centers, utilities structures, elevated roadways, bridges, flag poles, schools, hospitals, and other structures which can, from the stand point of structural integrity and engineering safety, be used for the mounting of antennae or serving a similar function as a tower, as defined hereinbelow.

Antenna: Shall mean any exterior apparatus designed for the sending and/or receiving of electromagnetic waves.

FAA: Shall mean the Federal Aviation Administration.

FCC: Shall mean the Federal Communications Commission.

Guy Tower: Shall mean a tower supported, in whole or in part, by guy wire(s) and ground anchors.

Height: Shall mean the vertical distance of any tower as measured from the bottom of the base of the tower at ground level to the highest point of such tower.

Lattice Tower: Shall mean a telecommunications tower not exceeding three hundred fifty (350) feet in height and having open-framed supports on three or four sides and constructed without guy wires and ground anchors.

Monopole Tower: Shall mean a telecommunications tower not exceeding two hundred fifty (250) feet in height and constructed of a single pole, without guy wire(s) or ground anchors.

Preexisting Towers and Antennas: Shall mean any conforming, pre-existing tower or antenna for which a permit has been properly issued prior to the effective date of this Article. Any non-conforming, pre-existing tower or antenna which sustains a casualty equaling fifty percent (50%) or more of its value shall not be reconstructed or restored unless otherwise in conformity with this Article.

Tower: Shall mean any vertical structure which is designed and constructed primarily for the purpose of supporting one (1) or more antennae, including self-supporting lattice towers, guy towers, or monopole towers. This general term includes radio, television, microwave, common carrier, P.C.S., analog, digital, cellular telephone, alternative tower structures, and the like.

6-3 Review Process: Exempt from further review or Special Use Review

6-3-1 Towers in the C-1, C-2, C-4, M-1, and M-2 Zone designations, which otherwise meet the General Requirements set forth hereunder and which additionally meet the following specific conditions are a permitted use hereunder and may apply directly to the Zoning Administration for a permit, pursuant to Section 6-6:

- (a) In addition to the setback requirements for all towers as set forth in Section 6-5-10, the proposed tower shall not be within two hundred (200) feet of any dwelling, regardless of the zoning district in which any such dwelling may be located.
- (b) With respect to the construction of a monopole tower, the proposed tower facility shall contain at least two-thousand five hundred (2,500) square feet of ground area available at the tower base, so as to accommodate up to three (3) maintenance/operation structures. With respect to the construction of either a guy tower or lattice tower, the proposed tower facility shall contain at least six thousand (6,000) square feet of ground area available at the tower base, so as to accommodate up to three (3) maintenance/operation structures.
- (c) Any person or entity proposing to co-locate an antenna upon a pre-existing tower or either an antenna or tower upon an alternative

tower structure, except where such alternative tower structure is itself a non-conforming use pursuant to its zoning classification, may apply directly to the Zoning Administrator for a permit.

6-3-2 Government Owned Property. Any person or entity proposing to locate a tower upon a lot or parcel owned, leased, or otherwise controlled by Whitfield County, the City of Dalton, the City of Varnell, or any other unit of local government, or which is owned and operated for the sole purpose of municipal use, in the pursuit of the general public safety and public welfare, may apply directly to the Whitfield County Engineer for a permit regardless of the zoning of such lot or parcel. Any unit of local government desiring to erect a tower upon its own property for its own governmental purposes need not apply to the Whitfield County Engineer or his or designee for a permit, but shall ensure that all applicable building or other safety codes are met.

6-3-3 Towers Under Seventy Feet in Height. Any person or entity proposing to locate a tower or antenna less than seventy (70) feet in height, which is owned and operated by and for an amateur radio operator and licensed by the FCC, may apply directly to the Whitfield County Engineer or his or designee for a permit.

6-4 Review Process: Required Special Use Review

6-4-1 Towers in the GA, SA, R-1, R-2, R-3, R-4, R-5, R-6 and R-7 Zone designations and those in the C-1, C-1A, C-2, C-3, C-4, M-1, and M-2 Zone designations which do not meet those conditions set forth in Section 6-3 above are allowed only pursuant to Special Use approval.

6-4-2 Towers proposed to locate upon any alternative tower structure which is a non-conforming use are allowed only pursuant to Special Use approval.

6-5 General Requirements. The location and construction of towers governed by this Article shall comply with the following general requirements:

6-5-1 Construction/Inspections. Towers shall be constructed and maintained in compliance with applicable building codes, industry standards, and standards for towers published by the Electronic Industries Association, as amended.

- (a) Tower owners shall conduct and be solely responsible for periodic written inspections of such towers at least every twelve (12) months to ensure structural integrity. Such inspections shall be conducted by a structural engineer with a current license issued by the State of Georgia. The results of such inspection shall be submitted to the Whitfield County Engineer or his or designee and shall be maintained by the tower owner(s) and available for public review upon request.

- (b) If, upon a review of the results of such inspections or upon physical inspection, the Whitfield County Engineer or his or designee concludes that a tower fails to comply with such codes and standards and poses a danger to persons or property, then upon written notice thereof to the owner, the owner shall have thirty (30) days to bring such tower into compliance. Should the owner fail to bring the tower into compliance within thirty (30) days, Whitfield County may remove such tower at the owner's expense pursuant to **OCGA §41-2-8** through **§41-2-12**.

- 6-5-2 **Regulatory Compliance.** Tower owners shall provide documentation showing that each tower is in compliance with standards and regulations of the FAA, the FCC, and any other agency of the state or federal government with the authority to regulate towers and antennae. Such evidence of compliance, which may consist of a certification by the tower owner, shall be submitted to the Building Inspector at least every twelve (12) months. If such standards and regulations are changed, then the owner(s) of the towers and antennae governed by this Article shall bring such tower or antennae into compliance with such revised standards and regulations as mandated by the controlling agency.
- 6-5-3 **Security.** All towers, except alternative tower structures, shall be enclosed by decay-resistant security fencing not less than six (6) feet in height and shall be equipped with an anti-climbing device.
- 6-5-4 **Advertising.** Except for the owner's identifying name plate, including emergency telephone number(s), to be located upon the gate or security fence surrounding the tower base, advertising on towers shall be prohibited.
- 6-5-5 **Tower Lighting.** Illumination is prohibited on towers, except where required by the FCC or FAA, as necessary for air traffic safety. When illumination is required, documentation shall be provided to the Building Inspector identifying the type of illumination required and any available alternatives. The Building Inspector may review alternative permissible illumination and may mandate the design causing the least disturbance to the surrounding uses and views.
- 6-5-6 **Access.** Access for maintenance vehicles shall be the right of way which would most minimize interference with public traffic. Proposed sites which lack frontage on a public or private road shall provide an easement at least twenty-five (25) feet wide with at least twelve (12) feet graveled or paved travel way.
- 6-5-7 **Hazardous/Volatile Substances.** Use of a lot by a tower shall be prohibited when another principal use, on the same lot, includes the

storage, distribution, or sale of volatile, flammable, explosive or hazardous materials such as propane, gasoline, natural gas, dangerous chemicals, or hazardous waste when such materials are not part of an emergency power source for the tower facilities.

6-5-8 **Maintenance/Operation Structures.** Maintenance/Operation structures adjacent to any tower facility area shall be used only to house equipment and other supplies directly in support of the tower. Such structures shall not be used for offices, vehicle storage or for any continuous human occupation. Any equipment not used in direct support of a tower site shall not be stored on the site.

6-5-9 **Historic Sites.** Tower facilities shall not be attached to or mounted to historically significant buildings, structures, or places identified by placement upon the National Register of Historic Places, by designation as a State Historical site, by designation by the Governing Authority, by designation by the Whitfield-Murray County Historical Society as a historic site, or as part of a locally-designated historic district.

6-5-10 **Setbacks and Separations.** All towers shall comply with the following standards, except that existing alternative tower structures are exempt from the minimum setback and separation requirements of this section; provided, however, that such alternative tower structure must be a conforming use within the zoning district in which it is located for this setback exemption to apply as of right.

(a) All Towers, regardless of the zoning district in which such tower is proposed to be located, shall set back at least a distance equal to the height of the tower plus fifteen (15) feet or two hundred (200) total feet, whichever is less, from any dwelling, GA, SA, R-1, R-2, R-3, R-4, R-5, R-6, or R7 zoning district line, or public property, regardless of whether such distance shall cross any public or private right-of-way or roadway. This requirement shall be in addition to but concurrent with all other setbacks required by the zoning district in which a proposed tower is to be located.

(b) All towers and maintenance/operation structures (including guy wires) shall comply with the setbacks as required by the zoning district in which the tower is to be located.

6-6 **Buffering Tower Sites.**

6-6-1 Tower sites shall be landscaped with a buffer of plant materials such that the view of the base of the tower is screened from any public rights-of-way, public property, and any GA, SA, R-1, R-2, R-3, R-4, R-5, R-6, or R-7 zoned property.

6-6-2 In locations where the visual impact of the tower would be minimal, this landscaping requirement may be reduced or waived altogether by the Board of Zoning Appeals.

6-6-3 Existing mature growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as when towers are sited upon large, wooded lots, natural growth around the perimeter of the property may be sufficient if so determined by the Board of Zoning Appeals.

6-6-4 In buffer construction, native vegetation shall be preserved to the fullest extent possible.

6-7 Visual Impact.

6-7-1 Towers shall maintain a galvanized matte steel finish or be painted a neutral, earth-toned color, unless otherwise required by the FAA.

6-7-2 The design of maintenance/operation buildings and/or accessory structures at the tower site shall use materials, colors, textures, screening, and landscaping which create the greatest level of compatibility with the natural environment and existing land use patterns.

6-7-3 Antennae installed on an alternative tower structure and supporting electrical and mechanical equipment shall be of a neutral color which is similar to or complements the color of the alternative tower structure.

6-7-4 Tower antennae shall be designed to be visually compatible with the exterior of the alternative tower structure to which they are to be attached.

6-8 Shared Use/Co-location. New tower sites may not be permitted if there is technically and commercially reasonable space available for shared use/co-location on a conforming pre-existing tower.

6-8-1 The application for a permit to develop a tower shall demonstrate that no existing tower or alternative tower structure can accommodate the proposed antenna. Evidence submitted to demonstrate that no existing tower or alternative tower structure can accommodate the proposed antenna shall consist of the following:

(a) Certification that no existing tower or alternative tower structures are located within the geographic area necessary to meet the applicant's engineering requirements.

(b) Certification that existing tower or alternative tower structures have insufficient height and cannot be modified to accommodate the applicant's engineering requirements.

- (c) Certification that existing tower or alternative tower structures do not have sufficient integrity or strength and cannot be modified to support the proposed antenna and related equipment.
- (d) Certification that the proposed antenna would cause interference with the antenna on the existing tower or alternative tower structure, or that the antenna on the existing tower or alternative tower structure would cause interference with the applicant's proposed antenna.
- (e) Certification that the fees, costs, or contractual provisions required by the owner in order to share an existing tower or alternative tower structure or to adapt an existing tower or alternative tower structure for sharing unreasonably exceed market costs.
- (f) The applicant demonstrates that there are other objective limitations which render existing towers unsuitable.

6-8-2 Permit applicants for towers shall certify and demonstrate their intent to allow the shared use of such facilities with other tower apparatus which does not interfere with the primary purpose of the tower or such applicant shall document that the reserved space on the tower is to fulfill the owner's future needs. All applicants shall identify how the applicant will make available such shared use/co-location.

6-9 **Application Procedures.** Application for a permit for any tower, antenna, or use of an alternative tower structure shall be made to the Zoning Administrator. All applicants, whether exempt from further review or whether Special Use approval is necessary hereunder, shall complete an application in accordance with this section. If the permit application is not exempt from further review and if Special Use approval is required, the permit application and Special Use application shall be forwarded to the Planning Commission and, thereafter, to the Governing Authority for Special Use review. If the Special Use is approved, the permit application may then be presented to the Chief Building Official for review. Incomplete applications shall not be considered. A complete permit application shall contain, in addition to the information contained upon every application for a building permit in Whitfield County, the following information specifically relating to towers:

6-9-1 **Inventory of Existing Towers.** An inventory of the applicant's existing towers which are either within Whitfield County, including all municipal corporations located therein and including areas within one-half (1/2) mile of the border thereof, including the specific locations, heights, and designs of each such tower.

6-9-2 A description of the proposed tower's area of service.

- 6-9-3 Photo simulations or renderings of the proposed tower illustrating the potential visual impact, for Special Use review only. For towers exempt from further review, this Section shall be satisfied by photos or drawings of similar towers.
- 6-9-4 A site plan or plans to scale specifying the proposed location and dimensions of tower(s,) size of maintenance/operation buildings or uses, access, parking, fences, landscape plans, existing and adjacent land uses.
- 6-9-5 A site plan for alternative tower structures shall show adjacent rights-of-way, buildings, and structures, including the structure=s height and dimensions, proposed antenna location on the structure or building and adjacent land uses.
- 6-9-6 A report from a Professional Engineer, currently licensed in Georgia, documenting the following information:
- (a) Tower height and design, including technical, engineering, economic, and other pertinent data and/or factors governing the proposed tower design.
 - (b) Total anticipated capacity of the structure, including number and types of antennae which can be accommodated.
 - (c) Evidence of structural integrity of the tower structure.
 - (d) Failure characteristics of the tower and demonstration that the site, setbacks, and separation from other uses are of adequate size or distance to protect the safety of the general public and of all nearby landowners.
- 6-9-7 A written statement from the owner of the tower certifying that the proposed tower site complies with regulations administered by the FAA and FCC, or stating that the tower is exempted from these regulations.
- 6-9-8 Evidence of compliance with the co-location requirements set forth herein.
- 6-9-9 If the proposed tower is to be located upon property owned by any unit of local government pursuant to Section 6-3-2, then the applicant shall file either a copy of the lease agreement or other written certification or agreement from such unit of local government that such applicant has the permission of the land owner for the proposed tower facility project.
- 6-9-10 Any additional information which may be reasonably requested by the Whitfield County Engineer, Chief Building Official, Zoning Administrator, Planning Commission, or Governing Authority, in order to evaluate fully

and to review the proposed tower site and the potential impact of a proposed tower and/or antenna.

- 6-10 **Abandoned Towers.** Any tower found to be abandoned and not in compliance with these regulations, or found to constitute a danger to persons or property, shall, upon written notice by the Whitfield County Engineer or his or her designee to the owner(s) of such tower, be brought into compliance or removed within thirty (30) days. Any tower or antenna not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower or antenna shall remove the same within thirty (30) days of receipt of written notice.

Article VII - Home Occupations

7-1 Purpose and Intent of Article. It is the purpose and intent of this Article:

7-1-1 To protect residential areas from the potentially adverse effects of commercial activities associated with home occupations;

7-1-2 To allow residents the reasonable opportunity to use their dwelling for the production of or supplementation of family income;

7-1-3 To establish performance criteria and development standards for home occupations.

7-2 Performance Criteria. Home occupations shall be allowed only if:

7-2-1 Incidental to the use of the premises as a dwelling;

7-2-2 Compatible with residential use;

7-2-3 No exterior alterations which affect the residential character of the property are necessary.

7-2-4 The use is limited in extent.

7-3 Standards. In addition to the requirements of the definition of Home Occupation set forth in Article II of this Ordinance, the following standards shall apply to all proposed home occupations:

7-3-1 Home occupations shall not include the employment of any person not otherwise residing upon the premises;

7-3-2 All retail sales upon the premises shall be prohibited, except for products or goods fabricated or produced at the premises as a result of the home occupation;

7-3-3 All home occupations shall be conducted within the enclosed living area, including basement, if any, of the dwelling provided that no more than twenty-five percent (25%) of the total enclosed square footage of the dwelling may be used in furtherance of a home occupation;

7-3-4 No products, materials, equipment, fixtures, or machinery fabricated or used in the home occupation may be visible from the exterior of the dwelling;

7-3-5 No alteration of the residential appearance of the dwelling shall occur;

- 7-3-6 No entrance to the dwelling shall be used exclusively for the home occupation;
- 7-3-7 No increased traffic flow or increased on or off-street parking shall occur;
- 7-3-8 No hazardous or other materials or equipment adverse to the public health, welfare, safety shall be used in the home occupation;
- 7-3-9 No increased noise, glare, vibration, fumes, odors, or electrical interference shall occur;
- 7-3-10 Not more than one (1) non-commercially licensed or titled vehicle with a carrying capacity of no more than one (1) ton shall be used in the home occupation. No commercially licensed or titled vehicles shall be used in the home occupation.
- 7-4 **No Permit Required; Enforcement.** No permit is required to establish a home occupation. Enforcement of compliance with the criteria and standards set forth herein shall be by the Zoning Administrator.

Article VIII -- Buffers

8-1 Buffer Requirement. A buffer, as specified herein below, shall be required when a proposed development abuts property in a less intense zone district, unless the adjacent zone district is already developed with uses similar to the proposed uses. Refer to the following table for the required buffer:

	DISTRICTS REQUIRED TO BUFFER										
	R-6	R-7	PUD	MU	C-1A	C-1	C-2	C-3	C-4	M-1	M-2
<i>Abutting District</i>	Width of Required Buffer										
GA	15'	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
SA	15'	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
R-1	15'	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
R-2	15'	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
R-3	15'	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
R-4	15'	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
R-5	None	15'	TBD	TBD	15'	20'	20'	20'	20'	30'	30'
R-6	None	None	TBD	TBD	15'	15'	15'	15'	15'	30'	30'
R-7	None	None	TBD	TBD	15'	15'	15'	15'	15'	30'	30'
PUD	None	None	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
MU	None	None	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD	TBD
C-1A	None	None	TBD	TBD	None	None	None	None	None	None	None
C-1	None	None	TBD	TBD	None	None	None	None	None	None	None
C-2	None	None	TBD	TBD	None	None	None	None	None	None	None
C-3	None	None	TBD	TBD	None	None	None	None	None	None	None
C-4	None	None	TBD	TBD	None	None	None	None	None	None	None
M-1	None	None	TBD	TBD	None	None	None	None	None	None	None
M-2	None	None	TBD	TBD	None	None	None	None	None	None	None

TBD – To be determined by the applicable governing body during the Special Use review approval process.

8-1-1 Buffers shall be located within and along the outer perimeter of a lot or parcel along the side and/or rear lot lines. Buffers shall not be located upon any portion of existing, dedicated, or reserved public or private road right-of-way.

8-1-2 No building permit shall issue for any lot or parcel development requiring a buffer until such time as that buffer, as specified herein, shall be

substantially in place or until acceptable surety for the cost of the buffer installation shall be provided to the Building Inspector. Acceptable surety shall consist either of an irrevocable letter of credit from an approved lending institution or a performance bond from an approved insurer in an amount not less than fifteen dollars (\$15.00) per linear foot of area to be buffered. The required buffer must be completed and in place within thirty (30) days before any such surety shall lapse or within six (6) months of the issuance of the building permit, whichever shall occur sooner.

- 8-1-3 If the required buffer shall not be completed and in place as set forth herein, then, in such circumstance, the Zoning Administrator or designee shall have authority to go upon such areas of the subject parcel as reasonable and necessary to construct the required buffer, utilizing the surety previously provided. The Governing Authority shall not be liable for such action unless the Zoning Administrator or his or her designee shall act with gross negligence in coming upon and/or damaging such parcel.
- 8-2 **Passive Use.** A buffer may be used for some forms of passive recreation such as pedestrian, bicycle, or equestrian trails; or a buffer may be used to locate a stormwater retention area provided that:
- 8-2-1 No planted materials shall be eliminated.
- 8-2-2 The total width of the buffer shall be maintained.
- 8-2-3 A buffer shall not be used for any active recreational use such as playfields, stables, swimming pools and tennis courts.
- 8-3 **More Intense Use Must Provide Buffer.** When adjoining properties are zoned in dissimilar use districts, the property within the more intensive use district shall be required to provide the buffer. However, when adjoining vacant parcels are in dissimilar use districts, no buffer is required when the parcel zoned for the less intensive use seeks a building permit.
- 8-4 **General Buffer Design.** All buffers required by this Article shall conform to the following specifications:
- 8-4-1 Prior to development, a buffer plan shall be required to show the types and locations of all screening devices within a required buffer. If a site development plan is required, a buffer plan may be incorporated as part of the site development plan.
- 8-4-2 Landscaping within buffer areas shall be used to screen objectionable views or nuisances, such as parking and service areas, refuse containers, air conditioning units and transformers. Existing on-site plantings may be credited as landscaped open space meeting the requirements of this section if such plant materials achieve the purposes of this section.

8-5 Zoning Buffer Standards.

8-5-1 General.

- (a) Buffer areas shall contain no driveways, access easements, parking areas, patios, storm water detention facilities, or any other structures or accessory uses except for a fence, wall or earthen berm constructed to provide the visual screening required to meet the standards of this Article.
- (b) Underground utilities including closed storm drains may be permitted to cross perpendicular to a buffer if the screening standards of this Article will be subsequently achieved.
- (c) Vehicular access through a buffer may be allowed only as a condition of rezoning, Special Use or Planned Unit Development zoning approval by the Governing Authority.

8-5-2 Minimum required screening.

A required zoning buffer must create a barrier that substantially blocks the sight lines, noise transmission, and the transfer of artificial light and reflected light up to a height of not less than six (6) feet at the property line (or such greater height as required by conditions of zoning approval on a particular property).

8-5-3 Natural buffers.

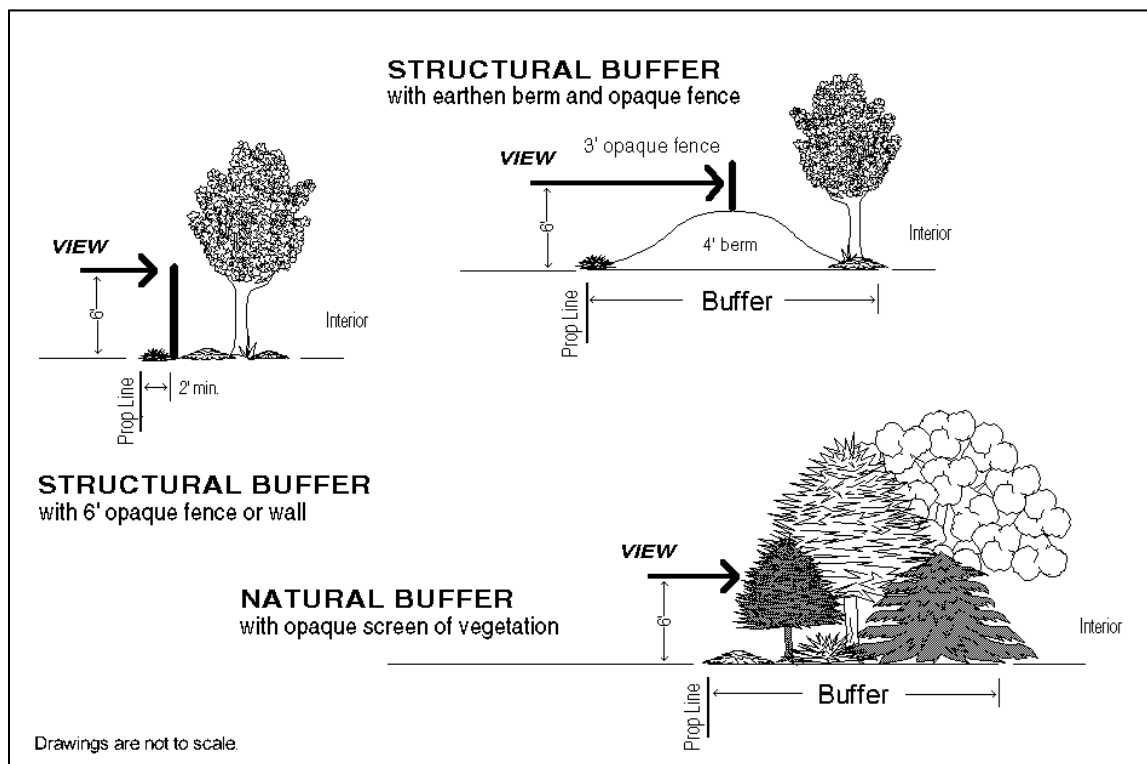
Natural buffers shall be composed of healthy plants with growth characteristics to produce a dense, compact visual screen not less than six (6) feet in height. Natural buffers may contain deciduous or perennial vegetation, but shall contain existing or planted evergreen shrubs and trees suitable to local growing conditions that will provide an opaque visual screen during all seasons of the year.

8-5-4 Structural buffers.

A structural buffer shall provide a continuous visual screen throughout its entire length, and may consist of any combination of the following, as approved by the Zoning Administrator: Opaque fencing constructed of cedar, redwood, treated and stained or painted wood, vinyl replicating wood, or other suitable all-weather material; masonry walls of brick or stone; concrete block walls treated with a decorative finish; planted or natural vegetation; or earthen berms. Structural buffers shall meet the following criteria:

- (a) Structural buffers shall be vegetated throughout the minimum area required for the buffer around any fences or walls and upon any earthen berms, which may include ground covers, shrubs and trees, and areas that are mulched.

- (b) All earthen berms shall have a maximum side slope of fifty percent (50 %) (one (1) foot of vertical rise to two (2) feet of horizontal run.) Earthen berms shall not be constructed within the drip line of any existing trees that will remain on the property; new trees that overhang the berm may be planted after the berm is constructed.
- (c) Trees shall be located or planted within any structural buffer at a density of not less than one tree for each twenty-five (25) feet of buffer length or portion thereof (or every thirty-five (35) feet for shade trees). New deciduous trees shall have a caliper of not less than two (2) inches upon planting, and new evergreens shall be at least six (6) feet tall when planted. Trees may be clustered following professional landscaping standards for spacing, location and design
- (d) Fences and freestanding walls shall present a finished and decorative appearance to the abutting property, and shall be located not closer to the property line than two (2) feet. Shrubs, ground covers, or other vegetation shall be provided between the fence or wall and the property line so as to provide a decorative effect, following professional landscaping standards for spacing, location and design.
- (e) Examples of buffers are shown in the following illustration:



8-6 Maintenance of buffers. Every buffer required under this Article shall be maintained by the owner of the property where the buffer is located, so as to

provide an opaque visual screen to a height of six (6) feet on a continuous, year-round basis. Dead or dying plants or trees must be replaced immediately with the same or an equivalent species.

8-7 **Reduction for unnecessary buffers.** The Governing Authority may reduce a zoning buffer requirement to a temporarily appropriate level of screening if the Comprehensive Plan anticipates future development on the adjoining property in a land use category such that a zoning buffer would not be required or may be reduced by this Ordinance once the adjoining property is rezoned or developed. Such determination shall be based upon the Future Development Map in the Comprehensive Plan, surrounding land use and zoning patterns, and the propriety of a future zoning change on the adjoining property.

8-8 **Variations.** The requirements of this Article may be altered, amended, or waived by the Board of Zoning Appeals, depending upon circumstances, if it is shown by clear and convincing evidence either that the existing topography and/or vegetation will achieve the purposes of the Article or that, because of the topography, no required screening device could screen the ground level activities of the more intense use from the ground level activities of the abutting less intense use.

Article IX - Non-Conforming Use, Structure, or Lot

- 9-1 Any use of land legally established at the time of enactment or subsequent amendment of this Ordinance, which would not be permitted as a new use in the zone district in which it is located, or any structure or accessory structure which is legally established at the time of enactment or subsequent amendment of this Ordinance and is not built in conformity with the current requirements of this Ordinance, or any lot of record whose area, frontage, width or other dimensions, or location which no longer meets or exceeds one or more such requirements of the applicable zoning district, may be continued pursuant to compliance with all of the following limitations:
- 9-1-1 A non-conforming use may not be changed, altered, or amended to any other non-conforming use.
- 9-1-2 A non-conforming use may not be re-established after discontinuance of such use for a period of twelve (12) months.
- 9-1-3 A non-conforming use, structure, or accessory structure may not be enlarged beyond its size at the time it shall become non-conforming, nor shall the intensity of the use therein increase. This provision shall include, but shall not be limited to, the size of the building, the use of additional land, or the use of additional or more powerful equipment. Approval for such expansion of a non-conforming use shall require a successful rezoning of the lot or parcel in order to bring such use or parcel into compliance with this Ordinance. This provision shall not apply to any residential addition onto an existing non-conforming single family dwelling, provided such addition does not further encroach upon the required setback area. This provision also shall not apply to the replacement of an existing, non-conforming mobile or manufactured home used for residential purposes with another manufactured home, with the same or fewer bedrooms.
- 9-1-4 A non-conforming structure may be rebuilt, altered without enlargement or expansion in any sense, repaired, or replaced at a size, use, or impact not larger than the original size and in substantially the same location for the same use within twelve (12) months following damage or loss to such structure. This provision, however, shall not apply to condemnation or voluntary demolition, the effect of which shall be immediate forfeiture of the non-conforming use upon the affected lot or parcel or portion thereof.

Article X - Administration, Enforcement, and Penalties

- 10-1 **Administration by Zoning Administrator's Office.** The provisions of this Ordinance shall be administered by the Zoning Administrator, who is hereby given the authority to perform such functions and/or to designate such other persons as he or she shall deem necessary to administer and to enforce the requirements of this Ordinance, including, but not limited to, the issuance of stop work orders, the issuance of citations (in any appropriate form) to the Whitfield County Magistrate Court for violation hereof, and the seeking of injunctive relief in the Whitfield County Superior Court.
- 10-2 **Fees.** A schedule of permit, application, and/or use fees, as adopted from time to time by the Governing Authority, shall be attached hereto as **Appendix "A."**
- 10-3 **Permit.** It shall be unlawful to commence the excavation or filling of any lot for the construction of any structure which requires a permit to build or to commence construction of any structure which requires a permit to build or to commence the moving or alteration of any structure which requires a permit to build or to commence the development or improvement of land for a use not requiring a structure until a permit has issued for all such work.
- 10-4 **Enforcement.** The Zoning Administrator, any Code Enforcement Officer, or any duly authorized Whitfield County Sheriff's Deputy or City Police Officer within the applicable municipality, or the lawful designee of any such person, shall have the authority to issue citations for violations of this Ordinance. Any such person shall investigate every written complaint received which shall charge that a specific lot or parcel is not in compliance herewith.
- 10-5 **Owner, Occupant, or Tenant May be Cited.** An owner, as shown by the records of the Whitfield County Tax Assessor's Office, or any occupant, tenant, or other person in lawful possession of any lot, parcel, or premises determined to be in violation hereof may be cited therefor.
- 10-6 **Continuing Violation.** Any violation of this Ordinance shall be considered a continuing violation, subject to separate citation each day in which such violation remains.
- 10-7 **Penalties for Violation.** Pursuant to *OCGA §36-1-20(b)*, any person convicted of violating this Ordinance or any provision thereof shall be sentenced to a maximum fine of one-thousand dollars (**\$1,000.00**) or imprisonment for a term of sixty (60) days, or both. Every day a violation continues shall be subject to a separate penalty.
- 10-8 **Remedies - Injunctive Relief.** When any structure or accessory structure which is erected, constructed, reconstructed, altered, repaired, converted or maintained; or any structure, accessory structure, land use, or land condition violates any portion of this Ordinance, the Zoning Administrator or his or her

designee may seek injunctive or other equitable relief in any court of competent jurisdiction. Such remedy shall be in addition to, and not in lieu of, any similar remedy which adjacent or neighboring property holders may already have pursuant to the laws of Georgia and shall have no effect thereon.

- 10-9 **Remedies - Effect of Non-Compliance; Notice and Hearing before Governing Authority.** In addition to any other remedies provided hereunder, so as to promote the health, morals, safety, and general welfare of the residents of Whitfield County, if the owner, occupant, tenant, lessee, and/or any other person in lawful possession of any lot, parcel, or premises shall fail to maintain such parcel in conformity with the provisions of this Ordinance, the Zoning Administrator, if he or she shall choose to proceed pursuant to the purview of this section, shall notify in writing all such person(s), specifically including, but not limited to, the owner of record, as may be reasonably determined by records contained in the Whitfield County Tax Assessor's Office, by certified mail, return receipt requested, that such person(s) shall have thirty (30) days from receipt of such notice in which to bring such lot, parcel, or premises into conformity with the provisions of this Ordinance. If such notice shall be returned "unclaimed" or is otherwise undeliverable, then notice by publication in the *The Daily Citizen* (Dalton, Georgia) once a week for four (4) consecutive weeks shall constitute due and proper notice as of the date of the fourth publication. Notice, whether by mail or by publication, shall advise with reasonable specificity the condition(s) which do not comply with the provisions of this Ordinance. Such notice shall further advise that if no response is forthcoming within thirty (30) days, the Zoning Administrator shall cause such matter to be placed upon the agenda of the next regularly scheduled meeting of the Governing Authority for public hearing. At such hearing, the Zoning Administrator or designee shall advise the Governing Authority of the unlawful condition(s) thereon and then the Governing Authority shall hear any other person(s) wishing to address it with regard to the condition of the lot, parcel, or premises. The Governing Authority shall then determine whether it shall cause such condition(s) to be brought into compliance with the provisions of this Ordinance, as the particular facts may warrant, and whether it shall cause the costs of such efforts to be charged against the lot or parcel upon which the condition existed as a real property lien and/or cause to be levied as a special tax against the land upon which such conditions existed and/or to recover such costs in an action at law against the owner of such lot or parcel.

- 10-10 **Adoption and Amendments.** The governing authorities of Whitfield County and the municipalities of Dalton and Varnell shall adopt this Ordinance and the zoning map that is part of this Ordinance only after public notice(s) and public hearing(s) and final action of each Governing Authority, as required by the adopted Zoning Procedures and Standard Ordinance of the respective governments.

Further, the Governing Authorities may from time to time amend the text of this Ordinance or the Official Zoning Map that is part of this Ordinance, according to the procedures in their respective Zoning Procedures and Standards Ordinance,

which is included herein in **Appendix “E.”** Appendix E fully describes all applicable final zoning decisions as defined by State Law, including but not limited to rezoning, special use review, and annexation, the notice and posting requirements to the public, the procedures for conducting the public hearings, the standards used to review zoning decisions, and the procedures to obtain a final zoning decision.

10-10-1 **Application Process.** Any amendment to the text of this Ordinance or the Zoning Map or any final action upon any other zoning decision shall begin upon an application form. Annexations shall begin on a form provided by the respective municipal governments and all other zoning decisions shall begin on a form provided by the Zoning Administrator. Such application forms shall include a listing of any and all requirements for consideration of any matter requiring a final zoning decision. Failure to comply with the requirements of the application shall constitute an incomplete application which will not be processed for conclusion of the requested final zoning decision. An application fee, which is established by the Governing Authority of the County or the municipalities, as applicable, may apply and be adjusted from time to time. Failure of the Zoning Administrator or City Clerks, as applicable, to collect a fee from the Governing Authority or the respective municipalities or from the Planning Commission (or equivalent), when they are initiating a proposed zoning decision, shall not void the validity of the application.

10-11 **Conflict with Other Laws.** Whenever the regulations of this Ordinance require a greater width or size of yards, building, or smaller number of stories, or require a greater percentage of a lot to be left unoccupied, or impose other more restrictive standards than are required in or pursuant to any other statute, law, rule, or regulation, the requirements of this Ordinance shall govern. Whenever the provisions of any other statute require more restrictive standards than are required by this Ordinance, the provisions of such statute shall govern.

10-12 **Separability.** Should any section or provision of this Ordinance be declared by any court of competent jurisdiction to be unconstitutional or invalid, such declaration shall not affect the validity of the Ordinance as a whole or any part thereof other than the part so declared to be unconstitutional or invalid.

10-13 **Repeal of Conflicting Ordinances and Validity of Prior Approvals and Actions.** All ordinances and parts of ordinances in conflict herewith are repealed.

10-13-1 This is the Unified Zoning Ordinance, and all other conflicting ordinances or resolutions are hereby repealed; provided, that nothing herein shall be construed as repealing or modifying the condition of operation or conditions of site development accompanying those zoning approvals or use permits issued under previous zoning ordinances or resolutions; however, modification or repeals of these past conditions of approval may be accomplished as provided by this ordinance.

10-13-2 Except as otherwise provided herein with respect to non-conforming uses, all variances and exceptions heretofore granted by the respective Planning Commission or Board of Zoning Appeals shall remain in full force and effect and all terms, conditions and obligations imposed by the respective Planning Commissions, Board of Zoning Appeals, or governing authority shall remain in full force and effect and be binding. Prior ordinances shall remain in effect insofar as required for the initiation of any proceedings against violations thereof and for the prosecution of any violations heretofore commenced.

10-13-3 Notwithstanding anything contained herein and notwithstanding any zoning classification change, all previous special stipulations, conditions, restrictions, agreements and terms contained in prior zoning ordinances shall remain in full force and effect and shall not be amended by this document and shall carry forward to any new zoning classification and shall be binding upon said property. Prior ordinances shall remain in effect and shall remain as such special stipulations, conditions, restrictions, agreements and terms, even though the zoning category itself may be changes hereunder.

10-14 Appeals.

10-14-1 To ensure that the public is afforded due process in seeking judicial review of the exercise of zoning, administrative, or quasi-judicial powers, as guaranteed by Article I, Section I, Paragraphs IX and XII of the Georgia Constitution, the following procedures set forth the manner by which such powers may be reviewed by the Whitfield County Superior Court, which shall have exclusive jurisdiction thereof:

- (a) Zoning decisions, as described herein, being legislative in nature, shall be subject to direct constitutional challenge regarding the validity of maintaining the existing zoning upon the subject property, or the validity of conditions imposed, or an interim zoning category other than what was requested, in the Whitfield County Superior Court, pursuant to its original jurisdiction over declaratory judgments, as set forth in Chapter 4 of Title 9, and pursuant to its equity jurisdiction, as set forth in Title 23. Any such challenge shall seek *de novo* review by the Whitfield County Superior Court, wherein such review shall consider the entire record from below, and all competent evidence shall be admissible in the trial thereof, whether adduced in the local government process or not. The Court shall employ the presumption that a governmental zoning decision is valid and can be overcome substantively by a petitioner only by clear and convincing evidence that the zoning classification is a

significant detriment to the petitioner and is insubstantially related to the valid exercise of Police Powers of the local government to ensure public health, safety, morality or general welfare; or

- (b) Quasi-judicial decisions, as described herein, and zoning decisions in accordance with subparagraph (E) of paragraph (4) of **OCGA §36-66-3** shall be subject to appellate review by the Whitfield County Superior Court pursuant to its appellate jurisdiction from a lower judicatory body and shall be brought by way of a Petition for Review, as set forth in Title 5. Such matters shall be reviewed upon the Record below.

10-14-2 All such challenges or appeals shall be brought within thirty (30) days of the date shown on the written decision of the challenged or appealed action, or shall be deemed forfeited.

10-14-3 To ensure that appellants are not unnecessarily burdened by the review process as a mechanism of appeal, the following persons shall be authorized to take certain actions:

- (a) The Zoning Administrator or, if he or she shall be unavailable, the Whitfield County Administrator, shall have authority to approve or issue any form or certificate necessary to perfect the petition described in Title 5 for review of lower judicatory bodies and upon whom service of such petition may be effected or accepted on behalf of the lower judicatory board or agency, during normal business hours, at the regular offices of the local government; and
- (b) The Chairman of the Whitfield County Board of Commissioners or the Whitfield County Attorney shall have authority to accept service and upon whom service of an appeal or a quasi-judicial decision may be effected or accepted on behalf of the local governing authority, during normal business hours, at such persons' regular offices.

10-14-4 An appeal filed by an opponent of such action pursuant to this article shall stay all legal proceedings in furtherance of the action appealed from or challenged, unless the local government, officer, board, or agency from which or from whom the appeal or challenge is taken certifies that, by reason of the facts stated in the certificate, a stay would cause imminent peril to life or property. In such circumstances, the applicant of the zoning decision or the quasi-judicial decision shall be a necessary party and shall be named as a defendant in the action and served in accordance

with the requirements of Title 5 or Title 9, as appropriate. The Whitfield County Superior Court shall thereafter resolve any issue regarding the appropriateness of a stay.

Article XI – Unified Board of Zoning Appeals

11-1 Appointment. The Unified Board of Zoning Appeals for the City of Dalton, City of Varnell, and for Whitfield County is hereby created.

11-1-1 The membership of the Board shall consist of five (5) members.

11-1-2 The City of Dalton and Whitfield County shall appoint two (2) members each, and the City of Varnell shall appoint one (1) member. Each Governing Authority shall appoint members with overlapping terms. One member each from Whitfield County and the City of Dalton shall be appointed initially to a five-year term. One member each from Whitfield County and the City of Dalton shall be appointed initially to a four-year term. The City of Varnell member shall be appointed initially to a three-year term. Thereafter, each appointment shall be for a five-year term. If the City of Varnell shall fail to appoint its member within sixty (60) days of notice of expiration of the term, then Whitfield County shall make such appointment for the applicable term.

11-1-3 A member of the Board shall be appointed to not more than two (2) consecutive full terms.

11-1-4 A member shall serve at the pleasure of the appointing Governing Authority and may be removed from the Board by a majority vote of the Governing Authority that appointed the member in the event of absenteeism at three (3) successive called meetings or for other reasons the Governing Authority may deem appropriate.

11-1-5 When a position becomes vacant before the end of a term, the Governing Authority that appointed the vacating member shall appoint a new member for the duration of the term remaining consistent with the original appointment.

11-2 Powers and Duties. The Board shall have the following powers and duties:

11-2-1 To hear and to decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by any representative, officer, or agent of the applicable Governing Authority. Any such reversal shall be based upon reliable evidence adduced at the hearing, as provided for below, that such decision was erroneous under the facts as the Board finds them to be and under the Board's reasonable interpretation of the provisions of this Ordinance;

11-2-2 To authorize, upon request in specific cases, such variance from the regulations or requirements of this Ordinance, as the case may be, as will

not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will, in such individual case, result in unnecessary hardship, so that the spirit of the Ordinance shall be observed, public welfare and safety secured, and substantial justice done. In order to grant a variance from the requirements of this Ordinance, the Board must find that every one of the following conditions is met:

- (a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography;
- (b) The application of this Ordinance to the particular piece of property would create an unnecessary hardship;
- (c) Such conditions are peculiar to the particular piece of property involved;
- (d) Relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this Ordinance, provided, however, that no variance may be granted for the use of land or building or structure which is prohibited by this Ordinance or for an increase in the density allowed by this Ordinance.
- (e) The applicant must provide either formal or informal written evidence that the intended use, if a variance were granted, would be allowed, either by the Whitfield County Health Department or Dalton Utilities, as applicable, with respect to wastewater treatment.

11-3 Procedures. Any person having a legal interest in affected property, or his or her attorney-in-fact, shall have standing to file an appeal or variance request to the Board. The appeal or variance request shall be filed upon forms provided by the office of the Zoning Administrator. The office of the Zoning Administrator may charge a reasonable fee for the filing of such appeal or variance request, so as to defray the costs of advertisement and case preparation. Any such fee shall be paid with the filing of the notice of appeal or variance request.

11-3-1 The request for an appeal or variance shall be either hand delivered or mailed and must be received by the office of the Zoning Administrator on or before the 30th day following denial of a permit.

11-3-2 If the 30th day falls upon a Saturday, Sunday, or legal holiday, then the appeal or variance request shall be due on the next business day upon which the office of the Zoning Administrator is open to the public.

- 11-3-3 An appeal or variance request not received by the office of the Zoning Administrator on or before the 30th day following decision or determination shall be considered untimely and shall be automatically denied.
- 11-3-4 A timely filed appeal or variance request shall stay all legal proceedings in furtherance of the action from which the appeal is taken unless the Zoning Administrator or his/her agent shall certify by sworn affidavit, a copy of which shall be provided to the appellant, that a stay would cause imminent peril to life and/or property. In such circumstance, there shall be no stay unless ordered by any court of competent jurisdiction.
- 11-3-5 At least thirty (30) days but not more than forty-five (45) days prior to the public hearing date, a written notice shall be published in a newspaper of general circulation within the territorial boundaries of the County, setting forth the time, place, and purpose of the hearing. In addition, a sign shall be placed in a conspicuous location upon the lot or parcel for which a variance is sought, setting forth the time, place, and purpose of the public hearing. Acts of vandalism or natural occurrences limiting the effectiveness of such notice shall not invalidate any proceeding or action taken upon the proposed variance.
- 11-3-6 The appellant may represent himself or herself before the Board or may be represented by an attorney at law, a registered land surveyor, and/or other engineers or professionals, as he or she deems appropriate or helpful. The appellant may not be represented by a layperson unless such person shall be the appellant's attorney-in-fact.
- 11-3-7 The order of proceeding shall be as follows: An authorized representative of the office of the Zoning Administrator shall first present all of his or her reasons for the order, requirement, decision, or determination being appealed or requested for a variance. In presenting said reasons, such representative shall present all of the findings of fact and conclusions of law that form the bases for said decision. Then the individual appellant shall present his or her grounds for requesting a waiver or variance, calling witnesses if desired. Any member of the Board may question any witness at any point during the proceeding. Following all witnesses, either side may present rebuttal testimony. At the conclusion of the evidence, the Chair may give both sides an opportunity to summarize briefly if the Chair shall deem it helpful.
- 11-3-8 Hearings before the Board shall not be governed by the strict rules of evidence as in a court of law, though the Chair shall be empowered to disallow any evidence or testimony deemed by him or her to be irrelevant, speculative, or otherwise inappropriate to the issues being

heard. Any remark amounting to an attack upon the character or personal integrity of another individual or comment not actually supportable or comment in the form of an emotional outburst shall be non-germane to the purpose of the hearing and shall be ruled out of order by the Chair. The Chair shall have the authority to remove or censure any person who continues to make such comments or who is otherwise disruptive to the hearing process.

- 11-3-9 The deliberation and vote by the Board must be made in open session, either upon motion and second at the meeting at which the appeal or variance request is presented or at any subsequent regular or special called meeting of the Board. The Board shall make a decision not later than either thirty-five (35) days following the initial hearing upon any appeal or variance request or ninety (90) days from the time the application for Appeal or Variance is filed with the office of the Zoning Administrator or said request shall be deemed granted.

The appellant shall be notified in writing at the address provided in the appeal or variance request within fifteen (15) days of the decision of the Board.

- 11-3-10 Any appellant seeking judicial review of any decision of the Board shall proceed in accordance with Section 10-14(1)(b,) Appeals, hereinabove. There shall be no intermediate appeal to the applicable Governing Authority, or to any other administrative body.
- 11-3-11 Any appellant whose appeal or variance request shall be denied by the Board shall be required to wait not less than six (6) months before seeking an appeal or variance for the same real property and/or for the same or similar request. Such waiting period shall apply to any agent for appellant, co-owner with appellant, or successor in appellant's interest.

APPENDIX A
PERMIT, APPLICATION, AND OTHER LAND DEVELOPMENT FEES
FOR WHITFIELD COUNTY

LAND DEVELOPMENT TYPE	FEE
REZONING REQUEST	\$200
SPECIAL USE PERMIT REQUEST	\$200
VARIANCE REQUEST	\$100
MAJOR SUBDIVISION PLAT REVIEW	\$100 + \$2 per lot
MINOR SUBDIVISION PLAT REVIEW	\$30 + \$1 per lot
EXEMPT SUBDIVISION PLAT REVIEW	\$20
LAND DISTURBANCE PERMIT	\$40 per disturbed acre
STORM WATER MANAGEMENT PLAN REVIEW	Fee to be determined by Plan Reviewer Fee paid by developer directly to Plan Reviewer
STORM WATER PERMIT	\$250

APPENDIX B

RECORD OF AMENDMENTS TO THE ORDINANCE

RECORD OF AMENDMENTS TO THE ORDINANCE

DATE OF CHANGE	AMENDMENTS
<i>May 9, 2016</i>	<i>DEFINITIONS Brewery/Distillery/Winery Brewpubs Dwelling, Loft Dwelling, Single Family Attached Dwelling, Urban Microbrewery Micro-distillery/winery Townhouse Chart 3.7 3-8-6 4-5-1 4-6-17 4-6-29 4-6-30 4-6-31 Board of Zoning Appeals name change 11-1 Appendix C Permitted Use Table</i>
<i>November 14, 2016</i>	<i>DEFINITIONS Clinic Section 4-6-32 Permitted Use Table</i>
<i>March 20, 2018</i>	<i>4-6-33 Permitted Use Table</i>
<i>April 24, 2018</i>	<i>DEFINITIONS Transitional Housing Permitted Use Table</i>
<i>February 19, 2019</i>	<i>DEFINITIONS Boutique Hotel Permitted Use Table</i>
<i>March 11, 2019</i>	<i>DEFINITIONS Urban Dwelling</i>
<i>April 23, 2019</i>	<i>4-6-34 Permitted Use Table</i>

RECORD OF AMENDMENTS TO THE ORDINANCE, Cont.

DATE OF CHANGE	AMENDMENTS
<i>August 10, 2020</i>	<i>DEFINITIONS Boutique Hotel Group Day Care Home Child Care Learning Center Adult Day Center Community Living Arrangement Group Home Child Caring Institution Health Department Personal Care Home Permitted Use Table</i>
<i>August 16, 2021</i>	<i>DEFINITIONS Small Animals Townhouse (Row House) 4-1-1, 4-1-2, 4-1-7 4-6-10 Appendix E Section 1-7.9 Permitted Use Table</i>
<i>May 9, 2022</i>	<i>Chart 3.7 Permitted Use Table</i>
<i>June 12, 2023</i>	<i>Re-adoption of full UZO to comply with HB 1405</i>

APPENDIX C

RULES FOR WHITFIELD COUNTY HEALTH DEPARTMENT

Department of Public Health Chapter (511-3-1) Minimum Lot Sizes or Land Area Required.

(1) Lot Size

- (a) To provide for orderly and safe development utilizing on-site sewage management systems, minimum lot sizes have been established. These lot sizes permit flexibility to suit soil conditions, topography and ground or surface water limitations. The following shows the minimum lot sizes based on soil groups. Larger lot sizes may be required to meet the requirements of these rules in some circumstances.

SLOPE CLASS	SLOPE %	SOIL GROUPING*				
		1	2	3	4	5
AB	0-5	30,000	39,000	48,000	51,000	60,000
C	5-15	33,000	42,000	51,000	54,000	66,000
D	15-25	36,000	45,000	54,000	57,000	N/A
E	25-35	39,000	48,000	57,000	60,000	N/A

* Refer to Table CT-2 Georgia Department Human Resources Manual for On-site Sewage Management Systems.

- (b) Where on-site sewage management systems and community or public water is used, minimum lot sizes may be reduced by up to 50%.
- (c) The lot sizes in (1)(a) are for single family residences. The square footage for multi-family residences shall be increased by 25% per unit.

APPENDIX D

By-Laws of the Unified Board of Zoning Appeals

- a. At its first meeting of each calendar year, the Board shall elect a Chair and a Vice-Chair from its members, each of whom shall serve for one (1) year or until his or her successor is elected. The Vice-Chair shall preside at meetings in the absence of the Chair.
- b. The Chair or, in his or her absence, the Vice-Chair or other member designated to conduct an official meeting, may administer oaths and compel the attendance of witnesses.
- c. The Board may adopt such by-laws, rules or procedures as are appropriate and not in conflict with the Unified Zoning Ordinance.
- d. A meeting of the Board shall occur not more than forty-five (45) days from receipt by the Board of a properly completed appeal request. Notice of the meeting date shall be provided to the individual appellant not later than thirty (30) days prior to the meeting date by regular United States Mail at the address shown upon the appeal request or by e-mail if an e-mail address is provided by an appellant.
- e. A special called meeting of the Board may be called by any member of the Board or the Zoning Administrator upon not less than forty-eight (48) hours' written notice to the other Board members and to the Zoning Administrator, with a brief explanation of the purpose of the special called meeting. If a special called meeting involves an individual appellant and is called at the request of such appellant, such individual shall receive not less than twenty-four (24) hours' written notice as well.
- f. A quorum of at least three (3) members of the Board must be physically present to hear any appeal and to render a decision. A majority of the quorum present shall be entitled to take action either to grant a variance hereunder or to deny such a request, even if such majority of the quorum present does not constitute a majority of the entire membership of the Board.
- g. Voting on all matters shall be by voice or by show of hands, as determined by the Chair.
- h. The conduct of the meeting shall be governed by Robert's Rules of Order, or the latest revision thereof.
- i. All meetings of the Board shall comply fully with the Georgia Open Meetings Act and shall be open to the public.
- j. All meetings of the Board shall take place within Whitfield County, Georgia at a public location as may be designated by the Chair.

- k. All Board members attending a meeting shall vote on each matter placed before it. A member may abstain from voting only in the instance of a conflict of interest, the nature of which must be stated for the record.
- l. The Zoning Administrator or his or her designee shall serve as secretary to the Board. The secretary shall cause minutes of the Board's proceedings to be kept, showing the vote of each member on each question, or if absent or failing to vote, indicating such fact, and shall cause records of the Board's examinations and other official actions to be kept, all of which shall be of public record.

APPENDIX E

UNIFIED ZONING PROCEDURES AND STANDARDS ORDINANCE

SECTION 1-1 PREAMBLE AND ENACTMENT CLAUSE:

For the purpose of ensuring that due process is afforded to the general public of Whitfield County, Georgia, when Whitfield County, Georgia, regulates the use of property through the exercise of zoning power, and pursuant to the authority and mandates of Chapter Sixty-Six of Title Thirty-Six of the Official Code of Georgia Annotated (O.C.G.A. & 36-66-1 et. seq.), Whitfield County, Georgia does hereby adopt, order, and enact into law this Ordinance.

SECTION 1-2 SHORT TITLE:

This Ordinance shall be known as and may be cited as "The Unified Zoning Procedure and Standards of Whitfield County ."

SECTION 1-3 DEFINITIONS:

As used within this Ordinance, the following terms shall have the definitions and meanings hereinafter set forth.

SECTION 1-3.1 "COMMISSION"

Commission shall mean the Dalton-Whitfield County Planning Commission.

SECTION 1-3.2 "BOARD"

Board shall mean the Unified Board of Zoning Appeals.

SECTION 1.3.3 "GOVERNING AUTHORITY"

Governing Authority means the group of officials responsible for governance of a governmental entity located within the territorial boundaries of Whitfield County.

SECTION 1-3.4 "GOVERNMENTAL ENTITY"

Governmental entity means the City of Dalton, the City of Varnell, the unincorporated areas of Whitfield County, as the case may be.

SECTION 1-3.5 "SPECIAL USE"

Special Use means a land use which is not allowed in a particular zoning district or in any zoning district because of the inherent and special characteristics of the land use in relationship to the land use of surrounding areas to the subject property.

SECTION 1-3.6 "LOCAL GOVERNMENT"

Local government means the governing authority which exercises zoning power within its territorial boundaries.

SECTION 1-3.7 "TERRITORIAL BOUNDARIES"

Territorial boundaries means the respective corporate boundaries of the governmental entities within Whitfield County and the unincorporated areas of Whitfield County, as the case may be.

SECTION 1-3.8 "ZONING"

Zoning means the power of the governing authority to provide within its respective territorial boundaries for the zoning or districting of property for various uses and the prohibition of other or different uses within such zones or districts and for the regulation of development and the improvement of real estate within such zones or districts in accordance with the uses of property for which such zones or districts were established.

SECTION 1-3.9 "ZONING ADMINISTRATOR"

The official designated by the governing authority to manage, administer and coordinate enforcement of the Zoning Ordinance on behalf of the governing authority.

SECTION 1-3.10 "ZONING DECISIONS"

Zoning decision means final action by the Governing Authority or Board which results in:

- (a) the adoption of a zoning ordinance;
- (b) the adoption of an amendment to a zoning ordinance which changes the text of the zoning ordinance;
- (c) the adoption of an amendment to a zoning ordinance and/or zoning map which rezones property from one zoning classification to another;
- (d) the adoption of an ordinance annexing a land into the city with a specified zoning classification; or
- (e) the adoption of a Special Use.
- (f) the approval of a variance request.

SECTION 1-3.11 "ZONING ORDINANCE"

Zoning Ordinance means an ordinance of the governing authority establishing procedures and zones or districts within its respective territorial boundaries which regulate the uses and development standards of property within such zones or districts. The term also includes the Unified Zoning Map of Whitfield County (as hereinafter amended,) adopted in conjunction with the Unified Zoning Ordinance of Whitfield County, which shows the zones and districts and zoning classification of property therein.

SECTION 1-4 PROCEDURES FOR AMENDMENT TO THE ZONING ORDINANCE TEXT, APPLICATION FOR A SPECIAL USE, VARIANCE AND/OR AMENDMENT TO THE ZONING MAP:

The text of the Zoning Ordinance and the Zoning Map may be amended from time to time and Special Uses and Variances may be granted, subject to the following conditions and procedures contained herein:

SECTION 1-4.1

An amendment to the Zoning Ordinance and/or Zoning Map or application for Special Use or Variance shall not become effective unless initiated or requested by the governing authority, the property owner(s) of the particular parcel affected by the Zoning Ordinance and/or Zoning Map, or any individual who has written power of attorney of a property owner of the particular parcel affected by the Zoning Ordinance and/or Zoning Map, or a request signed by sixty percent (60%) of the property owners who own legal or equitable title to not less than sixty percent (60%) of the affected land requested to be rezoned or for which a Special Use is sought. All governing authorities that have adopted the Zoning Ordinance and this Ordinance shall confer not less than thirty (30) days before initiating an amendment to the text of the Zoning Ordinance or this Ordinance.

SECTION 1-4.2

Any proposed Amendment to the Zoning Ordinance and/or Zoning Map or application for a Special Use or Variance shall be initiated by an application submitted to the staff of the Zoning Administrator upon forms provided by the Zoning Administrator.

SECTION 1-4.3

Upon the submission of an application for an Amendment to the Zoning Ordinance and/or Zoning Map or application for Special Use or Variance, the person or persons submitting such application shall pay an administrative fee.

SECTION 1-5 PUBLIC NOTICE OF PROPOSED AMENDMENTS TO THE ZONING ORDINANCE AND/OR ZONING MAP AND/OR APPLICATION FOR A SPECIAL USE:

Public notice of hearings upon a proposed Amendment to the Zoning Ordinance and/or Zoning Map and/or proposed Special Use or Variance shall be given as hereinafter set forth.

SECTION 1-5.1

At least thirty (30) but not more than forty-five (45) days prior to the date set by the Dalton Whitfield Planning Commission for a public hearing, a written notice shall be published in a newspaper of general circulation within the territorial boundaries of Whitfield County, State of Georgia, setting forth the time, place, and purpose of the hearing.

SECTION 1-5.2

In addition to the requirements of subsection 1-5.1, if the proposed amendment to the Zoning Ordinance and/or Zoning Map or proposed Special Use calls for a zoning decision for the rezoning of a lot or parcel or for the granting of a Special Use thereon, and the proposed Amendment or proposed Special Use is initiated other than by the governmental authority, the following additional conditions apply:

- (i) The published notice shall include the general location of the lot or parcel and shall state the present zoning classification of the lot or parcel and the proposed zoning classification of the lot or parcel or proposed Special Use or Variance sought.
- (ii) A sign shall be placed by the Zoning Administrator in a conspicuous location upon the lot or parcel sought to be rezoned or for which a Special Use or Variance is sought, setting forth the time, place, and purpose of the public hearing, the present zoning classification of the lot or parcel, and the proposed zoning classification or proposed Special Use or Variance. Acts of vandalism or natural occurrences limiting the effectiveness of such notice shall not invalidate any proceeding or action taken upon the proposed amendment.
- (iii) For subject properties within the unincorporated area of Whitfield County, the Zoning Administrator shall reasonably attempt to notify each owner of a lot or parcel abutting and/or adjoining the subject property proposed for amendment to the Zoning Map or Special Use by mailing to each such adjoining owner a copy of the application for amendment to the Zoning Map or Special Use by regular United States mail. In determining the name, address and ownership of each abutting and/or adjoining lot or parcel entitled to notice, the Zoning Administrator or its designee may conclusively rely upon the records of the office of the Whitfield County Tax Assessor as of the date of the filing of the application for amendment to the Zoning Map or application for Special Use with the Zoning Administrator. The Zoning Administrator's office may place reasonable requirements upon the applicant to assist in obtaining accurate information concerning adjoining owners and shall require the applicant to reimburse actual mailing costs. The determination by the Zoning Administrator that the requirements of this Section 1-5.2(iii) have been satisfied shall be final.

SECTION 1-5.3

This subsection shall not apply to zoning decisions for the rezoning of property from a single-family residential use of property to a multifamily residential use of property when the rezoning is initiated by the owner or authorized agent of the owner of such property but shall apply only to such rezoning requests initiated by the Local Government.

- (1) Notwithstanding any other provisions of this chapter to the contrary, when a proposed zoning decision relates to an amendment of the zoning ordinance to revise one or more zoning classifications or definitions relating to single-family residential uses of property so as to authorize multifamily uses of property pursuant to such classification or definitions, or to grant blanket permission, under certain or all circumstances, for property owners to deviate from the existing zoning requirements of a single-family residential zoning, such zoning decision must be adopted in the following manner:

- (i) The zoning decision shall be adopted at two regular meetings of the local government making the zoning decision, during a period of not less than 21 days apart; and
- (ii) Prior to the first meeting provided for in subparagraph (i) of this paragraph, at least two public hearing shall be held on the proposed action. Such public hearings shall be held at least three months and not more than nine months prior to the date of final action on the zoning decision. Furthermore, at least one of the public hearings must be held between the hours of 5:00 P.M. and 8:00 P.M. The hearings required by this paragraph shall be in addition to any hearing required under subsection 1-5.1 of this Code section. The local government shall give notice of such hearing by:
 - (a) Posting notice on each affected premises in the manner prescribed by subsection 1-5.2 of this Code section; provided, however, that when more than 500 parcels are affected, in which case posting notice is required every 500 feet in the affected area; and
 - (b) Publishing in a newspaper of general circulation within the territorial boundaries of the local government a notice of each hearing at least 15 days and not more than 45 days prior to the date of the hearing.

Both the posted notice and the published notice shall include a prominent statement that the proposed zoning decision relates to or will authorize multifamily uses or give blanket permission to the property owner to deviate from the zoning requirements of a single-family residential zoning of property in classification previously relating to single-family residential uses. The published notice shall be at least nine column inches in size and shall not be located in the classified advertising section of the newspaper. The notice shall state that a copy of the proposed amendment is on file in the office of the clerk or the recording office of the local government and in the office of the clerk of the superior court of the county of the legal situs of the local government for the purpose of examination and inspection by the public. The local government shall furnish anyone, upon written request, a copy of the proposed amendment, at no cost.

- (2) The provisions of paragraph (1) of this subsection shall also apply to any zoning decision that provide for the abolition of all single-family residential zoning classifications within the territorial boundaries of a local government or zoning decisions that result in the rezoning of all property zoned for single-family residential uses within the territorial boundaries of a local government to multifamily residential uses of property.

SECTION 1-6 PUBLIC HEARING FOR AMENDMENTS TO THE ZONING ORDINANCE AND/OR ZONING MAP AND FOR SPECIAL USE APPROVAL:

A public hearing upon any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use shall be provided for by the Dalton Whitfield Planning Commission. A public hearing upon any proposed Amendment to the Zoning Ordinance and/or Zoning Map of Whitfield County or Special Use properly initiated shall be conducted at the time and place as set forth in subsection 1-5.1. Any affected governmental authority may, at its discretion, join the Dalton Whitfield County Planning Commission during the public hearing process, such that both bodies simultaneously are present for such public hearing(s). The Chairman of the Dalton-Whitfield County Planning Commission shall conduct such public hearing(s), unless he or she shall designate that another person shall serve as Chair of the proceedings for such public hearing(s). The purpose of such public hearing(s) shall be to present to the public any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use and to receive comments thereon from the public. The governing authority shall consider the comments presented by the public at such public hearing(s) in making their respective decisions on the proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use in accordance with the standards as enumerated in Section 1-8 or 1-9 of this Ordinance, as applicable.

SECTION 1-7 CONDUCT AND PROCEDURES OF PUBLIC HEARINGS HELD BEFORE THE WHITFIELD COUNTY BOARD OF COMMISSIONERS AND THE DALTON-WHITFIELD COUNTY PLANNING COMMISSION:

The following policies and procedures shall govern the conduct of hearings before the Dalton-Whitfield County Planning Commission and the governmental authority if jointly convened (the joint hearing body is hereinafter, the “joint panel”).

SECTION 1-7.1

The Chairman of the Dalton-Whitfield County Planning Commission or his or her designee (hereinafter, “the Chair”) shall open the hearing(s) with an explanation of the purpose of the hearing(s) and a description of the general rules for the conduct of the hearing(s). The Chair may describe the authority and role of both the Dalton-Whitfield County Planning Commission, in providing a recommendation only, and of the governmental authority, for final action, in any zoning decision. An individual requesting to be heard upon a matter germane to the purpose of the hearing must be called and recognized by the Chair before addressing the joint panel. The Chair shall determine the germaneness of any proposed comment or presentation and is authorized to rule any individual or portion of the presentation out of order if not germane to the published purpose of the hearing. Any person recognized by the Chair, shall first state his name and residence address before proceeding with any comment, remarks, or presentation. Any person addressing the joint panel shall respond to questions from the Chair or anyone he or she shall recognize. The Chair may predetermine the length of any hearing, allotting equal time to proponents and opponents of any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use to the extent that there are both proponents and opponents who desire to be heard. The Chair shall be required to offer equal time to both the proponents and opponents of any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use and the fact that equal time is not in fact utilized by either shall not invalidate any proceeding or action taken upon any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use. The Chair, however, shall allow a minimum time period no less than ten (10) minutes per side for the presentation of data, evidence, and opinion.

SECTION 1-7.2

A proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use applications may be called in any order in the discretion of the Chair. The Chair shall confirm that proper public notice of the public hearing(s) in accordance with the provisions of this article has been given prior to taking any comments from the public.

SECTION 1-7.3

The Chair shall allow the person initiating the proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use, or his or her designee (hereinafter, "the applicant,") to present a description of the request and the reason(s) supporting it. The failure of the applicant to be present for the hearing when called shall result in an automatic continuance in the public hearing thereon until the next regular monthly meeting of the Dalton-Whitfield County Planning Commission, with public notice thereof to all in attendance. Additionally, the Zoning Administrator shall re-post the sign setting forth the new public hearing date. The failure of the applicant to be present for the hearing when called at the next meeting of the Dalton-Whitfield County Planning Commission shall result in an automatic negative decision from the governing authority when such request shall come before it.

SECTION 1-7.4

The Chair shall enter into the record after the presentation of the applicant any written comment, petition or similar written statement, photographs, or any other evidence submitted during the public hearing and such documents and/or exhibits shall be considered by the Dalton-Whitfield County Planning Commission, and subsequently by the governing authority in its analysis of the relevant zoning standards and factors as set forth in Section 1-8 or 1-9 of this Ordinance, as applicable.

SECTION 1-7.5

The Chair shall then give persons opposed to the proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use the opportunity to address the assembled panel.

SECTION 1-7.6

The Chair may then alternate the presentation of persons speaking in favor of and opposed to the proposal, beginning with the applicant, or the Chair may divide such presentation into blocks of time beginning with the proponents and thereafter move into the presentation of the opponents, if any. The Chair may poll the public assemblage at the hearing concerning its concurrence with the remarks of any speaker.

SECTION 1-7.7

Any remark amounting to an attack on the character or personal integrity of another individual or comment not actually supportable or comment in the form of emotional outburst shall be non-germane to the purpose of the hearing and may be ruled out of order. The Chair shall have the power to remove or censure any person who continues to make any remarks amounting to an attack on the character or personal integrity of another individual or any comment not factually supportable or any comment in the form of emotional outburst during the proceeding.

SECTION 1-7.8

Upon the conclusion of the presentation of persons, if any, opposing the proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use, the Chair may grant to the applicant an allotted time for rebuttal of any new issues raised by opponents, if any. The Chair may rule out of order the raising of any new issues in rebuttal unless he or she shall determine that the raising of such new issue is useful to the purpose of the hearing, in which case opponents, if any, shall be allotted an equal amount of time to address such issue(s).

SECTION 1-7.9

When the applicant/proponent(s) and opponents, if any, have been heard in accordance with the foregoing procedures, the Chair shall declare the public hearing closed. No further public hearing upon the proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use shall be permitted prior to the final zoning decision by the governing authority, unless the governing authority shall determine that such public hearing should be re-opened for the presentation of additional information, in which case the same must be advertised in conformity with subsection 1-5.1. The application for zoning amendment or conditional use shall not be withdrawn once the public hearing thereon commences.

SECTION 1-8 ZONING STANDARDS:

Exercise of zoning power by the governing authority shall constitute an effort to balance the interests of Whitfield County in promoting the public health, safety, morality, and/or general welfare against the right of lot or parcel owners to the unrestricted use of their lot or parcel. The following factors are determined to be relevant in balancing the interest and promoting the public health, safety, morality, and/or general welfare against the right to unrestricted use of lot or parcel:

SECTION 1-8.1 "FACTORS"

SECTION 1-8.1(A)

Whether the proposed amendment would allow a use that is generally suitable for the site compared to other possible uses and whether the proposed change is consistent with the established land use pattern and zoning of adjacent and nearby properties.

SECTION 1-8.1(B)

Whether the proposed amendment would adversely affect the economic value or the uses of adjacent and nearby properties.

SECTION 1-8.1(C)

Whether the subject property has a reasonable economic use as currently zoned, considering the suitability of the subject property for the proposed zoned uses.

SECTION 1-8.1(D)

Whether there is relative gain to the health, safety, morals, or general welfare of the public as compared to any hardship imposed upon the individual owner under the existing zoning.

SECTION 1-8.1(E)

Whether the proposed amendment, if adopted or approved, would result in a use which would or could cause an excessive or burdensome use of existing streets, schools, sewers, water resources, police and fire protection, or other utilities, as contrasted with the impact under the existing zoning.

SECTION 1-8.1(F)

Whether the property sought to be rezoned (or annexed) is in conformity with the policy and intent of the adopted joint comprehensive plan or equivalent. If not, has the plan already been amended, officially or unofficially, by the development of uses which are contrary to the plan recommendation, and if the plan has been amended, does this rezoning or annexation request allow uses which are compatible to the existing uses in the vicinity.

SECTION 1-8.1(G)

Whether there are any other conditions or transitional patterns affecting the use and development of the property to be rezoned or annexed, which give grounds for approval or disapproval of the proposed zoning proposal. Whether the proposed zoning change constitutes an “entering wedge” and is a deterrent to the use, improvement, or development of adjacent property within the surrounding zone districts or would create an isolated, unrelated district (spot zone) as interpreted by current Georgia law.

SECTION 1-8.1(H)

Whether the subject property, as currently zoned, is vacant and undeveloped for a long period of time, considered in the context of land development in the vicinity or whether there are environmental or cultural factors, like steep slopes, flood plain, storm water, or historical issues, that influence the development of the subject property under any zoning designation.

SECTION 1-8.2

The governing authority shall consider any proposed zoning amendment properly initiated in light of the factors set forth in section 1-8.1. In evaluating the factors set forth in 1-8.1, it shall be the policy of the governing authority to exercise its zoning power in conformity with the policy intent of the Joint Comprehensive Plan for Whitfield County and the cities of Dalton and Varnell insofar as that plan is current in its application to the specific subject lot or parcel sought to be rezoned. It is further the policy of the governing authority to exercise the zoning power for the purposes of assuring the compatibility of use of adjacent and nearby properties and the preservation of the economic value of adjacent, abutting, and nearby properties while enabling a reasonable use of all lot or parcel within the territorial boundaries of the governmental entity.

SECTION 1-9 SPECIAL USE STANDARDS: As set forth in Section 10-10-1 of the Unified Zoning Ordinance, a request for a Special Use shall be duly evaluated pursuant to the following factors, which are intended to be objective in character:

SECTION 1-9.1 “FACTORS”

SECTION 1-9.1(A)

Whether the proposed use would impact upon anticipated traffic volume and/or traffic flow and/or pedestrian safety within the vicinity;

SECTION 1-9.1(B)

Whether the hours and manner of operation of the proposed use would impact upon nearby properties and uses within the vicinity;

SECTION 1-9.1(C)

Whether parking, loading/service, and/or refuse areas of the proposed use would impact upon nearby properties and uses within the vicinity, particularly with regard to noise, light, glare, smoke, and/or odor;

SECTION 1-9.1(D)

Whether the height, size, and/or location of any proposed structure is compatible with the height, size, and/or location of structure(s) upon nearby properties and uses within the vicinity;

SECTION 1-9.1(E)

Whether the size of the lot or parcel is sufficiently large for the proposed use, and for reasonable growth opportunity of such proposed use, within the parameters of the Zoning Ordinance and within the probable limits of the soils thereon if an on-site sewage system is to be installed;

SECTION 1-9.1(F)

Whether the benefits of and need for the proposed use are, on balance, greater than reasonable anticipated depreciating effects and/or damages, if any, to nearby properties within the vicinity.

SECTION 1-10 OFFICIAL ACTION BY THE GOVERNING AUTHORITY:

Consideration of any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use properly initiated and subsequent to the public hearing(s) shall be as follows:

SECTION 1-10.1

After the close of all the public hearings, the Dalton-Whitfield County Planning Commission shall make a recommendation, which shall later be reduced to writing, to the applicable governmental authority, as to the advisability of adoption of any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use, and which shall be based upon the “Factors” set forth in Section 1-8 or 1-9, as applicable.

SECTION 1-10.2

If consideration of any proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use shall be tabled by the Dalton-Whitfield County Planning Commission, it shall be reconsidered not later than its next regular monthly meeting. Under any circumstances, however, if no recommendation shall be forthcoming within sixty (60) days of the date upon which the advertisement of the public hearing referenced in Section 1-5.1 hereinabove, it shall be deemed that the recommendation of the Dalton-Whitfield County Planning Commission shall have been favorable to the request.

SECTION 1-10.3

The authority of the Dalton-Whitfield County Planning Commission regarding any zoning decision shall be advisory only. However, the governing authority shall await either such recommendation or the sixty (60) days referenced in Section 1-10.2 hereinabove prior to taking final action upon any such proposed amendment to the Zoning Ordinance and/or Zoning Map or Special Use.

SECTION 1-10.4

If the governing authority shall take official action defeating a proposed amendment to the Zoning Map which seeks to rezone a lot or parcel or Special Use, the same property may not be considered again for rezoning or for a Special Use until the expiration of twelve (12) months from the date of the official action of the governing authority. This subsection shall specifically include, but not be limited to, an automatic denial due to the failure of the applicant to appear at the public hearing when called.

SECTION 1-11 ANNEXATION OF UNINCORPORATED ISLANDS BY MUNICIPALITIES.

In order to accommodate the timing requirements of state law concerning the annexation of unincorporated islands, the following procedure will be used for such annexations.

SECTION 1-11.1

Prior submission to commission not required. Annexations of unincorporated islands, or any part thereof, to a governmental entity may be accomplished by the mayor and council without prior submission to the commission. Not less than one public hearing shall be held by the governing entity prior to the enactment of an ordinance to annex an unincorporated island or any portion thereof.

SECTION 1-11.2

Notice of public hearing and notice of intent to annex an unincorporated island. A public notice of the date, time, place and purpose of any public hearing precedent to the enactment of an ordinance to annex an unincorporated island or any portion thereof shall be given not less than 30 days but not more than 45 days prior to any public hearing upon the subject of the annexation of an unincorporated island or any portion thereof. Such public notice shall be published in the legal organ for Whitfield County, Georgia.

SECTION 1-11.3

Conduct and procedure for public hearing held precedent to the enactment of an ordinance to annex an unincorporated island or any portion thereof. Any public hearing shall be called by the mayor or his designee (hereinafter the term "mayor" shall include his designee). Any person in attendance who requests to be heard concerning any matter shall be heard, subject to the rules set forth herein, after the call to order of the public hearing. The mayor shall preside at the public hearing and may recognize persons requesting to be heard. The mayor shall open any public hearing with an explanation of the purpose for the public hearing and a description of the general rules in conducting the public hearing. Any individual requesting to be heard on a matter germane to the purpose of the public hearing must be recognized by the mayor before addressing the governing authority. Whether any comment or presentation before the governing authority is germane to the public hearing shall be the sole determination of the mayor or his designee. The mayor is authorized to rule any person or any portion of any person's presentation out of order and not germane to the published purpose for the public hearing. Any person, upon being recognized by the mayor will give his/her name and residence address before making any comment, remark, or presentation. Any person recognized shall respond to questions from the governing authority. The mayor may pre-determine the length of any hearing and allot equal time to proponents and opponents of the proposed annexation and rezoning. The fact that equal time is not utilized by either the proponents or opponents shall not invalidate any proceeding or final action taken by the governing authority. Provided, however, the proponents of annexation and the opponents of annexation shall be allowed a minimum aggregate time period of not less than ten minutes per side for presentation of data, evidence, or opinion. Any person may present written comments concerning the proposed annexation to the mayor and council by submittal to the city clerk not later than the close of the public hearing. Written comments submitted to the governing authority shall become public records available for inspection upon proper request. The city clerk will present all written comments to the governing authority for its consideration prior to final action by the governing authority on the proposed annexation.

SECTION 1-11.4

Enactment of an ordinance to annex an unincorporated island or any portion thereof. The governing authority will consider the enactment of an ordinance to annex an unincorporated island or any portion thereof at the next regular meeting of the governing authority following the public hearing referred to above. The governing authority may review, or have reviewed by staff, any modifications to the proposed annexation prepared as a consequence of the public hearing or public comments. In enacting any proposed ordinance to annex an unincorporated island or any portion thereof, the governing authority shall apply the standards and factors enumerated in section 1-10 of this ordinance, as well as the Joint Comprehensive Plan for Whitfield County and the cities of Dalton and Varnell.

SECTION 1-12 DISTRIBUTION:

Copies of this Ordinance shall be printed and copies thereof made available for distribution to the general public in the office of the Zoning Administrator. Distribution to the general public shall be upon request of a member of the general public, who shall be entitled to one copy. The Zoning Administrator is authorized to print copies of the zoning procedures standards and Amendments

thereto from time to time for the purposes compliance requirements of "The Zoning Procedure Law," (Title Thirty-Six, Chapter Sixty-Six of the Official Code of Georgia Annotated).