



# *Ben Hill County Georgia*

## **ZONING ORDINANCE**

As Amended  
ADOPTED

\_\_\_\_\_, 2021

Prepared by Ben Hill County, Georgia  
With Assistance From



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**SECTION 1. ENACTMENT, SHORT TITLE, JURISDICTION, PURPOSE**

**1-1 Enactment Clause.** The Board of Commissioners of Ben Hill County, Georgia, under the authority of Article IX, Section II, Paragraphs I and IV of the Constitution of the State of Georgia and the amendments thereto, hereby ordains and enacts into law the following sections.

**1-2 Long Title.** An ordinance regulating within the unincorporated area of Ben Hill County, Georgia, the location; height, bulk; number of stories and size of buildings and other structures; the sizes of yards, courts, and other open spaces; the density and distribution of population; and the uses of buildings, structures, and the land for trade, industry, residence, recreation, agriculture, forestry, conservation, sanitation, protection against floods, public activities, and other purposes, creating districts for said purposes and establishing the boundaries thereof; defining certain terms used herein; providing for the methods of administration and amendment; defining the powers and duties of the Board of Appeals; providing penalties for violations; repealing conflicting ordinances; and for other purposes.

**1-3 Short Title.** This ordinance shall be known and may be cited as the "Zoning Ordinance for Ben Hill County, Georgia".

**1-4 Jurisdiction.** This ordinance shall govern the use of all land and the developments thereof within the unincorporated area of Ben Hill County, Georgia.

**1-5 Purpose.** The purpose of this ordinance shall be to promote the proper location, height, bulk, number of stories and size of open spaces, the density and distribution of population, and the uses of building, structures, and land for trade, industry, residence, recreation, agriculture, forestry, conservation, sanitation, protection against floods, public activities, and other purposes so as to lessen congestion in the streets; to secure safety from fire, panic, and other dangers; to promote the public health and the general welfare; to provide adequate light and air; to prevent the overcrowding of land; to avoid undue concentration of population, to prevent urban sprawl; to facilitate the adequate provision of transportation, water, sewerage, schools, parks, and other public requirements; to promote desirable living conditions and the sustained stability of neighborhoods; to protect property against blight and depreciation; to secure economy in governmental expenditures; to conserve the value of buildings and to encourage the most appropriate use of land, buildings, and structures throughout Ben Hill County, Georgia; and for other purposes.

**SECTION 2. DEFINITIONS**

For the purposes of this ordinance, certain terms or words used herein shall be defined as follows:

**2-1 Interpretation of Certain Terms and Words.** Words used in the present tense include the future tense. Words used in the singular include the plural, and words used in the plural include the singular.

The word "person" includes a firm, partnership, company, corporation or association.

The word "lot" includes the word "plot" or "parcel".

The word "building" includes the word "structure".

The word "shall" is always mandatory, and not merely discretionary.

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

**Accessory Building.** A detached, subordinate structure, the use of which is clearly incidental to, customarily associated with, and related to the principal structure or use of the land; and which is located on the same lot as the principal structure or use, including residential swimming pools. (Mobile/Manufactured Homes are prohibited as an accessory building).

**Administrator, Zoning.** The person, officer, or official and his authorized representative, whom the County Commission has designated as its agent for the administration of this ordinance. (See Section 12-1)

**Agriculture.** The production, keeping or maintenance, for sale, lease or personal use, of plants and animals useful to man, including but not limited to: forages and sod crops, grains and seed crops; dairy animals and dairy products, poultry and poultry products; livestock, including beef cattle, sheep, swine, horses, ponies, mules, goats, or any mutations or hybrids thereof, including the breeding and grazing of any or all such animals; bees and apiary products, fur animals; trees and forest products; fruits of all kinds, including grapes, nuts and berries; vegetables; nursery, floral, ornamental and greenhouse products; or lands devoted to a soil conservation or forestry management program. Retail selling of products raised on the premises shall be considered a normal accessory activity provided that space adequate for the parking of customer's vehicles shall be provided off the public right-of-way.

**Air B & B.** A building dedicated to the lodging of five or more transient persons or separate families as defined herein for compensation.

**Ambulatory.** In respect to a person, the ability to move from place to place by walking, either unaided or aided by prosthesis, brace, crutches or hand rails, or by propelling a wheelchair; and can conceive an emergency situation or condition, whether caused by fire or otherwise and escape without human assistance, using the normal means of egress.

**Boarding or Rooming House.** A building dedicated to the lodging or feeding or both of five or more non-transient persons or separate families as defined herein for compensation.

**Buffer Area; Buffer Strip.** That portion of a given lot, not covered by buildings, pavement, parking, access and service areas, established as landscaped open space for the purposes of screening and separating

properties with incompatible land uses, the width of which is measured from the common property line and extends the developed portion of the common property line. A buffer consists of trees, shrubs, and other natural vegetation undisturbed by grading or site development and replanted where sparsely vegetated or where disturbed for approved access and utility crossings.

**Building.** Any structure, except a manufactured home or mobile home, which has a roof, and which is for the shelter, support or enclosure of persons, animals, or property of any kind.

**Building Height.** The vertical distance of a building measured from the average elevation of the finished lot grade along the front of the building to the highest point of the building.

**Care Home.** An orphanage, rest home, nursing home, convalescent home, or similar use established to render domiciliary care, but not including facilities for the care of mental patients, alcoholics, drug addicts and not including nursery schools.

**Church.** A building in which persons regularly assemble for religious worship intended primarily for purposes connected with such worship, or for propagating a particular form of religious belief.

**Club, or Lodge, Private.** An incorporated or unincorporated association for civic, social, cultural, religious, fraternal, literary, political, recreational, or like activities, operated for the benefit of its members and not open to the general public.

**Condominium.** A building containing three or more individually owned dwelling units and related, jointly owned, common areas as defined by the laws of the State of Georgia.

**Comprehensive Plan.** The 2021 Fitzgerald/Ben Hill County Comprehensive Plan, as duly adopted and subsequently amended by the City of Fitzgerald and Ben Hill County. This plan includes Future Land Use Plans and Short-Term Work Programs for each respective local government.

**Curb Cut.** The providing of ingress and/or egress between property and an abutting public street.

**Density.** The overall intensity of land use for the total project. When referring to residential areas, density is defined as the number of dwelling units permitted per acre in the respective zoning district in accordance with the terms of this zoning ordinance or as authorized under the development standards of this ordinance.

**District.** Within the concept of zoning, a delineated section or sections of Ben Hill County for which the zoning regulations governing the use of buildings and premises, the height of buildings, the size of yards and the intensity of use are uniform.

**Dwelling, Manufactured Home.** A manufactured home is a detached structure transportable in one or more sections, which is built on a permanent chassis and designed to be used as a dwelling unit with or without a permanent foundation when connected to the required utilities and includes the plumbing, heating, air conditioning, and electrical systems contained therein. For the purpose of the administration of this ordinance, the term manufactured home shall not be interpreted to include mobile homes.

**Dwelling, Manufactured Housing Park.** An area, under single ownership and not subdivided into customary lots planned for individual ownership, containing three or more manufactured homes used as living facilities having a defined space, or an area containing three or more spaces designed or intended for parking of manufactured homes to be used as living facilities for rent or lease.

**Dwelling, Mobile Home.** A manufactured home built before June 15, 1976. They do not meet current building codes and was not inspected by HUD.

**Dwelling, Multi-Family.** A building either designed, constructed, altered, or used for more than three adjoining dwelling units, with each dwelling unit having a party wall or party floor connecting it to at least one other unit in the building. This includes apartments, condominiums, or any other type of multi-family structure.

**Dwelling, Single Family.** A detached building used and either designed or constructed for one dwelling unit.

**Dwelling, Single Family Attached.** One of a series of two or more single family dwelling units built on separate lots attached to another dwelling unit on an adjoining lot by a common party wall.

**Dwelling, Two Family, or Duplex.** A building either designed, constructed, altered, or used for two adjoining dwelling units that are connected by a fire rated common wall and/or if two stories in height by a fire rated common floor.

**Dwelling, Three Family or Triplex.** A building either designed, constructed, altered or used for three adjoining dwelling units that are connected by a fire rated common wall or walls, or if more than one story in height, by a fire rated floor or floors.

**Dwelling Unit.** An enclosure of one (1) or more rooms, including kitchen and bathroom facilities, designed or constructed as a unit for residential occupancy by one (1) family.

**Family.** One or more persons occupying a premises and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house, hotel, or fraternity or sorority house.

**Farm.** A tract of land at least ten (10) acres in size devoted to agricultural purposes. (Also see definition of Agriculture.)

**Farmers Market.** A public marketplace, designed to serve area farmers, where provisions are sold at retail and wholesale.

### **Feed Lots**

**Flea Market.** An outdoor and/or indoor facility established for the purpose of selling at retail such new or used items as household goods, tools, crafts or any other combination of new or used goods. These markets, sales and displays are those that occur continuously or frequently, and specifically more than two times per year, normally at a fixed location where a proprietor, partnership, or corporation leases to vendors a booth, commercial space or designated area from which the vendor markets his/her goods.

**Floor Area, Gross.** The total number of square feet of floor area in a building determined by horizontal measurements between the exterior faces of walls, excluding basement areas, attic, porches, carports, and garages.

Gross floor area is also commonly referred to as heated floor space.

**Garden, Private.** A non-commercial private garden which is an accessory use to the primary use of the zoning district. The primary use must be present at the same location as the garden in any zoning district with the exception of agricultural zoning districts.

**Guest or Servant Quarters.** A detached, subordinate building, located within the rear yard, designed to provide living accommodations for either domestic help in the employment of the property owner, or for

guest facilities. Guest or servant quarters shall not exceed seventy-five percent (75%) of the required minimum gross floor area per dwelling unit for the respective zoning district in which they are allowed.

**Home Occupation/Home Business/Rural Home Occupation.** An occupation for gain or support customarily conducted on the premises by a person or family residing therein. These uses are governed by the requirements of Sections 9-1, 9-2 and 9-3. Home occupations/Home Business/Rural Home Occupations are permitted uses as a matter of right in certain districts pursuant to the schedules of use under Section 5-1.1 and are permitted in other districts only after special review by the Planning Commission and approval by the Board of County Commissioners as Special Exceptions (See Sections 9-1, 9-2 and 9-3).

**Hospital.** Any institution receiving in-patients, or a public institution receiving out-patients, and authorized under Georgia law to render medical, surgical, and/or obstetrical care. The term "hospital" shall include a sanitarium for the treatment and care of senile psychotics or drug addicts, but shall not include office facilities for the private practice of medicine or dentistry.

**Industrialized Building.** Industrialized building describes certain manufactured buildings which are regulated by the Georgia Department of Community Affairs. Georgia law defines an Industrialized Building as "any structure or component thereof which is wholly or in substantial part made, fabricated, formed, or assembled in manufacturing facilities for installation or assembly 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." Industrialized buildings are constructed and regulated in accordance with the "Industrialized Buildings Act", Georgia Law 1982 (Official Code of Georgia Annotated, Title 8, Chapter 2, Article 2, Part 1, as amended). An industrialized building must meet all requirements of the District in which it is located. Industrialized buildings designed for residential uses are often referred to as "modular homes". For the purposes of enforcement of this ordinance, industrialized residential homes shall be subject to the same standards as site-built homes.

**Junk Yard.** Use of property for outdoor storage, keeping, abandonment, sale, or resale of junk including scrap metal, rags, paper or other scrap materials, used lumber, 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. For the purposes of enforcement of this ordinance, **junk yard means anywhere three (3) or more vehicles not in running condition, or the parts thereof, or household appliances are stored in the open or in open buildings.** Buffers are required for all junk yards. (See Section 9-9)

**Kennel, Commercial.** Any location where boarding, caring for, and keeping of more than a total of three dogs or cats, or other small animals or combination thereof (except litters of animals of not more than six months of age) is carried on for compensation, and also raising, breeding, caring for, or boarding of dogs, cats, or other small animals.

**Kennel, Non-Commercial.** Any location where the boarding, caring for and keeping of more than three but not more than ten dogs or cats or other small animals or combination thereof (except litters of animals of not more than six months of age) is carried on, not for commercial purposes, but as a hobby such as the raising of show and hunting dogs.

**Licensed Day Care Center.** A day care center licensed by the State of Georgia and/or Ben Hill County that provides care, training, education, custody, treatment or supervision for children under fourteen (14) years of age, where such children are not related by blood, marriage or adoption to an owner or operator of the facility.

**Lot.** A lot of record, held in a single ownership by one person, or in common ownership by more than one, which has both lot area and lot dimensions equal to or greater than the lot width and lot area requirements

established by this ordinance for the zoning district in which such tract of land is located and for the use proposed for the tract of land. (See Section 3-21)

**Lot, Corner.** A lot having frontage on two (2) or more public streets at their intersection. (See Section 3-11)

**Lot of Record.** A lot which is part of a subdivision recorded in the office of the Clerk of the Superior Court of Ben Hill County, (or of Irwin County or Wilcox County prior to the creation of Ben Hill County in 1907), or a parcel described by metes and bounds, the description of which has been so recorded prior to the adoption of this ordinance. (See Section 3-21) Lot of Record also includes a parcel described by metes and bounds or by a plat of survey prepared by a Georgia Registered Land Surveyor subsequent to the adoption of this ordinance which meets the minimum requirements of this ordinance and is exempt from the County subdivision regulations. A parcel is described by metes and bounds if the description is contained in a recorded deed or a recorded plat to which the deed makes reference.

**Lot, Through.** A lot other than a corner lot, having frontage on more than one (1) intersecting street; or a corner lot having frontage on three (3) or more streets.

**Lot Width.** The distance between the side lot lines, measured along the front yard setback line as established by this ordinance, or if no setback line is established, the horizontal distance between the side lot lines measured along the street right-of-way line.

**Newspaper or Periodical Production, Sales, and Distribution.** The operation of newspaper or periodical business including the production, sales, and distribution thereof, including all necessary presswork. Such term includes but is broader than newspaper or periodical publishing.

**Newspaper or Periodical Publishing.** This term is narrower in scope than newspaper or periodical production, sales and distribution. The term does not include presswork, sales or distribution and is limited to the composition, layout and non-presswork printing of a newspaper or periodical.

**Night Club (Lounge).** A place of entertainment open at night, usually serving food and alcoholic beverages and providing music and space for dancing.

**Nursery School.** An agency, organization, or individual providing daytime care of seven or more children, where a **State license is required**, not related by blood or marriage or not the legal wards or foster children of the attendant adult.

**Open Space.** That required portion of a lot at ground level, unoccupied by enclosed buildings and available to all occupants of the project. This space shall not be devoted to driveways or off-street parking but shall be usable for green space, recreational use and other leisure activities normally carried on outdoors.

**Personal Care Home.** A building or group of buildings, a facility or place in which is provided two or more beds and other facilities and services, including room, meals and personal care for non-family ambulatory adults for compensation.

- a) **"Family Personal Care Home"** means a home for adults in a family-type residence, non-institutional in character, which offers care to two through six persons.
- b) **"Group Personal Care Home"** means a home for adult persons in a residence or other type building(s), non-institutional in character, which offers care to seven through fifteen persons.



- c) **"Congregate Personal Care Home"** means a home for adults which offers care to sixteen or more persons.
- d) **"Drug Rehab Facility"** means a home for adults which offers care for up to 20 persons, a **State License is required and is State Mandated. See O.C.G.A. 36-66-6.**

**Planning Commission.** As utilized in this ordinance, the Planning Commission shall mean the Fitzgerald/Ben Hill County Planning Commission as duly appointed by the Fitzgerald Mayor and Council and the Ben Hill County Board of Commissioners.

**Principal Building.** The building containing or to contain the principal use of a lot.

**Principal Use.** The principal purpose for which a lot or the main building thereon is designed, arranged, or intended, and for which it is or may be used, occupied, or maintained.

**Public Street.** Right-of-way dedicated to the city, county, state or federal government or owned by the city, county, state or federal government for public street purposes.

**Residential.** Pertaining to the use of land, means premises such as homes, townhomes, patio homes, manufactured homes, duplexes, condominiums or apartment complexes or single room rental units, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking, and eating therein.

**School.** A facility where persons regularly assemble for the purpose of instruction or education including any playgrounds, stadiums, or other structures and grounds used in conjunction therewith. This shall include but not be limited to public and private schools used for primary, secondary, or post-secondary education.

**Setback.** The shortest distance between the centerline of a street and the principal building or structure on a lot.

**Shopping Center.** Two (2) or more commercial establishments planned and managed as a single unit with off-street parking and loading facilities provided on the property.

**Sign.** Any surface, fabric, or device bearing lettered, pictorial, or sculptured matter designed to convey information visually and exposed to public view; or any structure (including billboard or poster panel) designed to carry the above visual information.

- a) **Advertising Incidental Use Sign:** A sign which directs attention to a business, commodity, service or entertainment conducted, sold, or offered as a minor and incidental activity upon the premises where the sign is displayed.
- b) **Bulletin Board:** A sign used to announce meetings or programs to be held on the premises of a church, community recreation center, school, auditorium, library, museum, or similar noncommercial places of public assembly.
- c) **Identification Sign:** A sign used to identify only the name of the individual, family, organization, or enterprise occupying the premises.
- d) **Point of Business Sign:** A sign which directs attention to a business, profession, or industry located upon the premises where the sign is displayed, to type of products sold,

manufactured, or assembled, and/or to service or entertainment offered on said premises, but not a sign pertaining to the preceding if such activity is only minor and incidental to the principal use of the premises.

**Special Exception.** A special exception is a use which within certain districts specified by this ordinance is not permitted as a matter of right but may be permitted within these districts by the Ben Hill County Commission after the Planning Commission and County Commission have: (1) reviewed the proposed site plans for the use, its location within the county, its arrangement and design, its relationship to neighboring property and other conditions peculiar to the particular proposal which would determine its desirability or undesirability; (2) has found the proposal not to be contrary to the intent of this ordinance; and (3) has approved the use as specified.

**Street.** A thoroughfare which affords traffic circulation and principal means of access to abutting property, including avenue, place, way, drive, lane, boulevard, highway, road, and any other thoroughfare except an alley. A PUBLIC STREET is a street accepted by dedication or otherwise by the governing body. A PRIVATE STREET is a street not so accepted, which must also meet minimum public design standards.

**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. Among other things, structures include buildings, manufactured homes, billboards, swimming pools, and fall-out shelters but does not include walls or fences.

**Tourist Home (Bed and Breakfast).** A dwelling in which sleeping accommodations and food are provided or offered to transient visitors for compensation.

**Trailer, Travel Type.** A vehicular portable structure designed as a temporary dwelling for travel, recreation, and vacation uses, which is identified on the unit by the manufacturer as a "camper" or "travel" trailer.

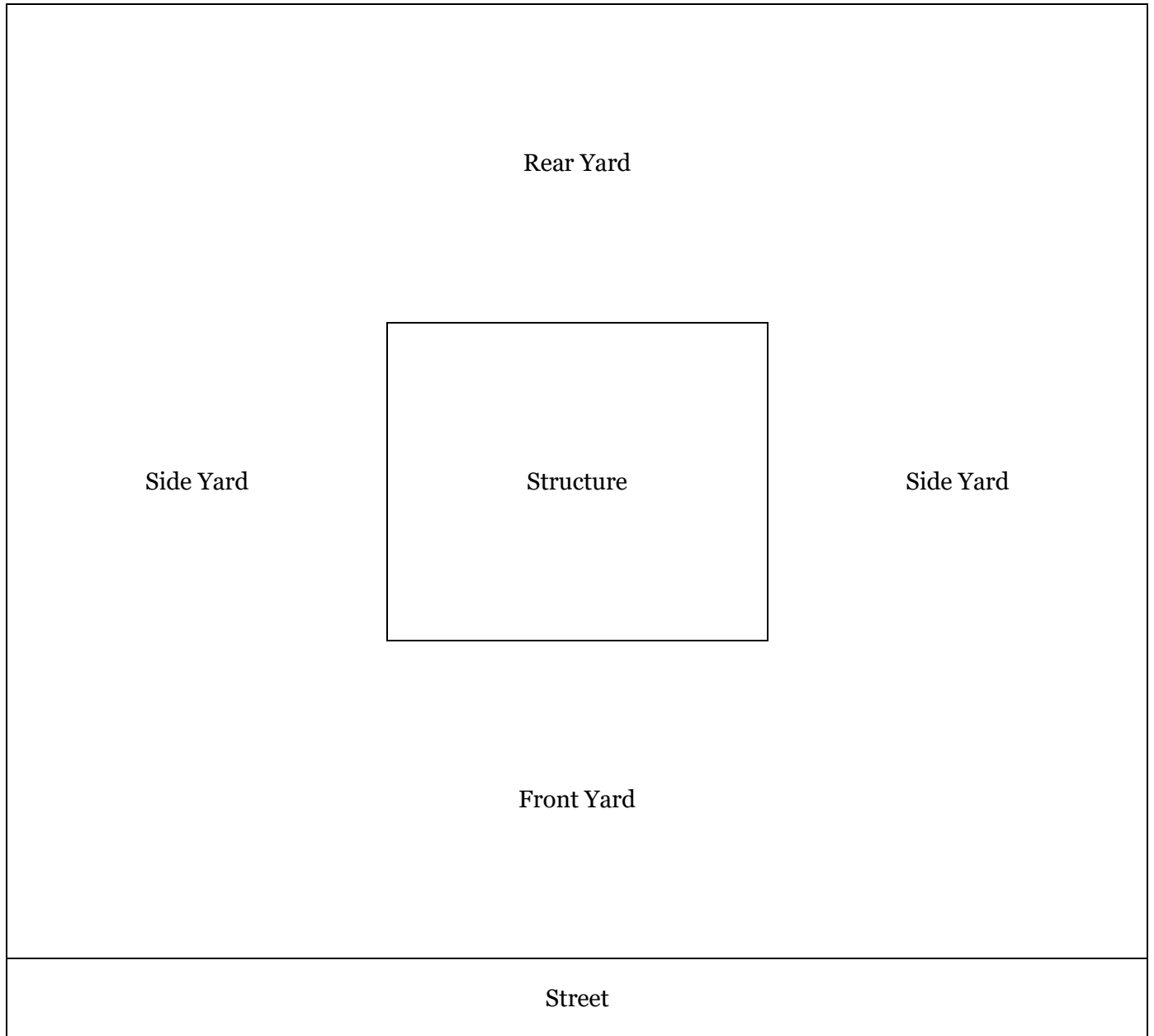
**Variance.** A variance is a relaxation of the dimensional and/or development standards of the zoning ordinance that will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the intentional actions of the applicant, a literal enforcement of the regulations would result in unnecessary and undue hardship. (See Section 13-6.2)

**Yard, Front.** That area of a lot lying between the abutting street right-of-way line and the principal building of the lot and extending across the front of a lot from side lot line to side lot line. (See illustration, page 9)

**Yard, Rear.** That area of a lot extending across the rear of a lot from side lot line to side lot line and lying between the rear lot line and the principal building on the lot. (See illustration page 9)

**Yard, Side.** That area of a lot between the side lot line and the principal building on the lot extending from the front yard to the rear yard. (See illustration page 11)

**Front, Rear and Side Yard**



**SECTION 3. GENERAL PROVISIONS**

**3-1 Interpretation and Application.** In interpreting and applying this ordinance, the requirements contained herein are declared to be the minimum requirements necessary to carry out the purpose of this ordinance. Except as hereinafter provided, this ordinance shall not be deemed to interfere with, abrogate, annul, or otherwise affect in any manner whatsoever any easements, covenants, or otherwise agreements between parties. Whenever the provisions of this ordinance impose greater restrictions upon the use of land or buildings, or upon the height of buildings, or require a larger percentage of a lot to be left unoccupied than the provisions of other ordinances, rules, regulations or permits, or any easements, covenants or other agreements between parties, then the provisions of this ordinance shall govern.

**3-2 Zoning Affects All Land and Buildings.** No buildings, structures, or land shall be used or occupied; and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered unless in conformity with the requirements of this ordinance.

**3-3 Every Use Must be Upon a Lot.** No building or structure may be erected, or use established, unless upon a lot as defined by this ordinance except as provided in Section 3-21.

**3-4 Only One Principal Building Per Lot.** Except as herein provided (see Section 9-4), there shall be no more than one (1) principal building or structure upon any lot in any residential district.

**3-5 Open Space Not to be Encroached Upon.** No open space shall be encroached upon or reduced in any manner except in conformity to the yard, setback, off-street parking space requirements, and such other regulations required by this ordinance for the district in which such building is located. Shrubbery, driveways, retaining walls, fences, curbs, and planted buffer strips shall be interpreted not to be encroachments of yards.

(See Section 3-24)

**3-6 Required Open Space May Not be Used by Another Building.** No part of any yard, other open space, or off-street parking or loading space required in connection with any building, structure, or use by this ordinance shall be considered to be part of a required yard, or other open space, or off-street parking or loading space for any other building, structure, or use except as provided in Section 7-6.

**3-7 Reduction of Yards or Lot Area.** Except as provided in Section 3-21, no lot existing at the time of passage of this ordinance shall be reduced, divided, or changed so as to produce a tract of land which does not comply with the minimum dimension or area requirements of this ordinance for the district in which it is located unless said reduction or division is necessary to provide land that is needed and accepted for public use.

**3-8 Encroachment on Public Rights-of-Way.** No building, structure, nor any mandated buffer requirements, service area, or required off-street parking and loading facility, except driveways, shall be permitted to encroach on public rights-of-way.

**3-9 Location of Accessory Buildings or Uses.** Accessory buildings on residential lots, when located within a front or side yard, shall be located no closer to property lines than would be allowed for a principal building. Within a rear yard, an accessory building on a residential lot shall be located at least five (5) feet from all rear property lines and eight (8) feet from all other property lines, except that in the case of corner lots, accessory buildings shall be set back from the centerline of an abutting street right-of-way a distance equal to three-fourths (3/4) the front yard setback established for the zoning district in which the accessory buildings are located. In the case of a through lot (see Section 3-11) accessory buildings shall conform to front yard setbacks on both streets. Accessory buildings or uses on non-residential lots shall comply with

front, side, and rear yard requirements established for the zoning district in which such buildings or uses are located.

**3-9.1 Accessory Building on Separate Lot:** An accessory building may be permitted, as a Special Exception by the County Commission, on a separate lot from the lot of the principal

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building provided that: (a) the lot upon which the accessory building is to be located shall be within 400 feet of the principal use; and (b) all requirements, including use restrictions, established for the zoning district in which such accessory building is to be located shall be complied with; and (c) any structure or building erected shall meet the requirements of the Georgia State Building Code and shall be approved by the building inspector. In addition to the above requirements, the County Commission may require design features such as buffer strips, screening, etc., as may be found necessary to protect the purposes of this ordinance.

**3-9.2 Swimming Pools:** Swimming pools (both in ground and above ground exceeding twenty-four inches in depth) accessory to residences or commercial uses shall be enclosed by a steel mesh security fence or other substantial building material affording equal or better access control. Said fence shall have a minimum height of four (4) feet and include lockable gates approved by the Building Official. (See Section 8-7 for Non-Conforming Pools)

**3-9.3 Separation from Principal Use:** Any accessory building of more than eight (8) feet in height shall be located at least ten (10) feet from the principal building.

**3-10 Every Lot Shall Abut a Street.** No building shall be erected on a lot which does not abut an open public street (or an approved private street meeting current county development standards and duly approved by the County Commission). Every lot shall abut such street for a contiguous and uniform width as dictated by the respective zoning district. For the purpose of establishing lot abutment and minimum width to an approved street, easements, flag lots, and inconsistent widths are not acceptable in lieu of minimum lot frontage and abutment standards. These design standards shall not apply to lots abutting the radius of a cul-de-sac, where lot width shall be measured at the building setback line.

**3-11 Lots With Multiple Frontage.** In the case of a corner lot, side yard setback requirements from the centerline of the street right-of-way shall equal to seventy-five percent (75%) of that required for the front yard setback for the respective zoning district. On a corner lot where the main entrance into a residence is facing a side yard, it shall be permissible for purposes of this ordinance to interpret the residence to be fronting on the street other than that street which said entrance faces, and side and rear yard requirements may be provided accordingly. If a building is constructed on a through lot having frontage on two (2) or more roads not at an intersection, a setback from each road shall be provided equal to the front yard requirement for the district in which the lot is located.

**3-12 Visibility at Intersections.** On corner lots within all zoning districts, no fence, shrubbery or other obstruction to the traffic sight vision, except utility poles or light or sign standards, shall exceed a height of three (3) feet within a triangular area formed by the intersection of the right-of-way lines of two (2) streets or a street intersection with a railroad right-of-way line, and a diagonal line which intersects the right-of-way lines at two (2) points, each twenty (20) feet distance from the intersection of the right-of-way lines, or, in the case of a rounded corner, from the point of intersection of their tangents; provided, however, signs, lights, or similar objects which are totally located at least twelve (12) feet above the finished grade shall be permitted. (See illustration page # 12)

**3-13 Uses Prohibited.** If either a use or class of use is not specifically indicated as being permitted in a district, either as a matter of right, or as a Special Exception, then such use, class of use, or structures for such uses, shall be prohibited in such district. (A Text Amendment to the Use Table to allow).

**3-14 Reserved.**

### Visibility at Intersections



**3-15 Zoning to Apply When Lot is Divided by District Boundary Line.** In the event that a district boundary line on the zoning map divides a lot of record held in one (1) ownership on the date of passage of this ordinance, each part of the lot so divided shall be used in conformity with the regulations established by this ordinance for the district in which such parcel is located; except, however, that if the property owner of such a lot so desires, he may extend a use allowed on either portion of said lot fifty (50) feet beyond the district boundary line in accordance with setbacks and yard requirements of the district into which he is encroaching.

**3-16 Height Limitations of Walls and Fences.** Within any residential district, no wall or fence shall exceed eight (8) feet in height within or along a boundary of a rear or side yard. Within the front yard, all fences shall have a height limit of four (4) feet.

**3-17 Required Buffers in P, CC, GB, WLI, and HI Districts.** In a P, CC, GB, WLI, and HI zoning district, where a lot abuts any residential district, a six (6) foot wide buffer the entire length of the lot abutting the residential property shall be provided with screening as specified in Section 3-19. Off-street parking associated with such uses shall be governed by this same provision.

**3-18 Screening of Service Areas Within One Hundred Fifty (150) Feet of Public Street.** Any service area, loading area, refuse, or storage area between a principal building and a public street being visible from said street and lying within one hundred fifty (150) feet of said street shall be screened from view from the public street as specified in Section 3-19.

**3-19 Screening Required.** Wherever screening is required by this ordinance, a durable masonry wall, or fence and hedge of sufficient opacity to provide a visual blind, designed to be compatible with the character of adjoining properties, shall be provided and maintained by the owner and his successors and assigns. Such fences and walls shall be at least six (6) feet in height, but no greater than eight (8) feet in height, measured from the ground along the common lot line of the adjoining properties. Hedges or comparable natural plantings shall be of such variety that an average height of at least six (6) feet could be expected by normal growth within no later than three (3) years from the time of planting. The owner/developer shall install the required screening prior to the issuance of the certificate of occupancy. Occupancy will not be allowed until the screening is completed as a part of the normal developmental requirements.

**3-20 Side and Rear Yards Not Required Next to Railroad.** Within any non-residential district, side yards and rear yards shall not be required adjacent to railroad rights-of-way.

**3-21 Substandard Lots of Record.** Any lot of record existing at the time of the adoption of this ordinance which has an area or a width which is less than that required by this ordinance may be used as a building site for a structure or use permitted in that zone; provided, however, that the same yard, setback, open space, and other dimensional requirements are met that would be required for a standard lot, except as stipulated in Section 3-25.

**3-22 Permitted Modification of Setback Requirement.** When a building is proposed on a lot and when on either or both lots which adjoin such lot at the street right-of-way line there exists a principal building which does not conform to the setback requirements of this ordinance, the required setback for such building shall be as follows: (1) where only one said adjoining lot contains a principal building with a non-conforming setback the setback shall be the computed average of (a) the normal setback requirement with (b) the nonconforming setback, or (2) where both adjoining lots contain a principal building each with a non-conforming setback, the minimum setback shall be the computed average of the two non-conforming setbacks.

**3-23 Structures Permitted Above the Height Limit.** The height limits of this ordinance shall not apply to a church spire, belfry, cupola, dome, or ornamental tower not intended for human occupancy,

monument, water tower, observation tower, transmission tower, chimney, smoke stack, conveyor, flag pole, radio or television tower, mast or aerial, parapet wall not extending more than four (4) feet above the roof line of the building, and necessary mechanical appurtenances. (See Section 3-26)

**3-24 Permitted Encroachments of Yards and Setbacks.** Architectural features such as cornices, eaves, steps, gutters, and fire escapes may project not more than three (3) feet beyond any required setback line, except where such projections would obstruct driveways which are or may be used for access for service and/or emergency vehicles; provided, however, that in the case of automobile service stations, motels, and similar uses which serve the motoring public, canopies shall be allowed over a driveway or walkways within the front yard not to extend from the principal building to a point any closer than fifteen (15) feet from the street right-of-way line.

**3-25 Modification of Side Yard Requirements.** When a lot of record has a width less than the frontage required in the district in which it is located, then the Zoning Administrator shall be authorized to reduce the side yard requirements for such lot; provided, however, that there shall not be less than an eight (8) foot side yard.

**3-26 Variances to Height Requirements.** Chimneys, water, fire, radio and television towers, church spires, domes, cupolas, stage towers, and scenery lofts, cooling towers, elevator bulkheads, smokestacks, flag poles, parapet walls, silos, granaries, windmills, and similar structures and their necessary mechanical appurtenances may be erected above the height limits herein established after a proper variance has been obtained from the Zoning Board of Appeals. Any such approval of a greater height shall be in accord with the flight approach zone maps on file with the Zoning Administrator of the Ben-Hill County, Georgia. All such height variances shall also be closely coordinated with the Fitzgerald/Ben Hill County Airport authority and the Federal Aviation Administration.

**3-27 Prohibited Uses in All Residential Districts.**

- a) It shall be prohibited use in all residentially zoned districts and residential lots to park or store in the open, wrecked or junked vehicles, power driven construction equipment, used lumber, metal or rubbish, or any other miscellaneous scrap or salvageable material in quantity.
- b) Tractor-trailer combinations, tractors or trailers shall not be placed or stored in residentially zoned districts.
- c) Commercial Kennels.
- d) Wrecked or junked vehicles in “open” buildings.

**3-28 Recreational Vehicles.** Recreational vehicles shall not be utilized as a permanent dwelling in any zoning district. Occupancy exceeding 30 days shall be considered permanent.

**3-29 Mobile Homes.** No mobile homes, defined as units constructed prior to June 15, 1976 shall be allowed to be sited within the unincorporated area of Ben Hill County. Only manufactured homes constructed to the Federal Manufactured Home Construction and Safety Standards governed by the National Manufactured Housing Construction and Safety Standards Act of 1974, as amended, 42 U.S.C. 5401, et. Seq. shall be permitted within unincorporated Ben Hill County.



**SECTION 4. ZONING DISTRICTS**

**4-1 Establishment of Districts.** In order that the purposes of this ordinance as defined in Section 1 may be accomplished, there are hereby established within Ben Hill County, Georgia, zoning districts identified as follows:

- 4-1.1 AU General Farming:** The purpose of this district is to permit agricultural uses, to encourage the maintenance of the rural countryside, to preserve forests and other undeveloped lands away from areas of population growth, and to allow residents to retain their traditional ways of life. The preferred land use in the district is agricultural, either active in the form of crops, or passive in the form of forest management or pasture lands. The AU district should be utilized as a land use designation where a more intensive use of the land is unlikely to occur in the near future. The requirements of the district are designed to encourage the maintenance of a rural character until more intensive development is feasible.
- 4-1.2 R-R Rural Residential:** The purpose of this district shall be to allow for residential development on lots of one acre in appropriate areas designated in the Comprehensive Plan in unincorporated Ben Hill County. With Health Department approval, such districts may use individual water supply and sewerage disposal systems. Minimum gross floor area per dwelling unit in this district shall be a minimum of 800 square feet.
- 4-1.3 R-1 Single Family Residential:** The purpose of this district is to provide single family residential areas with minimum lot sizes of one acre (43,560 square feet), said areas being protected from the depreciating effects of small lot development and excessive density and from the encroachment of these uses which are incompatible to a desirable residential environment. With Health Department approval, such districts may use individual water supply and sewerage disposal systems. Minimum gross floor area per dwelling unit in this district shall be a minimum of 1,200 square feet.
- 4-1.4 R-22 Single-Family Residential:** The purpose of this district is to provide single family residential areas with minimum lot sizes of twenty-two thousand (22,000) square feet, said areas being protected from the depreciating effects of small lot development and excessive density and from the encroachment of those uses which are incompatible to a desirable residential environment. Consideration for designation for the district requires a minimum of public water service.
- 4-1.5 M-R Multiple Residential:** The purpose of this district is to provide orderly development of higher density residential areas for one (1), two (2), three (3) and multifamily dwellings, with minimum lot sizes of six thousand (6,000) square feet, said areas being protected from the encroachment of those uses which are incompatible to a desirable residential environment. Consideration for designation for this district requires a minimum of public water and public sewer service.
- 4-1.6 M-H-P Manufactured Housing Park:** The purpose of this district is to provide for the development of property that is suitably located and planned for manufactured housing park use. Property developed in this district is to remain in single ownership for rental or leasing purposes only. Manufactured housing parks shall be developed only in strict accordance with the Manufacturing Housing Park provisions of this ordinance.
- 4-1.7 P Professional:** The purpose of this district shall be to create an area in which residential, professional, educational, and institutional uses can be compatibly mixed while

maintaining a healthful living environment for the residents of the district and at the same time preventing the development of blight and slum conditions. The minimum lot size in this district shall be six thousand (6,000) square feet.

**4-1.8 C-C Community Commercial:** The purpose of this district is to provide for and protect areas that can accommodate a variety of sales and services that are commonly needed by the Ben Hill County citizens.

**4-1.9 G-B General Business:** The purpose of this district shall be to provide for and encourage the proper grouping and development of uses which include a wide variety of sales and services that will best accommodate the needs of the county and the traveling public in order to reduce highway traffic congestion, traffic hazards, and blight along the public streets and highways of the county.

**4-1.10 WLI Wholesale-Light Industrial:** The purpose of this district shall be to provide and protect areas for those wholesale and light industrial uses which do not create excessive noise, odor, smoke, dust, and which do not possess other objectionable characteristics which might be detrimental to surrounding neighborhoods, or to the other uses permitted in the district.

**4-1.11 H-I Heavy Industrial:** The purpose of this district shall be to provide and protect areas for those industrial uses which cannot comply with the regulations of the WLI District.

**4-2 Zoning Map and Major Thoroughfare Plan.** The boundaries of each district are shown on maps entitled "Official Zoning Maps of Ben Hill County, Georgia". The street classifications (local and collector streets and arterials) within Ben Hill County, Georgia are shown on the map entitled "Major Thoroughfare Plan, Ben Hill County, Georgia". The Official Zoning Maps and Major Thoroughfare Plan shall be dated and certified by the Chairman of the County Commission and the County Clerk, and said maps and all explanatory matter thereon accompanies and is hereby made a part of this ordinance.

Accurate copies of the "Official Zoning Maps of Ben Hill County, Georgia, and the "Major Thoroughfare Plan, Ben Hill County, Georgia", shall be on file in the office of the Zoning Administrator at all times. Said maps shall accurately show all map amendments made in accordance with the provisions of this ordinance. It shall be the duty of the Zoning Administrator to insure that the "Official Zoning Maps of Ben Hill County, Georgia" and the "Major Thoroughfare Plan, Ben Hill County, Georgia", displayed in his office are kept up-to-date and accurately show all amendments.

**4-3 Interpretation of Zoning District Boundaries:** When uncertainty exists with respect to the location of boundaries of any zoning district as shown on the "Official Zoning Maps of Ben Hill County", the following rules shall apply:

**4-3.1** Unless otherwise specifically indicated, where district boundaries are indicated on the zoning map as approximately following the centerline of a street right-of-way, highway, railroad right of-way line, stream bed, or river bed; such centerlines shall be interpreted to be such district boundaries.

**4-3.2** Boundaries indicated as approximately following platted lot lines shall be interpreted as following such lot lines.

**4-3.3** Where district boundaries are indicated on the zoning map as approximately following the corporate limit lines, then such corporate limit lines shall be interpreted to be such district boundaries.

**4-3.4** Where district boundaries are indicated on the zoning map as being set back from the centerline of a street right-of-way, road, highway, railroad, stream, or river, and parallel thereto, then such district boundaries, unless otherwise specifically indicated, shall be interpreted as being at the scaled distance from the centerline of such street, road, highway, railroad, stream, or river as being parallel thereto.

**4-4 Use Interpretation.** The use provisions of Section 5 of this Ordinance shall govern the use of all properties, regardless of any inconsistency or conflicting provision of Section 4.

**SECTION 5. SCHEDULE OF PERMITTED USES**

**5-1 Table of Permitted Uses.** Within the various zoning districts as indicated on the "Official Zoning Maps of Ben Hill County", no building, structure, or land shall be constructed, erected, altered, or used except as indicated in the following schedules:

**5-1.1 Uses Permitted by Right:** Uses permitted as a matter of right are indicated on the following schedule by the letter "X" in the appropriate column.

**5-1.2 Special Exception:** Uses permitted only after special review and approval of the County Commission are indicated on the following schedule by the letters "SE" in the appropriate column. Requests to approve a Use by Special Exception shall be advertised, reviewed and processed in the same manner as an amendment to the Official Zoning Maps as described in Section 14 - Amendment.

**5-1.3 Uses Not Allowed:** Uses not specifically designated by an "X" or "SE" within the appropriate column are not allowed within the district.

**5-1.4 Conflict of Use Interpretation:** In the event of a discrepancy between the various provisions of this ordinance as relates to a particular use of land being allowed in a particular zoning district, Section 5, Schedule of Permitted Uses, shall govern.

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>1. ACCESSORY BUILDINGS OR USES</b>	X	X	X	X	X	X	X	X	X	X	X
<p><b>2a. ANIMALS</b>, non-commercial keeping of horses as an accessory use to residential land uses, provided that in RR, zones:</p> <p>a) shall only be permitted on a lot containing not less than two acres;</p> <p>b) all buildings used to house the animals shall be set back not less than 150 feet from any property line;</p> <p>c) all animals shall be maintained at least fifty (50) feet from any property line except property lines adjoining a AU zones; and</p> <p>d) there shall be not less than 30,000 square feet of fenced lot area not covered by the principal structure for each animal.</p>	X	X									
<p><b>2b. ANIMALS</b>, kennel, commercial and non-commercial, as an accessory use to residential land uses provided that:</p> <p>a) Minimum lot size of one acre (3 acres in AU);</p> <p>b) All buildings used to house the animals shall be set back 150 feet from any property line.</p>	SE	SE									
<b>3. BOARDING OR ROOMING HOUSE</b>	X				X			X	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<p><b>4. CHURCH OR OTHER PLACE OF WORSHIP</b>, including Sunday School buildings, parish houses, convents, nursery school, kindergartens (subject to developmental standards listed in use item # 19) and other related uses on the same premises and operated by the church provided that within R-R, R-1, R-22, MR, R-P, C-C, and G-B zones:</p> <p>a) Lot must front collector or arterial street;                      b) the lot size shall be no less than two (2) acres;                      c) any building or structure established with any such use shall have minimum side and rear yards of fifty feet.</p>	X	X	X	X	X		X	X	X		
<b>5. DWELLING, SINGLE FAMILY</b>	X	X	X	X	X	SE	SE				
<b>6. DWELLING, TWO FAMILY (Duplex) and DWELLING, THREE FAMILY (Triplex)</b>					X			SE			
<b>7. GARDEN, PRIVATE</b>	X	X	X	X	X	X	X	X	X	X	X
<b>8. DWELLING, MULTI-FAMILY and RESIDENTIAL GROUP DEVELOPMENT PROJECTS</b>	SE				X		SE	SE			
<b>9. FAMILY PERSONAL CARE HOME</b>	X	SE	SE	SE			X	SE	SE		
<b>10. GARAGE APARTMENT</b> , provided no more than one shall be permitted on a lot with the principal dwelling, and provided such shall be permitted only within the rear yard.	X	SE	SE								
<p><b>11. GROUP PERSONAL CARE HOME</b>, provided that:</p> <p>a) Minimum lot size of one (1) acre in all zones                      b) Parking is restricted to rear and side yard and shall be screened per Section 3-19.</p>	SE							SE	SE		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<p><b>12. GUEST QUARTERS OR SERVANT QUARTERS,</b> provided no more than one shall be permitted on a lot with the principal building and provided such shall be permitted only within the rear yard. Within R-R, R1 and P zones, the lot on which such use is to be established must be fifty percent (50%) greater in lot area than the minimum standard lot size for the respective district.</p>	X	SE	SE				SE				
<p><b>13. HOME OCCUPATION</b> (See Section 9-1)</p>	X	X	X	X	X	X	X				
<p><b>14. HOME BUSINESS</b> (See Section 9-2)</p>	SE	SE	SE	SE							
<p><b>15. MANUFACTURED HOME,</b> individually sited, provided that:</p> <p>The manufactured home shall meet the same minimum square footage, setback, and yard requirements as any other single-family dwelling, and must be installed and anchored as per Georgia State minimum requirements, and properly underpinned or skirted within 45 days.</p>	X	X				X					
<p><b>16. MANUFACTURED HOUSING PARK,</b> provided that:</p> <p>a) Access to manufactured housing parks shall be by paved street and shall directly abut an arterial or collector street as designated on the Major Thoroughfare Plan, Ben Hill County, Georgia; and,</p> <p>b) the manufactured housing park meets the requirements of Section 9-4 of this ordinance</p>	SE					X					
<p><b>17. PUBLIC OWNED RECREATION CENTERS, Y.M.C.A. AND INSTITUTIONS OF A SIMILAR NATURE</b></p>	SE						X	X	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>18. SCHOOLS, PUBLIC OR PRIVATE</b> - Pre-K through high school.	X	SE									
<b>19. SCHOOLS - KINDERGARTENS, NURSERIES, AND DAY CARE CENTERS</b> , provided that:  a) Off-street loading and unloading spaces are supplied; and b) at least one hundred (100) square feet of outdoor play area is supplied for each child accommodated; and, c) the entire play area is enclosed by a steel mesh security fence with lockable gates approved by the Building Official or other substantial building material affording equal or better protection having a minimum height of at least four (4) feet and constructed in such a manner that maximum safety to the children is ensured.	X						SE	SE	SE		
<b>20. TOURIST HOMES</b> (Bed and Breakfast Inn & Air B&B)	SE	SE	SE				SE	X	X		
<b>BUSINESS USE</b>											
<b>21. Reserved.</b>											
<b>22. AMBULANCE SERVICE OR RESCUE SQUAD (PRIVATE)</b>	X						X	X	X		
<b>23. AMUSEMENT OR RECREATIONAL ACTIVITIES (COMMERCIAL)</b> , carried on outside a building such as a golf or baseball driving range, miniature golf course, softball field, and uses of a similar nature.	SE							X	X		



	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>24. AMUSEMENT OR RECREATIONAL ACTIVITIES (COMMERCIAL)</b> , carried on outside a building which produces noise and/or noxious fumes, such as drag racing strips, racetracks, motorcycle races or ATV (all-terrain vehicle) courses, and uses of a similar nature.	SE										
<b>25. AMUSEMENT OR RECREATIONAL ACTIVITIES (Commercial)</b> , carried on wholly within a building, such as a cinema, theater, auditorium, venues and uses of a similar nature.	SE							X	X		
<b>26. ANIMAL HOSPITAL, COMMERCIAL KENNELS, VETERINARY CLINIC OR ANIMAL BOARDING PLACE</b> , located at least 300 feet from the nearest residential district.	SE						SE	SE	SE		
<b>27. Reserved.</b>											
<b>28. ART STUDIO</b>							X	X	X		
<b>29. AUTOMOBILE SERVICE STATION</b> , provided that major auto repair shall not be permitted, nor shall there be outside storage of materials or equipment other than merchandise offered for sale in a C-C or G-B district.	SE							X	X		
<b>30. AUTOMOBILE, TRUCK, FARM EQUIPMENT, OR MOTORCYCLE SALES, REPAIR, OR UPHOLSTERY, AUTO WASH/DETAILING, PAINT SHOPS, OR TIRE RECAPPING</b> , (including rebuilding of parts or sales of parts and equipment indoors only, no outside storage of equipment or parts except for WLI and H-I districts).									X	X	X
<b>31. AUTOMOBILE PARKING LOT OR PARKING GARAGE (Commercial)</b>								SE	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>32. BAIT AND TACKLE STORE</b> ; in GF, only when associated with resource-oriented amusement or recreational activity.	SE							X	X		
<b>33. BANKS, FINANCIAL INSTITUTIONS, AND OFFICES</b> not specifically listed elsewhere in this column.								X	X		
<b>34. BOOKBINDING, PRINTING, ENGRAVING, BLUEPRINTING, PHOTOSTATING, OR LETTER SHOP</b>								X	X		
<b>35. BUILDING CONTRACTOR AND RELATED ACTIVITIES AND STORAGE OF BUILDING SUPPLIES AND MATERIALS</b> , provided that equipment and materials temporarily stored or displayed outside shall be completely enclosed by a suitable fence. No sawmill or planing mill operations shall take place on the premises within any district other than the H-I, GF district.	SE								SE		X
<b>36. BUSINESS SCHOOLS</b> (Private)	SE						SE	X	X		
<b>36a. CATERING SERVICE</b>	SE							X	X		
<b>37. CLOTHING AND DRY GOODS STORES</b> , including shoe stores, men's shops, women's shops, variety stores and stores of a similar nature.								X	X		
<b>38. CLUBS OR LODGES</b> (Private)	SE						SE	X	X		
<b>39. COLLEGES AND UNIVERSITIES</b>	SE						SE	X	X		
<b>40. CULTURAL FACILITIES</b> , libraries, museums, and similar facilities.	SE						X	X	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>41. DANCE SCHOOL OR STUDIO</b>	SE						SE	X	X		
<b>42. DEPARTMENT STORES</b>								X	X		
<b>43. DRIVE-IN RESTAURANTS</b>								X	X		
<b>44. DRUG STORES</b>							SE	X	X		
<b>45. ELECTRICAL REPAIR</b> and similar repair of a heavy commercial nature.									X	X	X
<b>46. ELECTRICAL APPLIANCE REPAIR</b> , wholly contained within a building.								X	X	X	X
<b>47. EXPERIMENTAL LABORATORY</b>	SE							SE	X	X	X
<b>48. FREIGHT EXPRESS OFFICE</b>									X	X	X
<b>49. FARMERS MARKET</b>	SE							SE	SE		
<b>50. FARM SUPPLIES</b> , including feed, seed, and insecticides, and fertilizer retail sales.	SE								SE	X	X
<b>51. FLOWER SHOP</b>							SE	X	X		
<b>52. FOOD STORES</b> , including retail bakeries, meat markets, dairy products, confectioner shops, and stores of a similar nature.							SE	X	X		
<b>53. FUNERAL HOME</b>	SE						SE	X	X		
<b>54. FURNITURE UPHOLSTERY SHOP</b>								X	X	X	X
<b>55. GLASS SALES AND STORAGE</b> - Wholly contained within a building.								X	X	X	X

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>56. GOLF COURSE - LIGHTED</b>	SE							SE	X		
<b>57. GOLF COURSE</b> , provided that:  a) It shall be for daytime use only; and b) all greens and fairways shall be set back at least one hundred (100) feet from any exterior property lines; and structures shall meet minimum setback requirements for single family residences within the respective district.	X	SE	SE					SE	SE		
<b>58. Reserved.</b>											
<b>59. HOME FURNISHINGS AND HARDWARE</b> , such as appliance sales, hardware stores, paint stores, sporting goods stores, furniture stores, and stores of a similar nature.								X	X		
<b>60. HOSPITALS, NURSING HOMES, CARE HOMES AND CONGREGATE PERSONAL CARE HOMES</b> , provided that:  a) The lot size shall be no less than one (1) acre within any district where allowed; and,  b) any building or structure established with any such use shall have minimum side and rear yard of fifty (50) feet; and,  c) the setback shall be twenty-five (25) feet more than required for other structures within the same district; and,  d) the lot upon which any hospital is built shall front on an arterial or collector street as specified on the Major Thoroughfare Plan	SE							SE	SE		

	<b>GF</b>	<b>RR</b>	<b>R1</b>	<b>R22</b>	<b>MR</b>	<b>MHP</b>	<b>P</b>	<b>CC</b>	<b>GB</b>	<b>WLI</b>	<b>HI</b>
<b>61. HOTELS</b>								SE	SE		
<b>62. LABORATORY SERVING PROFESSIONAL REQUIREMENTS - MEDICAL, DENTAL</b>							X	X	X		
<b>63. LAUNDROMAT OR WASHERTERIA</b>								X	X		
<b>64. LOCKSMITH, GUNSMITH - Repairs and sales only.</b>	SE							X	X		
<b>65. MEDICAL, DENTAL, OR SIMILAR CLINIC</b>							X	X	X		
<b>66. MOTELS</b>								SE	SE		
<b>67. MUSIC TEACHING STUDIO</b>	SE						X	X	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<p><b>68. NEIGHBORHOOD DRY-CLEANING PLANTS, LAUNDRY PICK-UP STATIONS:</b></p> <p>a) The dry-cleaning plant and its operation shall meet the requirements of the National Fire Protection Association (NFPA) and the Underwriters Laboratories, Inc.; and,</p> <p>b) the dry-cleaning plant shall serve not more than one pick-up and delivery station exclusive of one occupying the same premises as the plant; and,</p> <p>c) the building for a dry-cleaning plant shall not contain more than 4,000 square feet of floor area inclusive of dry-cleaning pick-up facilities within the building; and,</p> <p>d) the dry cleaning plant shall be designed to operate in a manner that will not emit smoke, or odor, or objectionable waste materials and which will not produce noise that will carry beyond the walls of the building occupied by such plant; and,</p> <p>e) fuel for operation of equipment shall be smokeless fuel; and,</p> <p>f) the applicant for the dry-cleaning plant shall certify in writing at the time of application that all the above conditions will be met.</p>								SE	SE		
<b>69. NEWSPAPER OR PERIODICAL PRODUCTION, SALES AND DISTRIBUTION</b>								X	X		
<b>70. NEWSPAPER OR PERIODICAL PUBLISHING</b>								X	X		
<b>71. NIGHTCLUB OR LOUNGE</b> , provided lot must front arterial street.									X		
<b>72. OFFICE EQUIPMENT SALES AND SERVICE</b>							X	X	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>73. PACKAGE STORE</b>								X	X		
<b>74. PAWN SHOPS</b> and small personal loan offices other than commercial banks.								X	X		
<b>75. PERSONAL SERVICE SHOPS</b> , such as barber shops, beauty shops, shoe repair, watch repair, and services of a similar nature.	SE							X	X		
<b>76. PEST CONTROL</b> , providing no outside storage other than within a WLI or H-I district.	SE								X	X	X
<b>77. PHOTOGRAPHY STUDIO</b>	SE						X	X	X		
<b>78. PRODUCE SALES, SEASONAL</b>	X							X	X		
<b>79. RADIO AND TELEVISION STUDIOS</b>	SE							X	X		
<b>80. UTILITY SUBSTATION</b> , provided all buildings, masts, and other facilities are located at least two hundred (200) feet from adjacent property lines on any lot which adjoins any residential district.	SE									X	X
<b>81. RAILROAD OR BUS PASSENGER STATION</b>								X	X		
<b>82. RAILROAD FREIGHT STATION</b>									X	X	X
<b>83. RESTAURANTS</b>	SE						SE	X	X		
<b>84. RETAIL AUTO PARTS AND TIRE STORES</b>								X	X		
<b>85. RETAIL STORES</b> , not covered elsewhere in this section.								SE	X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>86. RESIDENTIAL MOBILE HOME SALES ROOM AND SALES LOT</b>	SE								X		
<b>87. SECURITY WORKER HOUSING</b>	SE		SE						SE	SE	SE
<b>88. SHELL HOME DISPLAY YARDS</b>									X	X	
<b>89. SHRUBBERY SALES</b> (Within a CC zone, must be wholly contained within the building.)	SE							X	X		
<b>90. SPECIALTY SHOPS</b> , such as gift shops, jewelry stores, jewelry repair, antique shops, and stores of a similar nature.							SE	X	X		
<b>91. TAXIDERMIST</b>	SE								SE	X	
<b>92. TAXI OFFICE</b>								SE	X		
<b>93. TELECOMMUNICATIONSTOWERS</b> Provided all structures are set back from property lines and right-of-way lines the required distances for that district, plus 1 foot for every 2 feet above the height requirements of that district. Towers for telecommunication services will not be permitted within 5,000 feet of each other, measured from base of tower to base of tower.	SE								SE	SE	SE
<b>93. TELEGRAPH OR MESSENGER SERVICE</b>								X	X		
<b>94. TECHNICAL COLLEGE / SCHOOLS</b>	SE							X	X		



	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<p><b>95. TRAVEL TRAILER PARK</b>, provided that:</p> <p>a) No travel trailer nor R/V park shall be located except with direct access to a principal or minor arterial with a minimum lot width of not less than fifty (50) feet for that portion used for entrance and exit. No entrances or exits shall be through a residential district, or shall require movement of traffic from the park through a residential district.</p> <p>b) The minimum lot area required for a travel trailer park shall be three (3) acres.</p> <p>c) Spaces in a travel trailer park may be used by travel Trailers provided they shall be rented by the day or week only, and an occupant of such space shall remain in the trailer park for a period of not more than thirty (30) days.</p> <p>d) Management headquarters, recreational facilities, toilets, showers, laundry facilities and other uses and structures customarily incidental to operation of a trailer park are permitted as accessory uses in any district in which travel trailer parks are allowed provided such establishments and the parking area primarily related to their operations shall not occupy more than ten (10) percent of the area of the park.</p> <p>e) No space shall be located so that any part intended for occupancy for sleeping purposes shall be within twenty (20) feet of the exterior property lines.</p> <p>f) In addition to meeting the above requirements, the travel trailer park site plan shall be accompanied by a certificate of approval from the Ben Hill County Health Department.</p> <p>g) Site plan review and approval required as part of rezoning.</p>	SE								SE		
<b>96. UTILITY TRAILER RENTALS AND RENT-ALLS</b>	SE								X		

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>97. VENDING MACHINES</b> , located out-of-doors subject to yard and setback requirements for the respective districts (as an accessory use only).							X	X	X	X	X
<b>98. ACID STORAGE AND DISTRIBUTION</b>											X
<b>99. FEED, GRAIN, OR FERTILIZER WHOLESALING AND STORAGE</b>	SE								SE	X	X
<b>100. FREEZER LOCKER SERVICE, ICE STORAGE</b>									X	X	
<b>101. GREENHOUSE AND PLANT NURSERY</b> (Commercial) Heavy equipment allowed only in GF and WLI districts. In CC and GB district must be wholly contained within a building.	SE							X	X	X	
<b>102. HEAVY MANUFACTURING.</b> The like of which produces noise, odor, dust, fumes, fire hazards or other nuisance features shall be setback not less than five hundred (500) feet from any H-I district boundary.											
a) Asphalt or concrete plant											SE
b) Battery manufacturing											SE
c) Bone distillation											SE
d) Corrosive acids manufacture											SE
e) Drop forge industry											SE
f) Fat or oil manufacture (including fat rendering)											SE
g) Fertilizer manufacture											SE
h) Grain mill product manufacture											SE
i) Leather tanning manufacture											SE
j) Linoleum manufacture											SE
k) Luggage manufacture											SE
l) Lumber manufacture (Lumber sawmill and storage)											SE
m) Meat processing plant											SE

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
n) Metal product manufacturing											SE
o) Organic materials reduction											SE
p) Petroleum refining and related industry											SE
q) Power generation facility											SE
r) Pulp or paper mill											SE
s) Rubber or plastic product manufacture											SE
t) Stone, clay, or glass manufacture											SE
u) Transportation equipment manufacture											SE
<p><b>103. JUNK YARD OR AUTO GRAVEYARD</b>, provided that:</p> <p>a) Minimum lot size of five (5) acres is required; and</p> <p>b) front yard setback increased fifty (50) feet over requirements for other uses in WLI and H-I zones; and</p> <p>c) must be set back five hundred (500) feet from any residential district boundary.</p> <p>The entire junk yard or Auto graveyard shall be screened as required in Section 3-19.</p>										SE	SE
<p><b>104. LIGHT MANUFACTURING:</b></p> <p>a) Appliance and electronic device assembly plant including the manufacturing of parts for appliances and electronic devices</p> <p>b) manufacturing of food, cosmetics and pharmaceutical products, but not including fish and meat products, sauerkraut, vinegar, yeast, and rendering plants</p> <p>c) machine shop and related activities</p> <p>d) construction of signs, including painted signs</p> <p>e) cooperage</p> <p>f) bottling and canning plants</p> <p>g) light sheet metal products such as ventilating ducts and eaves</p> <p>h) ice manufacturing</p> <p>i) laundry, cleaning, and dyeing plants</p>											
										X	
										X	
										X	
										X	
										X	
										X	
										X	
										X	

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
j) musical instruments, toys, novelties, and similar products										X	
k) ceramic products provided that kilns shall only be by gas or electricity										X	
l) assembly of products from previously prepared materials										X	
m) tinsmith and roofing services										X	
n) other manufacturing, processing, packaging, or handling of a similar nature which shall not omit or produce more smoke, noise, odor, dust, vibration or fumes than the uses listed herein.										X	
<b>105. LUMBER YARD, COAL STORAGE YARDS, OR OTHER STORAGE NOT SPECIFICALLY LISTED IN THIS COLUMN</b> , such yards if within a WLI district shall be enclosed by a fence and no storage shall be permitted outside such fence.										X	X
<b>106. PETROLEUM STORAGE</b> (Wholesale storage and wholesale distribution)										SE	X
<b>107. PLANING OR SAWMILL</b> (In GF, must be screened per Section 3-19 and abut an arterial or paved collector road.)	SE									X	X
<b>108. RAILROAD CLASSIFICATION AND REPAIR YARD</b>											X
<b>109. SALE OF LIVESTOCK</b> (Commercial Sales and/or Auction Facility)	SE									X	
<b>110. SANITARY LANDFILL OR INCINERATION</b>											SE
<b>111. TRUCK TERMINAL</b>										X	X
<b>112. WAREHOUSING</b> (not related to sales on the premises)										X	X
<b>113. WAREHOUSING (MINI STORAGE FACILITY)</b> Storage for personal property - must be wholly contained within a building.	SE								X	X	

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>114. WHOLESALING OF A LIGHT COMMERCIAL NATURE</b> when operated in conjunction with or as part of a retail outlet.									X	X	
<b>115. WHOLESALING</b> (not covered in other parts of this list)									SE	X	X
<b>116. ADVERTISING INCIDENTAL USE SIGN</b>							X	X	X	X	X
<b>117. POINT OF BUSINESS SIGN</b> (In accordance with restriction in Section 9-2 or 9-3 if for home business/Rural Home Occupation); IDENTIFICATION SIGN, BULLETIN BOARD.	X	X	X	X	X	X	X	X	X	X	X
<b>118. SIGNS WHICH DO NOT REQUIRE A PERMIT</b> (Refer to Section 11-4)	X	X	X	X	X	X	X	X	X	X	X
<b>119. AMUSEMENT OR RECREATIONAL ACTIVITIES</b> (Resource Oriented), such as parks; marinas, bird sanctuaries; botanical gardens; archery ranges and commercial fishing ponds.	X										
<b>120. AMUSEMENT OR RECREATIONAL ACTIVITIES.</b> Hunting and shooting preserves and clubs and paintball ranges.	SE										
<b>121. AGRICULTURAL EXPERIMENTAL LABORATORY AND/OR FACILITIES</b>	SE									X	X
<b>122. APICULTURE</b>	X										
<b>122-a COMMERCIAL CHICKEN HOUSES</b>	SE										
<b>122-b COTTON GIN</b>	SE										X

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>123. CROP DUSTING SERVICE</b> - If landing strip or pad is associated with activity, landing strip or pad must be set back five hundred (500) feet from all property lines.	SE									SE	
<b>124. FARMING AND FARM OPERATIONS</b> , including related structures and other agricultural uses as defined in Section 2, including Agricultural Worker Housing.	X										
<b>125. FISH HATCHERIES</b>	X										
<b>126. FORESTRY NURSERIES (TREE FARMS)</b>	X										
<b>127. GROWING OF CROPS</b>	X										
<b>128. HORTICULTURAL PRODUCTION</b> , including related retail and wholesale activities.	X										
<b>128-a PEANUT DRYING FACILITY</b> (Commercial)	SE										X
<b>129. PLANT FARMS</b>	X										
<b>130. RIDING OR BOARDING STABLES</b>	SE										
<b>131. RURAL HOME OCCUPATION</b>	SE	SE	SE								
<b>132. WORM FARM</b>	X										
<b>133. VEGETABLE PACKING &amp; SORTING FACILITY</b> (Commercial)	SE									X	
<b>134. VINEYARDS</b>	X										
<b>135. ARMORIES</b> , for meetings and training organizations.									X	X	

	GF	RR	R1	R22	MR	MHP	P	CC	GB	WLI	HI
<b>136. CARNIVAL OR ATHLETIC EVENT, COMMUNITY FAIR OR OTHER EVENT OF INTEREST TO THE PUBLIC</b> , not to exceed thirty (30) days.	SE							SE	X		
<b>137. CEMETERY</b> (Commercial)	SE							SE	X		
<b>138. FLEA MARKET</b>	SE								X		
<b>139. RELIGIOUS MEETINGS</b> , held in a tent or other temporary structure not to exceed thirty (30) days.	SE	SE						SE	SE		
<b>140. TEMPORARY BUILDINGS AND STORAGE OF MATERIALS</b> (in conjunction with construction of a building) on a lot where construction is taking place or on adjacent lots such temporary uses to be terminated upon completion of construction. No temporary building shall be used for residential purposes.	X	X	X	X	X	X	X	X	X	X	X
<b>141. TEMPORARY BATCH PLANTS AND CONSTRUCTION RELATED FACILITIES FOR A SINGLE DEVELOPMENT</b>	SE									SE	SE

### SECTION 6. SETBACK AND YARD REQUIREMENTS BY DISTRICT

**6-1 Development Standards.** Within the various zoning districts as indicated on the "Official Zoning Maps of Ben Hill County, Georgia", no building or structure, excluding all signs, shall be constructed or erected except as indicated in the following schedule:

<b>DEVELOPMENT STANDARDS</b>	<b>GF</b>	<b>RR</b>	<b>R1</b>	<b>R22</b>	<b>MR and P</b>	<b>MHP</b>	<b>CC</b>	<b>GB</b>	<b>WLI</b>	<b>HI</b>
Minimum Gross Floor Area Per Dwelling Unit (Sq. Ft.)	800	800	1,200	800	800	400	N/A	N/A	N/A	N/A
Minimum Lot Area for Dwelling Units	2 ac.	1 ac.	1 ac.	22,000 sf	6,000 sf + 3,000 sf per ea. add'l unit	Gross min. lot size 5 ac.	½ ac.	1.2 ac.	1 ac.	1 ac.
Minimum Lot Width (Feet)	200	150	150	100	100	300	100	100	210	210
Minimum Front Yard Setback from the Centerline of R/W (Feet)										
Principal & Minor Arterials	90*	90*	90*	90*	90*	90*	100**	85**	90**	90**
Collector Streets	80*	80*	80*	80*	80*	80*	90**	75**	80**	80**
Local Streets	70*	70*	70*	70*	70*	N/A	80**	70**	70**	70**
Minimum Side Yards (Feet)	20	20	20	10	10; if 4 or more stories, 20	20	None***	None***	None***	None***
Minimum Rear Yards (Feet)	40	40	40	30	30	20	12***	12***	12***	None***
Maximum Building Height (Feet)	35	35	35	35	None	35	35*	None*	None*	None*

\* The minimum distance from all other property lines to any building over thirty-five (35) feet in height shall be increased one (1) foot for every two (2) feet (or part of two (2) feet) of building height greater than thirty-five (35) feet.

\*\* Plus one-half any amount which the right-of-way width exceeds sixty (60) feet for Local Streets, eighty (80) feet for Collector Streets, and one hundred (100) feet for Principal and Minor Arterials.

\*\*\* If the adjoining yard is within any residential district, the yard requirements specified in this table shall be increased ten (10) feet and screening shall be provided as specified in Section 3-19 along the lot line common with said lot.



**SECTION 7. OFF-STREET PARKING AND SERVICE REQUIREMENTS**

**7-1 Scope of Provisions.** Except as provided in this section, no application for a building permit shall be approved unless there is included with the plan for such building, improvements, or use, a plot plan showing the required space reserved for off-street parking and service purposes. Occupancy shall not be allowed unless the required off-street parking and service facilities have been provided in accordance with those shown on the approved plan.

**7-2 Parking Spaces May Not be Reduced.** Off-street parking spaces shall not be reduced below the minimum required number for the use or facility to which they are assigned.

**7-3 Drainage, Construction, and Maintenance.** All off-street parking, loading, and service areas shall be drained so as to prevent damage to abutting properties and/or public streets and shall be constructed of materials which will assure a surface resistant to erosion. All such areas shall be at all times maintained at the expense of the owners thereof in a clean, orderly, and dust-free condition.

**7-4 Separation from Walkways, Sidewalks, and Streets.** All off-street parking, loading, and service areas shall be separated from walkways, sidewalks, and streets by curbing or other suitable protective device.

**7-5 Parking Area Design.** Parking stalls shall have a minimum width of nine (9) feet and length of twenty (20) feet. There shall be provided adequate interior driveways to connect each parking space with a public right-of-way. Interior driveways shall be at least twenty-four (24) feet wide where used with ninety (90) degree angle parking, at least eighteen (18) feet wide where used with sixty (60) degree angle parking, at least twelve (12) feet wide where used with forty-five (45) degree parking, and at least twelve (12) feet wide where used with parallel parking. Where there is no parking, interior driveways shall be at least ten (10) feet wide for one-way traffic movement and at least twenty (20) feet wide for two-way traffic movement.

**7-6 Joint Parking Facilities.** Two (2) or more neighboring uses, of the same or different types, may provide joint facilities. A reduction of up to 15% off of the total combined parking requirements for the uses may be granted by the County Commission with the approval of the development plans.

**7.7 Inter-parcel and Shared Access.** Commercial properties with frontage along major arterial roads intended for commercial and industrial bypass traffic such as SR 107/Ben Hill Drive and the US 129/Ocilla Highway shall be required to provide inter-parcel access and/or shared access facilities where feasible.

**7-8 Pavement Markings and Signs.** Each off-street parking space shall be clearly marked, and pavement directional arrows or signs shall be provided wherever necessary. Markers, directional arrows, and signs shall be properly maintained so as to ensure their maximum efficiency.

**7-9 Number of Parking Spaces.** In order to assure a proper and uniform development of public parking areas throughout the area of jurisdiction of this ordinance, to relieve traffic congestion on the streets, and to minimize any detrimental effects on adjacent properties, off-street parking space shall be provided and maintained as called for in the following schedule. For any use or class of use not specifically mentioned in this schedule, the requirements shall be the same as a similar use as mentioned herein. Parking requirements for additions to existing uses or structures shall be based upon the total development even if the existing use is deficient. This ordinance shall apply to all zoning districts.

USE	PARKING SPACES
7-9.1 Apartment and Multi-Family Dwelling, Residential Group Development Project	Two (2) spaces for each dwelling unit.
7-9.2 Auditorium, stadium, assembly hall, gymnasium, theater, community recreation center, church	(a) One (1) space per four (4) fixed seats in the largest assembly room or area, or (b) one (1) space for each forty (40) square feet of floor area available for the accommodation of moveable seats in the largest assembly room or combination of fixed and moveable seats, or one (1) space per each one hundred fifty (150) square feet of gross floor area, whichever is greatest.
7-9.3 Automobile fueling station	One (1) space (in addition to service area) for each pump and grease rack and one (1) space for each one (1) employee during period of greatest employment, but not less than six (6) spaces.
7-9.4 Automobile sales and repair, service stations and Auto washeterias	Same as 7-8.3 above plus one (1) space for each five hundred (500) square feet of gross floor area of the shop or washeteria.
7-9.5 Bowling alley	Four (4) spaces per alley plus requirements for any other use associated with the establishment such as a restaurant, etc.
7-9.6 Club or lodge	One (1) space for each two (2) employees plus one (1) space for each two hundred (200) square feet of gross floor area within the main assembly area plus additional spaces for other uses permitted within the premises.
7-9.7 Combined Uses	Parking spaces shall be the total of the spaces required for each separate use established by this schedule, except when granted a reduction of the combined parking requirements by the County Commission of up to 15%.
7-9.8 Dance school	One (1) space for each employee plus one (1) space per one hundred fifty (150) square feet of gross floor area plus safe and convenient loading and unloading of students.
7-9.9 Family personal care and group personal care	One (1) space for each employee on shift of greatest employment plus one (1) space for each two (2) beds, plus any accessory uses.

USE	PARKING SPACES
7-9.11 Golf course	Two (2) spaces for each hole and one (1) space for each two (2) employees plus requirements for any other use associated with the golf course.
7-9.12 High schools, trade schools, colleges, and universities	One (1) space for each teacher, employee, and administrative personnel plus safe and convenient loading of students plus five (5) spaces for each classroom.
7-9.13 Hospital, nursing home, care home, or congregate personal care home	One (1) space for each bed, plus one (1) space for each employee on shift of greatest employment.
7-9.14 Hotel	One (1) space for each guest room, suites, or units plus any spaces required for accessory uses.
7-9.15 Indoor and outdoor recreational areas (commercial), YMCA and similar uses	(a) One (1) space for each one-hundred fifty (150) square feet of gross floor, building, ground area, or combination devoted to such use; or (b) one (1) space per each four (4) seats or facilities available for patron use; whichever is greatest.
7-9.16 Industrial or manufacturing establishment or warehouse	Two (2) spaces for each three (3) employees on shift of greatest employment, plus one (1) space for each vehicle used directly in the conduct of the business.
7-9.17 Kindergarten and nursery schools	One (1) space for each employee, plus safe and convenient loading of students.
7-9.18 Manufactured Housing Park	Two (2) spaces for each manufactured home space.
7-9.19 Motel	One (1) space for each unit plus one (1) space for each two (2) employees, plus any spaces required for accessory uses.
7-9.20 Office, professional building or similar use	One (1) space for each three hundred (300) square feet of the gross floor area, plus one (1) space for each two (2) employees.
7-9.21 One, two, and three family dwellings	Two (2) spaces per each unit (residential driveways will satisfy this need).
7-9.22 Personal service establishment	One (1) space for each two hundred (200) square feet of gross floor area.
7-9.23 Restaurant or place dispensing food, drink, or refreshments	One (1) space for each two (2) seats plus one (1) space for each two (2) employees on shift of greatest employment.

USE	PARKING SPACES
7-9.24 Schools, elementary	One (1) space for each teacher, one (1) space for each two (2) employees and administrative personnel, and one (1) space for each classroom, plus safe and convenient loading and unloading of students.
7-9.25 Swimming pool (Commercial)	One (1) space for every two hundred (200) square feet of water surface area plus requirements for additional uses in association with the establishment such as a restaurant, etc.
7-9.26 Shopping center	One (1) space for every two hundred (200) square feet of gross floor area.
7-9.27 Retail stores of all types not otherwise mentioned	One (1) space per one-hundred fifty (150) square feet of gross floor area.
7-9.28 Wholesale establishments	One (1) space for each employee plus sufficient spaces to accommodate vehicles used in the conduct of the business.

**7-10 Off-Street Loading Requirements.** On the same premises with every building, structure or part thereof, erected and occupied for manufacturing, storage, warehouse, truck freight terminal, goods display, department store, wholesale store, market, hotel, hospital, mortuary, laundry, dry cleaning or other uses similarly involving the receipt or distribution of vehicles, materials, or merchandise, there shall be provided and maintained on the lot of adequate space for standing, loading and unloading services in order to avoid undue interference with public use of the streets and alleys.

Such loading and unloading space, unless otherwise adequately provided for, shall be an area ten (10) feet by fifty (50) feet, with fifteen (15) foot height clearance, and shall be provided according to the following schedule:

Gross Floor Area in Square Feet	Loading and Unloading Spaces Required in Terms of Square Feet of Usable Floor Area
0 - 10,000	None
10,001 - 100,000	One (1) space for the first 10,001 square feet plus one (1) additional space for each additional 40,000 square feet in excess of 10,001 square feet.
100,001 - 500,000	Three (3) spaces for the first 100,001 square feet plus one (1) space for each additional 100,000 square feet in excess of 100,001 square feet.

**7-11 Minimum Number of Loading Spaces Required.** Industrial, wholesale, and retail operations shall provide space as follows:

- a. Off-street loading spaces shall be provided as appropriate to the functions and scope of operation of individual or groups of buildings and uses.
- b. Off-street loading spaces shall be designed and constructed so that all maneuvering to park and unpark vehicles for loading and unloading can take place entirely within the property lines on the premises. Loading spaces shall be provided so as not to interfere with the free, normal movement of vehicles and pedestrians on public right-of-way.
- c. Ingress and egress to off-street loading spaces shall conform to driveway entrance regulations of Ben Hill County.

**7-12 Curb Cut Requirements.** In any district as described below where the lowering or cutting away of curbs, or the placement of asphalt and/or driveway pipe on non-curbed sections for the purpose of ingress and egress is required to the property, such curb cuts or asphalt width shall be placed through the entire right-of-way and shall be subject to the following provisions:

**7-12.1 Residential Curb Cuts:** AU, R-R, R-1, R-22, MR and P zoning areas (excluding manufactured housing park development):

- 7-12.1.1 No more than two combined entrances and exits shall be allowed any parcel of property, the front of which is less than 200 feet on any one street. Additional entrances or exits for parcels having a frontage in excess of 200 feet shall be permitted at the rate of one entrance/exit for each additional 100 feet.
- 7-12.1.2 At street intersections (corner lots), no curb cuts shall be located within 25 feet of the intersection of two curb lines or such lines extended; or within 15 feet of the intersection of two property lines (right-of-way lines) or such lines extended, whichever is more restrictive. On principal or minor arterials or collector streets, no driveway shall be within 70 feet of the intersection of two curb lines or curb lines extended.
- 7-12.1.3 The distance between any two curb cuts on the same side of the street shall be not less than 10 feet. Said distance shall be measured between the point of tangency of the curb return radii and the established curb.
- 7-12.1.4 All driveways shall be constructed so as to have at least five feet from any front property line (excluding right-of-way), except that a curb return may become tangent to a curb line at a point where such property line extends with the curb line.
- 7-12.1.5 The maximum width of any driveway shall not exceed 24 feet measured at the right-of-way line.
- 7-12.1.6 The sum of the two curb return radii for any curb cut shall not exceed 15 feet.
- 7-12.1.7 When development on sites where existing curb cuts are abandoned and access is no longer afforded due to parking lots, buildings or other permitted structures, the driveway shall be removed, the sidewalk (if existing) shall be replaced, the curb and gutter shall be replaced, fill dirt backfilled to its natural state.

**7-13 Commercial, Industrial, and Manufactured Housing Park Curb Cuts:**

- 7-13.1** No more than two combined entrances or exits shall be allowed any parcel or frontage which is less than 300 feet on any one street. On parcels less than 150 feet, only one entrance shall be allowed provided it is a two-way driveway (two one-way driveways shall be allowed in lieu of the one two-way). Additional entrances or exits for parcels of property having a frontage in excess of 300 feet shall be permitted at the rate of one entrance-exit for each additional 150 feet.
- 7-13.2** No driveway shall be located closer than 150 feet of an existing driveway on an abutting lot. Existing lots of record less than 150 feet frontage shall be allowed one combined entrance/exit not to exceed 24 feet at right-of-way line.
- 7-13.3** At street intersections (corner lots), no curb cuts shall be located within 70 feet of the intersection of two curb lines or within 60 feet of the intersection of two property lines (right-of-way lines) where such lines extended, whichever is more restrictive.
- 7-13.4** All driveways shall be constructed so as to be at least 12.5 feet from any property line except that a curb return may become tangent to a curb line at a point where the property line extended intersects such curb line.
- 7-13.5** Maximum width of any driveway shall not exceed 35 feet measured at the right of way line; minimum two-way shall be 24 feet at right-of-way line with a maximum of 12.5-foot radius. No two driveways on the same property shall be closer than 25 feet.
- 7-13.6** The maximum width of any curb cut in CC, G-B, WLI and H-I zones shall not exceed 35 feet at the right-of-way line.
- 7-13.7** The sum of the two curb return radii for any one curb cut shall not be less than 25 feet, nor greater than 40 feet.
- 7-13.8** When development on sites where existing curb cuts are abandoned and access is no longer afforded due to parking lots, buildings, or other permitted structures, the driveway shall be removed, the sidewalk (if existing) shall be replaced, the curb and gutter shall be replaced, fill dirt backfilled to its natural state; where it is a piped driveway to a dirt or paved street, said pipe shall be removed, asphalt removed and the shoulders and ditch regraded to its natural pre-existing state.

**SECTION 8. NON-CONFORMANCES**

**8-1 Non-conforming Lots.** Any lot for which a plat or legal description has been recorded in the Office of the Clerk of Superior Court of Ben Hill County at the time of passage of this ordinance which fails to comply with the dimensional requirements for the district in which it is located may, if vacant, be used for any of the uses permitted within the district by this ordinance, or if occupied by a structure containing a conforming use, may have the structure improved, enlarged, or extended; provided that in either case:

- a. Minimum requirements of the district for front, side, and rear yard, height, and floor area shall be complied with.
- b. A lot to be used for duplexes, triplexes, multi-family dwellings and residential group development project, or manufactured homes, when allowed within the district, only if the lot meets the minimum lot area requirements for those uses in the district.

**8-2 Non-conforming Uses of Land.** Non-conforming uses of land consists of the open use of property (including such uses but not limited to storage yards, used car lots, AUto wrecking, junk yards, golf driving ranges, miniature golf, manufactured housing parks and similar open uses) where the only buildings on the lot are incidental and accessory to the use of the lot and where such use of the land is not permitted to be established hereafter under this ordinance in the district in which it is located, shall be governed by the following restrictions in addition to the other requirements in this ordinance:

- a. When a non-conforming use of land has been changed to a conforming use, it shall not thereafter be used for any non-conforming use.
- b. Non-conforming uses of land shall not be changed to any but conforming uses.
- c. A non-conforming use of land shall not be enlarged to cover more land than was occupied by that use when it became non-conforming.
- d. When any non-conforming use of land is discontinued for a period in excess of six (6) months, any future use of the land shall be limited to those uses permitted in that district under the provisions of this ordinance. Vacancy and/or non-use of the land, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

**8-3 Non-conforming Uses of Structures.** Non-conforming uses of structures consists of structures used, at the time of passage of this ordinance, for purposes not permitted in the district in which they are located. In addition to the other requirements of this ordinance, non-conforming uses of structures shall be governed by the following restrictions:

- a. An existing non-conforming use of a structure may be changed to another non-conforming use that is similar in its operation and effect on surrounding properties or may be changed to a conforming use.
- b. An existing non-conforming use of a structure shall not be changed to another non-conforming use that generates more Automobile or truck traffic, creates more noise, vibration, smoke, dust or fumes, is a more intensive use of structures than the existing non-conforming use, and is in any way a greater nuisance to the adjoining properties than the existing non-conforming use.

- c. A non-conforming use of a structure shall not be extended or enlarged except into portions of the structure which at the time the use became non-conforming were already erected and arranged or designed for such non-conforming use. No structural alterations shall be made in any structure occupied by a non-conforming use, which would in any way increase the floor space, area, or volume of space occupied by the use.
- d. When any non-conforming use of a structure is discontinued for a period in excess of one (1) year, any future use of the structure shall be limited to those uses permitted in that district under the provisions of this ordinance. Vacancy and/or non-use of the building, regardless of the intent of the owner or tenant, shall constitute discontinuance under this provision.

**8-4 Non-conforming Signs.** Non-conforming signs shall be allowed to continue except as provided in Section 11-2.1 and 11-3 as follows:

- a. A non-conforming sign shall not be replaced by another non-conforming sign except that the substitution or interchange of poster panels, painted boards, or demountable material on nonconforming signs shall be permitted.
- b. Repairs and maintenance of non-conforming signs shall be permitted to maintain a safe condition and neat appearance so long as the sign remains substantially the same as it was on the effective date of the adoption of this ordinance. However, no changes in the size or shape of a non-conforming sign shall be permitted except to make the sign comply with the requirements of this ordinance.
- c. New point of business sign related to legally established non-conforming uses may be erected provided they comply with the sign regulations applicable to the use in the most restrictive district in which the use is permitted.

**8-5 Reconstruction of Non-conforming Structures.** When a non-conforming structure or a structure containing a non-conforming use or non-conforming sign is razed or damaged by fire, flood, wind, or act of God, such structure or sign may be reconstructed as a non-conforming use only if the damage totals less than fifty percent (50%) of the value of the structure. Structures which do not conform to the yard requirements of this ordinance shall also be governed by this provision.

**8-6 Non-Conforming Junk Yards.** All non-conforming junk yards shall be made to conform with the special provisions of the zoning ordinance within a period of two (2) years of the adoption of the zoning ordinance. Screening of junk yards is intended to shield the use from public view and from the view of surrounding properties, to reduce noise emitting from the premises, and to protect surrounding property values. An eight (8) foot wide buffer strip shall be planted, or existing vegetation may be used, in combination with a solid fence which shall be constructed of wood, concrete or chain link with wooden or metal slats, dense enough to interrupt vision and noise to a height of eight (8) feet. The required vegetative screen shall be planted such that it will reach its required height in a period of three years, and the fence and vegetative buffer shall be erected along all road frontages, side lot lines, and rear yards. All fences must be secured with locks approved by the Building Official.

**8-7 Non-Conforming Swimming Pools.** All non-conforming swimming pools shall be made to conform with the special fencing development standards (See Section 3-9.2) of the zoning ordinance within a period of two (2) years of adoption of the zoning ordinance. Fencing of swimming pools is intended to limit the liability of persons owning/operating non-conforming pools, and to protect the current and future health, public safety, and welfare of Ben Hill County citizens.



**8-8 Changes in Zoning.** Any non-conformances created by a change in district boundaries or ordinance regulations after the date of passage of this ordinance shall also be governed by the provisions of this section.

**SECTION 9. SPECIAL PROVISIONS FOR CERTAIN USES**

**9-1 Home Occupations.** A home occupation as defined by this ordinance shall be governed by the following requirements:

- 9-1.1** Only residents of the dwelling may be engaged in the home occupation.
- 9-1.2** The home occupation shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
- 9-1.3** No signage shall be allowed identifying the home occupation.
- 9-1.4** Use of the building for this purpose shall not exceed twenty-five percent (25%) of the conditioned air space of the dwelling.
- 9-1.5** No internal or external alterations inconsistent with the residential use of the dwelling shall be permitted.
- 9-1.6** The occupation shall not constitute a nuisance in the neighborhood.
- 9-1.7** No accessory buildings or outside storage shall be used in connection with the home occupation.
- 9-1.8** The home occupation shall not be allowed any destination traffic trips that are related to the home occupation by outside clients or patrons.
- 9-1.9** Vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the customary home occupation.
- 9-1.10** The following and similar uses shall be considered home occupations provided that all additional requirements of this section are met: addressing service, answering service, architect, computer consulting, desktop publishing, drafting, manufacturing agent, pet sitting (off-site), and web design. Other professions and/or services which are essentially office or clerical in nature as approved by the Zoning Administrator.

**9-2 Home Business.** A home business, as defined by this Ordinance, shall be governed by the following requirements:

- 9-2.1** At least one resident and not more than one non-resident of the dwelling may be engaged in the home business. The resident must be the owner of the home business.
- 9-2.2** The home business shall be clearly incidental to the residential use of the dwelling and shall not change the essential residential character of the dwelling.
- 9-2.3** No display of products shall be visible from the street and only products produced on the premises may be sold on the premises.
- 9-2.4** Only one (1) point of business sign, not exceeding two square feet in size, motionless, non-lighted, and attached to the principal building, shall be permitted.

- 9-2.5** Use of the dwelling for this purpose shall not exceed twenty-five (25) percent of the conditioned air space of the dwelling.
- 9-2.6** No internal or external alterations inconsistent with the residential use of the dwelling shall be permitted.
- 9-2.7** The home business shall not constitute a nuisance in the neighborhood.
- 9-2.8** No accessory buildings or outside storage shall be used in connection with the home business.
- 9-2.9** Instruction in music and other tutorial services shall be limited to two (2) students at a time.
- 9-2.10** Vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the home business.
- 9-2.11** The following and similar uses may be considered for approval as home businesses provided that all additional requirements of this section are met: accountant, addressing service, answering service, architect, art instructor, barber or beauty shop (with no more than one (1) chair), drafting, dressmaking, insurance agent, manufacturing agent, music teacher, notary public, photography, real estate agent, tax consultant, and other home based businesses as approved following Planning Commission review and County Commission approval.
- 9-2.12** Not more than six (6) children may be kept in the home as a customary home business. Safe, proper and efficient loading and unloading spaces must be supplied and at least 100 feet of outdoor play area is required for each child accommodated. The entire outdoor play area shall be enclosed by a steel mesh security fence with lockable gates approved by the building official or other substantial building material affording equal or better protection, having a minimum height of at least four (4) feet and constructed in such a manner that maximum safety to the children is ensured.

**9-3 Rural Home Occupations.** This provision is designed to provide for the reasonable development of rural home occupations as an accessory use to rural residential uses. Uses of property for the Rural Home Occupation (RHO) shall be governed by the following requirements:

- 9-3.1** Property for which an RHO is proposed shall be owner occupied and shall contain a minimum of three acres of land in the AU zoning district and shall directly abut an arterial or collector roadway as defined on the Major Thoroughfare Plan.
- 9-3.2** The accessory structure shall be located behind the residential structure and meet the side and rear building setback lines of the AU zoning district and all building code separation requirements shall apply. The accessory structure shall contain no more than seventy-five (75) percent of the gross square footage of the principal residential dwelling.
- 9-3.3** Any Rural Home Occupation shall be operated in such a manner as to not be a nuisance to adjacent residential structures. This shall apply to noise, lighting, traffic, and unsightly outside storage.

**9-3-4** No display of products shall be allowed in the front yard.

**9-3-5** Only one sign advertising the accessory use, not exceeding sixteen (16) square feet in size, motionless and non-lighted, shall be permitted in the conduct of the proposed RHO use.

**9-3.6** All Rural Home Occupations operating under this ordinance section shall provide designated off-street parking to the rear of the primary residential structures for customers of said RHO.

**9-3.7** Any occupation that meets the intent of this ordinance may be considered for a Special Exception within a AU zoning district as described herein. This may include but is not limited to the following: catering service, motorized vehicle repair, printing or engraving shop, flower shop, furniture upholstery shop, locksmith or gunsmith, personal service shops, photography studio, specialty shops as they relate to the sale of items manufactured therein, and service oriented commercial activities associated with agricultural uses. Other uses as reviewed by the Planning Commission and approved by the County Commission may be considered.

**9-3.8** Any use approved as a Rural Home Occupation which proposes outside storage shall provide for screening of the entire service or storage area as required in Section 3-19 of this ordinance.

**9-3A Multi-Family Development Projects.** The following design standards shall apply:

**9-3A.1** Multiple buildings may be allowed on a single lot in these development types.

**9-3A.2** Two parking spaces shall be provided for each dwelling unit proposed as part of any multifamily development project.

**9-3A.3** Multi-family development projects shall conform to the building height restrictions and yard setback requirements listed in Section 6 of this ordinance.

**9-3A.4** Each dwelling unit proposed as part of a multi-family development project shall meet the minimum floor area requirements listed in Section 6 of this ordinance, as well as limitations for efficiency and one bedroom units as part of the total project development.

**9-3A.5** All multi-family development projects shall leave 500 square feet per dwelling unit in a natural state as open space or be developed as park and/or open-air recreation facilities. (This requirement is in addition to the required square footage per dwelling unit.)

- 9-3B Residential Group Development Projects.** The requirements as set forth in this subsection shall apply to all lands and structures intended primarily to provide for owner occupied residential units, including condominiums, single family attached dwelling units (with or without condominium ownership), patio homes, zero lot line, and other similar housing types. Multiple buildings may be allowed on a single lot in these development types.
- 9-3B.1** A condominium is defined as a type of residential development which includes individually owned dwelling units in a multi-family structure, combined with joint ownership of common areas of the buildings and grounds.
- 9-3B.2** Single family attached dwellings are a type of residential development which includes a dwelling unit on a subdivided lot individually owned, though attached by a common party wall to another dwelling unit on an adjacent lot. This housing type may also include provisions for joint ownership of common areas of certain buildings and grounds.
- 9-3B.3** Two parking spaces shall be provided for each dwelling unit proposed as a part of any Residential Group Development Project.
- 9-3B.4** Residential group development projects shall conform to the building height restrictions listed in Section 6 of these regulations.
- 9-3B.5** Each dwelling unit proposed as part of a Residential Development Project shall meet the minimum floor area requirements listed in Section 6 of these regulations, as well as limitations for efficiency and one-bedroom units as part of the total project development.
- 9-3B.6** No building containing single family attached units shall contain more than ten (10) units. There shall be a fire wall with a four (4) hour rating between every unit. Each dwelling unit shall be serviced by separate utilities.
- 9-3B.7** Minimum lot area for all Residential Group Development Projects shall meet the minimum lot area requirements listed in Section 6.
- 9-3B.8** The following minimum lot area shall be left in a natural state as open space or be developed as park and/or open-air recreation facilities. Required yard areas shall not be credited towards this minimum open space allocation:
- 9-3B.8.a** Single Family Attached Dwelling Units - 500 square feet per dwelling unit on all projects one acre and over. (in addition to required square footage per dwelling unit.)
- 9-3B.8.b** Condominium - 500 square feet per dwelling unit. (In addition to required square footage per dwelling unit.)
- 9-3B.9** Applications for a building permit for all Residential Group Development Projects shall be subject to the provisions of Subsection 12-3 of this ordinance. In addition, if the project proposes the subdivision of the tract into various individual lots and common area, a copy of the planned subdivision must be supplied to the Zoning Administrator. Said plat shall be properly recorded in the land records of Ben Hill County prior to granting of the respective building permit(s).

**9-3B.10** Due to the design needs of this development type, standard lot sizes and interior setback lines shall not apply. However, zoning district mandated front, side and rear yard setbacks shall apply to all lots where these developments abut traditional development types or newly developed public streets.

**9-4 Manufactured Housing Parks.** Manufactured housing parks are allowed, provided the following requirements are met:

**9-4.1** The minimum lot size shall be five (5) acres.

**9-4.2** Setbacks shall be as described in Section 6, setback and yard requirements by district.

**9-4.3** Each manufactured home shall be connected to an approved water and sewer system.

**9-4.4** Minimum individual lot spaces in areas where public water and sewer are available shall be not less than six thousand square feet (6,000 square feet) (minimum of 60 foot width). The minimum area per manufactured home space shall be not less than twenty-two thousand (22,000) square feet with a minimum individual space width of one hundred (100) feet with central water. Individual manufactured home space requirements shall be as dictated by the rules and regulations of the Ben Hill County Board of Health and the zoning ordinance minimums. All Health Department required plans shall accompany the required site plan for Planning Commission review.

**9-4.5** All manufactured home spaces or other park sites devoted to accessory uses (such as management offices, laundry facilities, recreation buildings, etc.) shall have an interior setback of ten (10) feet from its respective area boundaries. Residential accessory buildings associated with dwelling units shall be set back ten (10) feet from its respective space boundaries, limit of one (1) accessory building per manufactured home space.

**9-4.6** A sixty (60) foot interior drive, paved and properly drained for two-way traffic, 22-foot paving minimum, shall serve all manufactured home spaces and shall be drained so as to prevent damage to adjoining property, public or private. For the purpose of enforcement of this provision, interior streets shall be developed to public road standards dictated in the Ben Hill County Land Subdivision Ordinance.

**9-4.7** Each manufactured home space and accessory use space shall be clearly defined by means of concrete, steel or iron pipe markers placed at all corners.

**9-4.8** At least two hundred (200) square feet per manufactured home space (not to be a part of the required manufactured home space) shall be provided in one (1) or more locations for community playground and recreation purposes.

**9-4.9** All property lines of a manufactured housing park which abut any zoning district other than another MHP district shall be screened as described in Section 3-19.

**9-4.10** Prior to any application for rezoning, development or expansion, all manufactured housing park developments must be submitted and reviewed by the Fitzgerald/Ben Hill County Planning Commission and must receive their approval prior to the issuance of any building permits. Proper utility plans, drainage plans and road development plans, drawn to county specifications, shall accompany the proposed site plan for county staff review prior to

submission to the Planning Commission. For the purpose of the development of the required plans, site plans for manufactured housing parks shall contain data equivalent to the preliminary plat requirements of the Ben Hill County Land Subdivision Ordinance. Construction drawings equivalent to the improvements plan process described in the Ben Hill County Land Subdivision Ordinance shall be required to be submitted to and approved by the Ben Hill County Engineer prior to the initiation of any manufactured housing park construction.

- 9-4.11** No manufactured housing park shall be occupied by a greater number of manufactured homes than that Authorized in the approved site plan. No manufactured housing park shall be enlarged or expanded unless a separate manufactured housing park site plan has been reviewed and approved by the Planning Commission.

**9-5 Rural Farm Housing.** In AU zones within the unincorporated area of Ben Hill County, there shall be permitted, as a matter of right, to any owner of property one primary dwelling and as many as five (5) residential uses on any parcel of land where the following can and must be met. The additional accessory dwellings set forth above will be permitted on any parcel of land under single ownership.

- 9-5.1 Occupants of non-principal residential uses shall be related by blood ties to the owner of the property and said blood relationships shall extend to but not beyond the second descending and ascending generation.**

- 9-5.2 Each such non-principal residential use shall occupy a land area not less than 43,560 square feet in size, with a minimum area width of one hundred fifty (150) feet.**

- 9-5.3** Each such land area shall be so defined by permanent physical markers as to be given a numerical address and location designation.

- 9-5.4** Each such land area shall receive approval from established county health Authorities as to its suitability as a site for an effective sanitary sewage disposal system designed to accommodate wastes generated by the user of that land site.

- 9-5.5** An acceptable domestic water supply shall be available to each satellite user of this special provision and such water supply shall meet local public requirements as administered by county health Authorities.

- 9-5.6** No commercial use of this special provision will be allowed and no rental charge can be placed on the non-principal uses.

- 9-5.7** Each such use shall be accessible, either by private drive or public roadway, to the public thoroughfare system.

- 9-5.8** Individual power supply sources shall be provided to each user under this special provision and each utility installation shall meet such standards as have been adopted by local Authorities.

- 9-5.9** Facilities established under this special provision for residential use shall meet the requirements of local construction and use codes established by the Ben Hill County Commission.

**9-5.10** Permits for construction will not be issued prior to the approval of each of the aforementioned conditions by the Zoning Administrator. In addition, any change in use or occupancy must be approved by the Zoning Administrator.

**9-6 Agricultural Worker Housing.** Agricultural worker housing is allowed as an accessory use in the GF (General Farming) district subject to the following provisions:

**9-6.1** Head of household shall be a full time or seasonal employee of the property owner and are responsible for the agricultural production of the property.

**9-6.2** All such housing shall meet applicable rules and regulations regarding agricultural worker housing of the Georgia Department of Labor.

**9-6.3** Water supply and sewage disposal for said housing shall be approved by the Ben Hill County Health Department.

**9-6.4** Such accessory uses shall be subject to the principal building front, rear and side yard setback requirements of the AU (General Farming) zoning district.

**9-6.5** All such structures or buildings developed for agricultural worker housing shall be limited to a maximum height of 35 feet and shall have a minimum of 30 feet of open, unoccupied space between it and any other building or structure in the development.

**9-8 Commercial Chicken Houses.** All chicken house facilities shall be located at least 1,000 feet from any residential dwelling property line and residential zoning district, excluding any dwelling belonging to the owner of the poultry operation, as well as any commercial or industrial use. Setbacks for buildings shall be at least 100 feet from a public road or adjoining property line, and the parcel upon which a poultry facility is to be sited shall be at least ten (10) acres in size.

**9-9 Junk Yard Buffers.** An eight (8) foot fence and six (6) foot wide buffer strip, developed in accordance with Section 3-19, shall be erected along all road frontages, all side lot lines and all rear yard lines of any junk yard.



## SECTION 10. WATER RESOURCE DISTRICTS

**10-1 Purpose.** The intent of this section is to establish minimum development standards and criteria which will afford reasonable protection of environmentally sensitive natural resources found throughout Ben Hill County. Based on the findings of the 2016 Fitzgerald/Ben Hill County Comprehensive Plan, it has been determined that the wise management of these resources as defined in this ordinance is essential to maintaining the health, safety, general welfare and economic wellbeing of the public.

**10-2 Establishment of Water Resource Districts.** Ben Hill County's Water Resource Districts shall include the following:

- Groundwater Recharge Area Districts
- River Corridor Protection Districts
- Wetlands Districts

The boundaries of these Water Resource Districts are shown on a set of maps designated as "Water Resource Districts" and are included as part of the Official Ben Hill County Zoning Maps which are on file with the Zoning Administrator's office.

**10-3 Definitions.** The following definitions shall apply to this Ordinance:

**Aquifer.** Aquifer means any stratum or zone of rock beneath the surface of the earth capable of containing or producing water from a well.

**Water Resource Districts.** A Water Resource District is a mapped area which imposes a set of requirements and/or specific development standards or use restrictions.

**Hazardous Waste.** Hazardous waste means any solid waste which has been defined as a hazardous waste in regulations, promulgated by the administrator of the U. S. Environmental Protection Agency pursuant to the federal act, which are in force and effect on February 1, 1988, codified as 40 C.F.R. Section 261.3.

**Pollution Susceptibility** means the relative vulnerability of an aquifer to being polluted from spills, discharges, leaks, impoundments, applications of chemicals, injections and other human activities in the recharge area.

**Pollution Susceptibility Map** means maps of relative vulnerability to pollution prepared by the Department of Natural Resources, using the DRASTIC methodology. (Georgia Department of Natural Resources Hydrologic Atlas 20: Groundwater Pollution Susceptibility Map of Georgia).

**Recharge Area** means any portion of the earth's surface, where water infiltrates into the ground to replenish an aquifer.

**Significant Recharge Areas** means those areas mapped by the Georgia Department of Natural Resources in Hydrologic Atlas 18 (1989 edition).

**Natural Vegetative Buffer** means a river corridor containing the flora native to that area. The natural floras for specific areas are described in Georgia Geologic Survey Bulletin 114, "the Natural

Environments of Georgia.” Habitats for endangered and threatened species may require human management of the river corridor in order to maintain those species.

**Land Disturbing Activity.** Land Disturbing Activity means any grading, scraping, excavating, or

filling of land; clearing of vegetation; and any construction, rebuilding, or alteration of a structure. Land - disturbing activity shall not include activities such as ordinary maintenance and landscaping operations, individual home gardens, yard and grounds upkeep, repairs, additions or minor modifications to a single-family dwelling, and the cutting of firewood for personal use.

**Single-family Dwelling** means a dwelling structure that is designed for the use of one family.

**River/Stream Bank.** The rising ground, bordering a river or a stream, which serves to confine the water to the natural channel during the normal course of flow.

**Utility.** Public, private water or sewer piping systems, water or sewer pumping stations, electric power lines, fuel pipelines, telephone lines, roads, driveways, bridges, river/lake access facilities, storm water systems and railroads or other utilities identified by a local government.

**Wetlands.** Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. The ecological parameters for designating wetlands include hydric soils, hydrophytic vegetation, and hydrological conditions that involve a temporary or permanent source of water to cause soil saturation.

**Generalized Wetlands Map.** The current U. S. Fish and Wildlife Service National Wetlands Inventory maps for Ben Hill County, Georgia.

**Jurisdictional Wetland.** An area that meets the definitional requirements for wetlands as determined by the U. S. Army Corps of Engineers.

**Jurisdictional Wetland Determination.** A delineation of jurisdictional wetlands boundaries by the U. S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, 33 U.S.C. Subscript 1344, as amended.

**Regulated Activity.** Any activity which will, or which may reasonably be expected to, result in the discharge of dredged or fill material into waters of the U. S. excepting those activities exempted in Section 404 of the Federal Clean Water Act.

#### 10-4 Groundwater Recharge Area District

**10-4.1 Findings of Fact.** Recharge areas are vulnerable to urban development activities as well as agricultural activities. Pesticides, herbicides sprayed on crops, animal waste and septic tank effluents contribute to a deterioration in the groundwater quality and can threaten the health of residents relying on well water. Development usually means an increase in the amount of land covered with impervious surfaces. Paving land in recharge areas can alter or impair their recharge characteristics thereby decreasing groundwater supplies.

**10-4.2 Purpose.** The purpose of this district is to establish criteria to protect significant groundwater recharge areas from pollution by spills, discharges, leaks, impoundments, application of chemicals, injections and other development pressures.

**10-4.3 District Delineation.** The groundwater recharge area protection map is delineated according to the Georgia Department of Natural Resources' "Most Significant Groundwater Recharge Areas of Georgia, Hydrologic Atlas 18 (1989 Edition)" and the Georgia Department of Natural Resources "Groundwater Pollution Susceptibility Map of Georgia, Hydrologic Atlas 20, 1992 Edition".

Standards for this district shall comply with the DNR Rule 391-3-16-02, Criteria for the Protection of Groundwater Recharge Areas.

**10-4.4 Permitted Uses.** The following are requirements for specific uses in the Groundwater Recharge Area Protection District:

a. All above-ground chemical or petroleum storage tanks, having a minimum volume of 660 gallons, shall have secondary containment for 110% of the volume of such tanks or 110% of the volume of the largest tank in a cluster of tanks. Such tanks used for agricultural purposes are exempt, provided they comply with all Federal requirements.

b. New agricultural waste impoundment sites shall be lined if they are within:

- 1) a high pollution susceptibility area;
- 2) a medium pollution susceptibility area and exceed 15 acre-feet in size; and
- 3) a low pollution susceptibility area and exceed 50 acre-feet in size.

As a minimum, the liner shall be constructed of compacted clay having a thickness of one foot and a vertical hydraulic conductivity of less than  $5 \times 10^{-7}$  cm/sec or other criteria established by the Natural Resources Conservation Service.

c. New homes served by a septic tank/drain field system shall be on lots having minimum size limitations as follows, based on application of Table MT-1 of the DHR Manual (hereinafter DHR Table MT-1). The minimums set forth in Table MT-1 may be increased further based on consideration of other factors (set forth in Section A-F) of the DHR Manual.

- 1) 150% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a high pollution susceptibility area;
- 2) 125% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a medium pollution susceptibility area;
- 3) 110% of the subdivision minimum lot size calculated based on application of DHR Table MT-1 if they are within a low pollution susceptibility area.

- d. New manufactured home parks served by septic tank/drain field systems shall have lots or spaces having minimum size limitations as follows, based on application of Table MT2 of the DHR Manual (hereinafter DHR Table MT-2). The minimums set forth in Table MT-2 may be increased further based on consideration of other factors (set forth in Section A-F) of the DHR Manual.
  - 1) 150% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a high pollution susceptibility area;
  - 2) 125% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a medium pollution susceptibility area;
  - 3) 110% of the subdivision minimum lot or space size calculated based on application of DHR Table MT-2 if they are within a low pollution susceptibility area.
- e. Lots of Record approved prior to the adoption of this ordinance are hereby exempted from the requirements of (C) and (D) above.
- f. “No construction may proceed on a building or manufactured home to be served by a septic tank unless the County Health Department first approves the proposed septic tank installations as meeting the requirements of the Georgia Department of Human Resources Manual for On-Site Sewage Management (hereinafter DHR manual), and Sections 10-4.4(c) and (d) above.”
- g. New facilities which handle hazardous materials, of the types (listed in Section 312 of the Resource Conservation and Recovery Act of 1976, excluding underground storage tanks) and in amounts (10,000 pounds or more on any one day) shall perform their operations on impervious surfaces and in conformance with any applicable federal spill prevention requirements and any local fire prevention code requirements.
- h. Permanent storm water infiltration basins shall not be constructed in areas having high pollution susceptibility.
- i. Any new wastewater treatment basin shall have an impermeable liner.

## 10-5 Ocmulgee River Corridor Protection District

**10-5.1 Description of District.** The limits of the Ocmulgee River Corridor Protection District are hereby defined to be all land, inclusive of islands, in areas of the Ocmulgee River and being within 100 feet horizontally on both sides of the river as measured from the river banks. This area shall remain in an undisturbed vegetative buffer. The 100-foot buffer is measured horizontally from the uppermost part of the riverbank, usually marked by a break in slope. Although not within the buffer area, the area between the top of the riverbank and the water’s edge shall be included in the district.

Because stream channels move due to natural processes such as meandering, riverbank erosion, and jumping of channels, the river corridor may shift with time. To address this potential, local staff will require that all applicants submit a site plan, prepared on a plat or survey, upon which the applicant or his design specialist has designated the riverbank. Local planning/inspections staff will verify the riverbank on site, and insure its proper delineation on the site plan. The required 100-foot buffer will be clearly delineated on the site plan and enforced as a part of the local inspections process.

The Ocmulgee River Corridor Protection District is not intended to prescribe a specific land use but rather, to define a range of acceptable land uses. Within the range of uses which can be located within the District, this Section establishes performance standards which apply to development within the District.

**10-5.2 Intent.** The intent of the regulations within this River Corridor Protection District is to limit the use of the Ocmulgee River Corridor, in conjunction with other governmental entities along the Ocmulgee River Corridor, in order to:

- a. Assure that the section of the river in Ben Hill County will not become polluted and unsuitable as a source for potable water;
- b. Protect the river corridor by establishing a natural vegetative buffer area bordering the river;
- c. Preserve those qualities that make the river corridor suitable as a habitat for wildlife; and
- d. Help control erosion and to absorb flood waters.

The further intent of this district is to protect and safeguard the health and welfare of all the citizens of Ben Hill and adjacent counties by providing protection of the section of the river that is or may be used as a future source of drinking water.

**10-5.3 Conditions and Performance Standards.** Within the River Corridor Protection District, the following conditions and performance standards shall apply:

**10-5.4 Permitted Uses.**

- a. Allow the building of single-family dwellings, including the usual appurtenances, within the buffer area, subject to the following conditions:
  - 1) The dwelling shall be in compliance with all local building codes;
  - 2) The dwelling shall be located on a tract of land containing at least two acres. For the purposes of these standards, the size of the tract of land shall not include any area that lies within the protected river (that is, for tracts of land that include portions of a protected river, the area between the river banks cannot be counted towards the two acre minimum size). A minimum continuous lot width of at least 210 feet shall be required for

- each parcel or lot (see Minimum Lot Size and Widths for General Farming (AU) zoning district).
- 3) There shall be only one such dwelling on each two-acre or larger tract of land.
  - 4) A septic tank or tanks serving such a dwelling may be located within the buffer area.
  - 5) Septic tank drain fields shall not be located within the buffer area.
- b. The construction of road and utility crossings shall meet all requirements of the Erosion and Sedimentation Control Act of 1975 and of any applicable local ordinances on soil erosion and sedimentation control, as duly amended.
  - c. Timber production and harvesting, subject to the following conditions:
    - 1) Forestry activity shall be consistent with best management practices established by the Georgia Forestry Commission; and
    - 2) Forestry activity shall not impair the drinking quality of the river water as defined by the Federal Clean Water Act, as amended.
  - d. Wildlife and fisheries management activities consistent with the purposes of Section 12-2-8 (as amended) of Article 1, Chapter 2, Title 12 of the Official Code of Georgia Annotated (O.C.G.A.).
  - e. Wastewater treatment
  - f. Recreational usage consistent either with the maintenance of a natural vegetative buffer or with river-dependent recreation. (For example, a boat ramp would be consistent with this criterion.)
  - g. Natural water quality treatment or purification.
  - h. Agricultural production and management, subject to the following conditions:
    - 1) Agricultural activity shall be consistent with best management practices established by the Georgia Soil and Water Conservation Commission;
    - 2) Agricultural activity shall not impair the drinking quality of the river water as defined by the Federal Clean Water Act, as amended; and
    - 3) Agricultural activity shall be consistent with all state and federal laws and all regulations promulgated by the Georgia Department of Agriculture.
  - i) Other uses permitted by the DNR under Section 404 of the Clean Water Act.

**10-5.5 Prohibited Uses.**

- a. Handling areas for the receiving and storage of hazardous waste shall be prohibited within protected river corridors.
- b) “Septic tanks and septic tank drain fields are prohibited within the river corridor, except as expressly provided in Section 10-5.4A (4) dealing with single-family dwellings within the river corridor) of this ordinance, which provides for septic tanks related to single-family dwellings.”
- c) Hazardous waste and solid waste landfills shall be prohibited in the river corridor.

**10-5.6 Exemptions.**

Ben Hill County exempts the following from the River Corridor Protection requirements:

- a. Land uses existing prior to the adoption of the Ocmulgee River Corridor Protection District are exempt from these requirements with the exception of industrial and commercial uses which must comply with the following two requirements:
  - 1) Industrial and commercial activity within the river corridor shall meet all state and federal environmental rules and regulations.
  - 2) Industrial and commercial activity within the river corridor shall not impair the drinking quality of the river.
- b. Mining activities, if permitted by the DNR pursuant to the Georgia Surface Mining Act of 1968, as amended.
- c. Utilities, (except as discussed above in Section 10-5.4(B). If such utilities cannot feasibly be located outside the buffer area (feasibility shall be decided conservatively by the local government), provided that:
  - 1) The utilities shall be located as far from the riverbank as reasonably possible.
  - 2) Installation and maintenance of the utilities shall be such as to protect the integrity of the buffer area as well as is reasonably possible.
  - 3) Utilities shall not impair the drinking quality of the river water.
- d. Specific forestry and agricultural activities except as discussed above in Sections 105.4(C) and 10-5.4(H).

**10-5.7 Restoration of Buffer.**

The natural vegetative buffer shall be restored as quickly as possible following any land disturbing activity or construction within the river corridor related to the acceptable uses above.

**10-5.8 Construction Prohibited.**

Except as noted above, all construction within the buffer area shall be prohibited.

**10-6 Wetlands District**

**10-6.1 Findings of Fact.** The wetlands in Ben Hill County, Georgia are indispensable and fragile natural resources with significant development constraints due to flooding, erosion, and soils limitations. In their natural state, wetlands serve man and nature. They provide habitat areas for fish, wildlife and vegetation; water quality maintenance and pollution control; flood control; erosion control; natural resource education; scientific study; and open space and recreational opportunities. In addition, the wise management of forested wetlands is essential to the economic wellbeing of many communities within the State of Georgia.

Nationally, a considerable number of these important natural resources have been lost or impaired by draining, dredging, filling, excavating, building, pollution and other acts. Piece meal or cumulative losses will, over time, destroy additional wetlands. Damaging or destroying wetlands threatens public safety and the general welfare.

**10-6.2 Purpose.** The purpose of this ordinance is to promote wetlands protection, while taking into account varying ecological, economic development, recreational and aesthetic values. Activities that may damage wetlands should be located on upland sites to the greatest degree practicable as determined through a permitting process.

**10-6.3 Establishment of the Wetlands Protection District.** The Wetlands Protection District is hereby established which shall correspond to all lands within the jurisdiction of Ben Hill County, Georgia that are mapped as wetland areas by the U. S. Fish and Wildlife Service National Wetlands Inventory Maps. This map shall be referred to as the Generalized Wetlands Map and is hereby adopted by reference and declared to be a part of this ordinance, together with all explanatory matter thereon and attached thereto.

The Generalized Wetlands Map does not represent the boundaries of jurisdictional wetlands within Ben Hill County, Georgia and cannot serve as a substitute for a delineation of wetland boundaries by the U. S. Army Corps of Engineers, as required by Section 404 of the Clean Water Act, as amended. Any local government action under this ordinance does not relieve the landowner from federal or state permitting requirements.

**10-6.4 Requirement for Local Permit or Permission.** No regulated activity will be permitted within the Wetlands Protection District without written permission or a permit from Ben Hill County, Georgia. If the area proposed for development is located within 50 feet of a Wetlands Protection District boundary, as determined by the Zoning Administrator and/or his designee using the Generalized Wetlands Map, a U. S. Army Corps of Engineers determination shall be required. If the Corps determines that wetlands are present on the



proposed development site, the local permit or permission will not be granted until a Section 404 Permit or Letter of Permission is issued.

**10-6.5 Permitted Uses.** The following uses shall be allowed as of right within the Wetlands Protection District to the extent that they are not prohibited by any other ordinance or law, including laws of trespass, and provided they do not require structures, grading, fill, draining, or dredging except as provided herein. (The activities listed in this section are exempted from Section 404 regulations provided they do not have impacts on a navigable waterway that would necessitate acquisition of an individual 404 permit. However, under Section 10 of the Rivers and Harbors Act, a permit may be required in some circumstances.)

- A. Conservation or preservation of soil, water, vegetation, fish and other wildlife, provided it does not affect waters of Georgia or of the United States in such a way that would require an individual 404 Permit.
- B. Outdoor passive recreational activities, including fishing, bird watching, hiking, boating, horseback riding, and canoeing.
- C. Forestry practices applied in accordance with best management practices approved by the Georgia Forestry Commission and as specified in Section 404 of the Clean Water Act.
- D. The cultivation of agricultural crops. Agricultural activities shall be subject to best management practices approved by the Georgia Department of Agriculture.
- E. The pasturing of livestock, provided that riparian wetlands are protected, that soil profiles are not disturbed and that approved agricultural Best Management Practices are followed.
- F. Education, scientific research, and nature trails.

**10-6.6 Prohibited Uses.** The following uses are not permitted within the Wetlands Protection District:

- d) Receiving areas for toxic or hazardous waste or other contaminants;
  - B. Hazardous or sanitary waste landfills.

**SIGN REGULATIONS**

**11-1 Purposes**

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

**11-2 Jurisdiction and Applicability of Code Requirements**

**11.2.1** This article shall apply to all properties within the unincorporated areas of Ben Hill County, Georgia. This article shall not relate to the copy or message on a sign within the unincorporated areas of Ben Hill County.

**11.2.2** All signs and sign structures shall be constructed and maintained in conformance with the building and electrical codes adopted by Ben Hill County.

**11.2.3** If any provisions or requirements of this article are in conflict with any other provision or requirement of this ordinance or any other applicable governmental law, ordinance, resolution, rule, or other governmental regulation of any kind, the more restrictive rule or standard takes precedence.

**11-3 Variances**

**11-3.1** Variances from the provisions of this article may be requested. All such variances shall be considered and decided by the Ben Hill County Board of Commissioners in accordance with officially adopted procedures and standards contained in the Ben Hill County Zoning

Ordinance, provided that the decision to grant or deny a variance shall be based upon conditions and factors pertaining to the time, place, and manner of the exhibition and construction of a sign, and not the content of the sign's copy.

**11-4 General Provisions and Definitions**

**11-4.1** No sign shall be placed or maintained within the unincorporated area of Ben Hill County except in conformity with this Sign Ordinance.

**11-4.2** Notwithstanding any other restrictions in this Sign Ordinance, any sign, display or device allowed under this Ordinance may contain any commercial or non-commercial message, or any political or non-political message; except that such messages cannot depict obscenity, as defined by O.C.G.A. § 16-12-80, nor can they depict sexual conduct or sexually explicit nudity, as defined in O.C.G.A. § 36-60-3.

**11-4.3 Height limitations** in this Article control over the general height limitations of this Ordinance, and apply to any structure that contains a sign. For example, a church spire or radio antenna with a sign would be subject to the height limitations of this Article, rather than general height limitations.

**11.4.4 Definitions:** As used in this section, the following words have the following meanings. The general definitions and interpretative rules of the zoning ordinance shall also be used. To the extent those general rules or definitions conflict with these specific definitions, these definitions shall control.

**ABANDONED SIGN:** A sign and/or sign structure which no longer correctly directs or exhorts any person, or advertises a bona fide business, lessor, owner, product or service.

**ANIMATED SIGN:** Any sign that all or any part thereof visibly moves or imitates movement in any fashion whatsoever. Any sign that contains or uses for illumination any lights (or lighting devices) that change color, flash or alternate, show movement or motion, or change the appearance of said sign or any part Automatically.

**AREA OF SIGN (COPY AREA):** The area within a continuous perimeter enclosing the limits of writing, representation, emblem, or any figure of similar character together with any frame, or material, open space, or color forming an integral part of the display or used to differentiate such sign from the background against which it is placed.

**BANNER:** A sign hung either with or without a frame, possessing characters, letters, illustrations, or ornamentation applied to paper, plastic, or fabric of any kind. This definition expressly excludes all fabric signs mounted from one side to a flag pole.

**BUILDING SIGN:** Any sign attached to any part of a building other than a freestanding sign.

**CANOPY:** Any permanent roof-like structure, including awnings and marquees, projecting beyond a building or extending along and projecting beyond the wall of a building, generally designed and constructed to provide protection from the weather.

**CANOPY SIGN:** Any sign attached to, or made a part of the front, side, or top of a canopy. These signs are regulated as wall signs.

**COPY:** The wording or graphics on a sign surface in either permanent or removable form.

**CROWN OF THE ROAD:** The highest point of a road, usually the center line of a road.

ERECT: To build, construct, attach, hang, place, suspend, paint or affix.

ESTABLISHMENT: A commercial, industrial, institutional, educational, office, business or financial entity.

FLAG: Any fabric sign, regardless of the message conveyed, mounted to a flag pole on one side only.

FLASHING SIGN: (See Animated Sign)

FREESTANDING SIGN: Any sign which is independent from any building or other structure and is entirely supported by a single or multiple pedestal that are permanently attached at or below ground level.

FRONTAGE, BUILDING: The length of an outside building wall facing a street. FRONTAGE, STREET: The length of the property line of anyone parcel along a street on which it borders.

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

ILLUMINATED SIGN: A sign which contains an internal source of light or which is designed or arranged to reflect light from an artificial source.

MANSARD SIGN: Any sign attached to or erected within 12 inches of an actual or simulated mansard of a building, with the sign face parallel to and within the limits of the building, but not exceeding the roof line, and not deemed to be a roof sign. These signs are regulated as wall signs.

MONIPOLE SIGN or UNIPOLE SIGN: A freestanding sign that is erected on a single pedestal attached to the ground for the display of messages irrespective of the number of faces or the configuration of the faces.

MONUMENT SIGN: A permanent sign, other than a freestanding pole sign, placed upon or supported by the ground independent of any other structure and constructed of stone, concrete, masonry, stucco or equal architectural material. These signs are regulated as ground signs.

MOVING SIGN: (See Animated Sign)

PAINTED WALL SIGN: Any sign that is applied with paint or similar substance on the face of a wall.

PARCEL (LOT)- (BUSINESS LOT): Any standard lot or parcel of land, the boundaries of which have been established by a recorded legal instrument and is recognized and intended as a unit for the purpose of transfer of ownership, with said parcel being duly recorded with the Clerk of Superior Court, Ben Hill County, Georgia

PERMANENT SIGN: A sign permanently affixed to a building or the ground.

PERSON: Any association, company, corporation, firm, organization, or partnership, singular or plural, of any kind

PORTABLE SIGN: Any sign supported by its own frame or trailer, with or without wheels, that is designed to move from one place to another.

PRINCIPAL BUILDING: The building with the principal use of the parcel on which it is located. Parcels with multiple principal uses may have multiple principal buildings. However, storage buildings, garages, and other clearly accessory are not considered principal buildings.

PROJECTING SIGN: Any sign affixed to a building or wall, which horizontally extends more than twelve inches beyond the surface of a building or wall.

RESIDENTIAL DISTRICT: Includes all land R-R and R-I.

REVOLVING SIGN: (See Animated Sign)

ROOF SIGN: Any sign erected, constructed, and maintained upon or over the roof of any building and projecting above the roof line.

ROOF SIGN (INTEGRAL): Any sign erected or constructed as an integral part of a normal roof structure of any design. No part of the sign can extend vertically above the highest portion of the roof and no part of the sign can be separated from the rest of the roof by a space of more than six inches.

SETBACK: The distance from the property line to the nearest part of the applicable building, structure, or sign, measured perpendicularly to the property line.

SIDEWALK, SANDWICH OR A-FRAME SIGN: A sign which is normally in the shape of an "A" of some variation, which is usually two sided.

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

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

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

STREET: Any public or private right-of-way for Automobile use. This excludes alleyways, parking lots and driveways.

STREET FRONTAGE: The width in linear feet of a lot or parcel where it abuts the right-of-way of any public street.

UNDER CANOPY SIGN: A sign that is suspended from the underside of a canopy (in awnings and marquees) is perpendicular to the wall surface of a building, and whose copy is not clearly

visible from the public right-of-way.

**WALL FACE:** A measurement of area equal to the height of the structure from the ground to the coping or eave of the roof multiplied by the width of the wall associated with the individual business. The wall face is to be measured for each wall independently.

**WALL SIGN:** A sign that is fastened directly to or is placed or painted directly upon the exterior wall of a building

**WINDOW SIGN:** A sign having its message visible from the exterior of a building that is either located within a building so as to be visible through a window, or affixed directly to the window either inside or outside the building.

**11-5 Permitted Signs**

**11-5.1** If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited. These regulations apply to signs located on any lot or development.

**11-5.1** If not otherwise stated, any sign not specifically permitted in a zoning district as provided under this section shall be prohibited. These regulations apply to signs located on any lot or development.

**11-5.2 Standard Permitted Signs.**

The following signs are permitted in the following zoning districts. A double-sided sign is counted as one sign, but each face counts towards the maximum area permitted. Height is measured from grade to the highest portion of the sign structure. Area is calculated as shown.

Districts /Uses	No. of ground signs	Total area of all ground sign faces	Max area of single ground sign face	Max height of ground signs	Window Signs (number/ maximum total area)	Wall Signs (number/ Max total area)	Max size of single wall sign	FLAGS number and Max total sq. ft.	FLAGS Max height
GF /CC	2	64 sq. ft.	32 sq. ft.	10 ft.	2, up to 8 sq. ft. total area	2/200 sq. ft.	200 sq. ft.	3, 100	25
RR, R1, MHP,	3	12 sq. ft.	4 sq... ft.	5 ft.	2, up to 8 sq. ft. total area	None	n/a	3, 50	20
GB	2	400 sq. ft.	200 sq. ft.	20 ft.	Can cover 25% of windows	4/200 sq. ft.	200 Sq. ft.	3, 200	30
WLI	2	400 sq. ft.	200 sq.. ft.	35 ft.	Can cover 25% of windows	4/250 sq. Ft.	250 sq. ft.	3, 300	40
H-I	3	600 sq. ft.	300 sq. ft.	35 ft.	Can cover 25% of windows	4/300 sq. ft.	250 sq. ft.	3, 400	50

**11-5.3 Highway Signs.**

In addition to the signs permitted elsewhere in this Ordinance, in the WLI and H-I Zoning Districts, the following additional permitted signs are allowed:

a) One additional ground sign of not more than 300 square feet per face, and not more than 35 feet in height, and not more than two-faced, may be erected on any lot that has road frontage on any U.S. Highway, or any Georgia Highway. Such sign must be erected within 50 feet of the right-of-way of said highway. No sign of more than 250 square feet erected under this section may be erected within 2,000 feet of any other ground sign exceeding 250 square feet, whether such sign is on the same lot or another lot. No sign of less than 250 square feet erected under this section may be erected within 500 feet of any other ground sign exceeding 100 square feet, whether such sign is on the same lot or another lot.

b) Distances between signs are measured from the closest points of the signs at issue, whether that is the sign base or a portion of the sign structure.

c) No sign erected under this section may be "double stacked"; that is, have two separate signs one higher than the other, both facing the same direction. Double stacked signs are permitted under other provisions of this Article.

d) It is the intent of this section to allow more signage along certain higher traffic corridors, while at the same time protecting the appearance of Ben Hill County and serving the purposes enumerated in greater detail in Section 11 .1. Whenever the distance requirements of this section would, if applied strictly, result in denying a person all opportunity for additional signage allowed under this section, because of the existence of a sign or signs on the property of another person or entity, a variance may be issued, subject to the procedure provided in the Zoning Ordinance, that both serves the interests of the County in adopting this sign ordinance, and also affords to such person reasonable additional signage. However, no variance shall be granted where the hardship is the result of the property owner or his predecessor-in-title's subdivision of the property.

**11-5.4 Minor Signs.**

Any number of minor signs is permitted in addition to all other signs permitted under this ordinance. In residential and agriculturally zoned areas, these signs must be no more than one (1) sq. ft. in area, and no more than four feet in height. In GB, WLI, and HI zoned areas, these signs must be no more than four (4) sq. ft. in area, and no more than four feet in height. However, the area of all such sign faces on a single lot, parcel, residence, development, business or property may not exceed 10 square feet in residential and agriculturally zoned areas; and 20 square feet in general business, wholesale light industrial, or heavy industrial zoned areas.

**11-5.5 Internal Signs.** Any sign not visible from the outside of a structure or to passing members of the public is not restricted or regulated by this Article.

**11-5.6 Outdoor Facility Signs.** Any sign that is located at an outdoor event facility that is open to the general public; such as a ball field, race track, or amphitheater, and is mounted on the internal facing walls of the facility is excluded from the maximum number and square footage restriction. These signs must however still conform to the maximum height or other restrictions applicable to the property under this article, even if such sign is visible from public rights-of-way outside of the facility, so long as the sign faces inward toward the facility and any external visibility is incidental to the sign's location

**11-6 Regulations for Signs**

**11-6.1 Location, Height, and Setback**

- a) The property owner must give permission for all sign placement on the owner's property, through the issuance of a letter signed by the owner.
- b) All signs must comply with all side and rear setbacks of the underlying zoning ordinance.
- c) Signs can be located in front setback areas, but all signs and sign structures, except as noted below, must be setback at least ten feet from the public right-of-way. No portion of a sign or sign structure shall encroach on or overhang the public right-of-way or any other person's property. Furthermore, for safety reasons, no sign shall be located closer than 10 feet from the back of the curb of a public roadway, or if there is no curb, from the edge of the pavement.
- d) Distances are measured from the closest portion of the sign (whether that is the base, sign face, or the sign structure) to the right-of-way, curb or pavement.
- e) The height requirements of a sign shall be computed as the length of a straight vertical line from normal grade to the height of the highest attached component of the sign or sign structure. When the sign is constructed within 15 feet of a right-of-way, the normal grade shall be considered the elevation of the crown of the road. When a sign is constructed 15 or more feet from any right-of-way, normal grade shall be considered the lower of (1) existing grade of the site of the sign prior to construction of the sign or (2) the newly established grade at the base of the sign after construction, exclusive of any filling, beaming, mounding or excavating solely for the purpose of locating the sign. Refer to the Table of Standard Permitted Signs for specific height limits and requirements.

**11-6.2 Number**

For the purpose of determining the number of signs, ground signs shall be equal to the number of sign structures. All other non-ground signs shall be considered to be a single display surface or display device containing elements organized, related and composed to form a unit.

**11-6.3 Illumination**

- a) Ground signs cannot be internally illuminated in any residential or agricultural zoning district. All signs may be externally illuminated. External illumination of any sign in any district shall be positioned and shielded so that the light source does not shine directly into the path of motorists on a public right-of-way or into the windows of adjacent dwellings or businesses without the permission of the owner and resident thereof. Signs located in residential districts shall not be illuminated between the hours of 10:00 p.m. and 7:00 a.m.
- b) Flashing, blinking or otherwise varying illumination is not permitted. No external or internal illumination that causes confusion with or distraction from any traffic signal or safety device shall be permitted
- c) All externally illuminated signs shall utilize low wattage luminaries, mounted in fixtures designed to direct light and eliminate light trespass, such as light shining into residences or other neighboring structures.
- d) All internally illuminated signs shall utilize low wattage luminaries designed to reduce light glow.
- e) All illuminated signs over ten feet in height shall either be internally illuminated or illuminated by external lighting fixtures not visible to passing motorists.

**11-6.5 Calculation of Area**



The area of a sign is calculated by determining the area of the smallest square or rectangle which encloses the sign face and the structure surrounding the sign face. For example, the pole or base would not be included, but any frame holding the sign face in place would be counted. See examples:

**Examples of Sign Face Area Measurements**



Area A x B

**11-6.6 Unusual Shaped Signs**

Unusual shaped sign are signs that are any shape other than a square or rectangle, and include signs with projecting elements or features, round, oval, and triangular signs, signs with more than four sides, signs in the shape of an animal, object, or device, and so forth. For all such signs, the area is calculated by calculating the area of the smallest rectangle that will completely enclose all elements of the sign face and sign structure supporting the face, not including the base, OR ANY OPEN SPACE.

**11-6.7 Sign Support Structures.**

Signs 300 sq. ft. per face or larger must be constructed with a monopole-type support system

**11-7 Safety and Construction Standards**

**11-7.1 Engineering Approval.**

All signs in excess of 15 feet in height should be constructed according to plans approved by a Georgia registered professional engineer. The sign owner shall produce such approved plans at the request of Ben Hill County Building Official.

**11-7.2 Official Confusion.**

Signs which contain or are in imitation of an official traffic sign or signal are prohibited

**11-7.3 Fire Safety**

No sign or sign structure may be erected or maintained which obstructs any fire escape, ventilation, or door; nor shall any sign or sign structure be attached to a fire escape.

**11-7.4 Corner Visibility.**

No sign or sign structure above a height of three feet shall be maintained within 15 feet of the intersection of the right-of-way lines of two streets, or of a street intersection with a railroad right-of-way.

#### **11-7.5 Traffic Visibility.**

No sign shall obstruct the view of vehicles entering the roadway (i.e., the view of oncoming traffic by vehicles attempting to enter the road).

#### **11-7.6 Good Repair.**

All signs, together with all their supports, braces, guys, and anchors shall be kept in good repair. Any structure formally used as a sign, but not in use for any other purpose, must be removed by the owner of the property within ten (10) days after written notification from a designated official of Ben Hill County or thirty (30) days after its use as a valid sign has ceased, after which time, the County may cause the removal of the sign at the owner's expense. (See Ben Hill County Nuisance Ordinance) Abatement by County, Payment of Costs.

#### **11-7.7 Removal of Unsafe Signs and Safety Hazards.**

The County may remove a sign in violation of this Ordinance, without giving notice to any party, if said sign is upon the public right-of-way or upon other public property; or said sign poses an immediate safety threat to the life or health of any members of the public.

**11-8 Prohibited Signs** The following types of signs are prohibited:

11-8.1 Roof Signs (which means signs mounted above a roof or projecting above the roof-line of a structure).

11-8.2 Rotating signs.

11-8.3 Signs with more than two sides.

11-8.4 Changing copy, moving signs, or signs with moving parts. This includes animated signs involving motion or sound; fluttering ribbons; "tri-vision"-type signs; signs displaying moving pictures or images; LED signs or EVMC signs with content that changes more than once daily; signs with moving words; signs with waiving elements, whether motorized or wind-powered; or similar moving signs. This regulation shall not be construed to prohibit flags, which are regulated as other non-moving signs.

11.8.5 Flashing, blinking or signs of varying light intensity. Signs with reflective elements that sparkle in the sunlight or that contain luminous paint that glows in the dark are not allowed, including signs that spell words or create images with numerous small lights or other illumination.

11-8.6 A-frame, sandwich type, sidewalk or curb signs.

11-8.7 Swinging or projecting signs.

11-8.8 Portable signs (mobile, trailer).

### **11.9 Procedures**

#### **11-9.1 Sign Registration and Building Permits**

- a) Except as specifically exempted from the provisions of this article, a person or firm may not legally maintain, post, display, enlarge, erect, move, or substantially change a sign that is larger than four (4) square feet, without first obtaining a permit from the Zoning Administrator or his/ her designee. Signs using electrical wiring and connections (i.e. illuminated signs), as well as larger signs, may require additional permits under the Ben Hill County Building Code or Zoning Ordinance, and the Ben Hill County Building Official should be contacted regarding such signs.
- b) All parties are advised to consult with the Zoning Administrator to avoid erecting signs that violate this ordinance. No person shall obtain a vested right to maintain a sign that does not comply with this ordinance at the time it is erected. Signs erected in violation of this ordinance shall be removed or reconstructed in compliance with this ordinance.
- c) Permit applications for conforming signs shall be filed by the sign owner or his/ her agent with the zoning administrator or his/ her designee upon forms furnished by the County. Signs flown in a manner consistent with the Table of Standard Permitted Signs are excluded from the permit requirement.

**1. Applications shall contain the following:**

- (a) The type of the sign as defined in this ordinance.
- (ii) The value of the sign.
- (iii) The street address and zoning designation of the property where the sign is to be located.
- (iv) A site plan drawn to scale, that shows the location of the sign on the lot, including indicating setbacks from property lines and rights-of-way.
- (v) The square foot area per sign and the aggregate square foot area if there is more than one sign face.
- (vi) The name(s) and addresses) of the owner(s) of the real property upon which the sign is to be located, along with written consent of said owner(s).
- (vii) Engineered construction plans for signs exceeding 15 feet in height, showing they are approved by a registered Georgia professional engineer.
- (viii) Name, address, phone number and business license number of the sign contractor.

**2. Fees.**

- a) No permit shall be issued until the appropriate application, has been filed with the zoning administrator or his/ her designee and permit fees have been paid as adopted by the Board of Commissioners and as amended from time to time.
- b) The zoning administrator or his/ her designee shall grant a permit upon receipt of a completed application if the proposed sign meets the requirements of this article.
- c) Permit expiration. A permit shall become null and void if construction of the sign has not begun within six (6) months from the date of issuance. Issuance of a permit shall in no way prevent the county from later declaring the sign to be nonconforming or unlawful if, with further review of available information, the sign is found not to comply with the requirements of the ordinance applicable at the time that the complete permit application was filed.

- d) A violation of any provisions of this article will be grounds for termination a permit granted by the county for the erection of a sign. Should it be determined that a permit was issued pursuant to an incomplete application or an application containing a false material statement, or that a permit has been erroneously issued in violation of this article, the zoning administrator or his/ her designee shall revoke the permit.
- e) No information shall be required regarding the content of the sign. Any person failing to obtain a permit prior to construction shall be subject to citation and, upon conviction, shall be punished in accordance with the enforcement provisions of the Ben Hill County Zoning Ordinance and applicable law.

**11.10 Non-Conforming Signs.**

Signs existing legally at the time of the adoption or amendment of this ordinance, but which do not conform to newly adopted or amended provisions of this ordinance solely because of a change in the ordinance, and not because of a change to the sign, may remain as legal non-conforming signs, subject to the following provisions:

- a) There must be existing property rights in the sign;
- b) The right to continue a non-conforming sign is confined to the sign owner or his transferee;
- c) A non-conforming sign may be restored to its original condition provided that not more than 50% of the sign is destroyed. The 50% is to be determined by 50% of the value of the materials of the sign, inclusive of poles and other structural members, immediately prior to damage;
- d) A non-conforming sign when relocated or moved shall no longer be considered a non-conforming sign and thereafter shall be subject to all the provisions of law and of these Rules relating to outdoor advertising;
- e) The sign must remain substantially the same as it was on the effective date of the adoption of this ordinance which rendered the sign non-conforming. Extension, enlargement, replacement, re-building, adding lights to a non-illuminated sign or re-erection of the sign will be considered a change in the existing use. The maintenance will be limited to:
  - 1) replacement of nuts and bolts;
  - 2) additional nailing, riveting or welding;
  - 3) cleaning and painting;
  - 4) manipulate to level or plumb the device, but not to the extent of adding guys or struts for stabilization of the sign structure;
  - 5) a change of the message, including changing faces, as long as similar materials are used and the sign face is not enlarged.
- f) At no time may changes be made in a non-conforming sign which would increase the value of the sign;
- g) A non-conforming sign may continue as long as it is not abandoned, destroyed, discontinued, or purchased by any governmental agency. Any sign suffering damage in excess of normal wear cannot be repaired without:

1) Notifying the zoning administrator in writing of the extent of the damage, the reason the damage is in excess of normal wear, and providing a description of the repair work to be undertaken, including the value of the sign materials and the cost of the repair; and,

2) receiving written notice from the zoning administrator Authorizing the repair work as described above. If said repair is Authorized by the terms of this ordinance, the zoning administrator shall mail such notice to the applicant within 30 days of receipt of the information described in (1) above.

**SECTION 12. ADMINISTRATION, ENFORCEMENT, AND PENALTIES**

**12-1 Zoning Administrator.** An administrative official designated as the Zoning Administrator by the Board of Commissioners, Ben Hill County, Georgia, shall administer and enforce the provisions of this ordinance.

**12-2 Building/Development Permit Required.** A building/development permit, or a sign permit in case of a sign, issued by the Zoning Administrator is required in advance of the initiation of construction, erection, moving, demolition, or alteration of any building or structure or sign. No building or sign permit shall be issued except in conformity with the provisions of this ordinance; however, a building permit issued before the adoption of this ordinance shall remain valid with the same qualifications as issued under this ordinance.

**12-3 Application for Building/Development Permit.** All applications for building/development permits, except single family residential, duplexes and agricultural buildings not intended for human occupancy, and their accessory uses shall be accompanied by two (2) site plans drawn to scale showing the actual dimensions of the lot to be built upon, the size and location of the lot, the number of dwelling units the building is designed to accommodate, the setback lines of the building on the "permit lot", the various easements on the lot and such other information as may be essential for determining whether the provisions of this ordinance are being observed. The following is required on the site plan before the site plan is considered by the Zoning Administrator and any permits are approved (single family residential, duplexes and agricultural buildings, and their accessory uses are excluded from the following items except number 3 below):

1. Topography (MSL) existing and proposed
2. Drainage plans
3. Location and size of ingress/egress
4. Water mains and services, both existing and proposed
5. Water services as well as fire hydrants in the lot and the specific meter size and location.

Any building/development permit shall become void if the work involved has not begun within six (6) months after the date of issuance of the permit or if the work or development Authorized by such permit is suspended

or abandoned for a period of six (6) months after the work or development is commenced; provided that extensions of time and periods not exceeding six (6) months each may be allowed in writing by the Zoning Administrator. Any unapproved deviation from the site plan shall cause the Zoning Administrator to not issue a Certificate of Occupancy.

Single family residential, duplexes and agricultural buildings, and their accessory uses, site plans need not be drawn to scale, but must be accurate as to dimensions of lot and proposed building.

The applicant for a building permit shall submit a certificate with his application which certifies that the lot which he proposes to develop is a lot of record. When the lot in question does not meet the lot width and lot area requirements of this ordinance, then the applicant shall certify that such lot was a lot of record prior to the adoption of this ordinance or is a lot which has been created through governmental taking of property.

All applications for a building/development permit shall be closely coordinated with Ben Hill County’s Soil and Sedimentation and Erosion Control Ordinance.

**12-3.1 Coordination with Development of Regional Impact Requirements.** The Georgia Department of Community Affairs, pursuant to the Georgia Planning Act, has established criteria for the identification of certain large-scale developments which have the potential to cause land use impacts beyond the boundaries of the respective local government where a project might be proposed. These developments, known as Developments of Regional Impact (DRIs), shall be submitted, based on established DCA standards, procedures, and format, to the South Georgia Regional Development Center (SGRC) for review and recommendation prior to issuance of any local building or development permit or utility tap (does not apply to any activity reviewed under any earlier rezoning proposal). As such, these requirements establish an official delay in the local permitting process to allow for compliance with these requirements.

**12-3.2 Coordination with Water Resource District Requirements.** As identified in Section 10, Water Resource Districts, Ben Hill County contains three identified water resources: Groundwater Recharge Areas, River Corridor Protection Areas, and Potential Wetlands Areas. The Groundwater Recharge Areas and Protected River Corridor segments are available as digital overlays, and the potential generalized wetlands areas are available as manual overlays. Prior to issuance of any local building/development permits, these data bases shall be checked, and if any are found applicable to the subject project or property, all requirements of Section 10, Water Resource District, shall be enforced as part of the permitting process.

**12-3.3 Coordination with Flood Plain Management Requirements.** Areas of potential flood hazards, as identified by the current Federal Emergency Management Agency Flood Hazard Study for Ben Hill County are available as a digital overlay to Ben Hill County’s parcel data. The Ben Hill County Zoning Administrator shall review all applications for building/development permits which proposes to develop properties which have been duly identified as having a flood hazard potential. These building/development permit applications shall be closely coordinated with Health Department staff and the County Engineer to ensure compliance with all standards contained in the County’s Flood Hazard Mitigation Ordinance. All submitted technical data, as well as any elevation certificates or flood proofing certificates shall be maintained as part of the building/development application and inspections files.

**12-4 Sign Permits.** The Zoning Administrator shall receive applications for the construction of signs, as required by this ordinance. Such applications shall follow the same forms as required for building permits, and shall contain information required by this ordinance in Section 11. The Zoning Administrator shall

process such sign applications and shall issue sign permits and sign permit numbers for proposed signs which comply with the requirements of this ordinance. The Ben Hill County Zoning Administrator shall not issue a local sign permit for any signage subject to the review and approval of the Georgia Department of Transportation without documentary evidence of approval from the Georgia Department of Transportation.

**12-5 Penalties for Violation.** In case any building or structure is erected, constructed, reconstructed, demolished, altered, repaired, moved, converted or maintained, or land is used in violation of this ordinance, the offender shall, upon conviction in Magistrate's Court, be fined no more than five-hundred (\$500) dollars or imprisoned for not more than sixty (60) days, or both, for each offense. Each day of continued violation shall be considered a separate offense.

**12-6 Enforcement:** The Magistrate's Court of Ben Hill County shall have jurisdiction over violators of this ordinance and all procedures for enforcement of such ordinance shall be as provided in Article 4, Chapter 10 of Title 15, Official Code of Georgia. Complaints of violations of any provision of this ordinance shall be brought before the Magistrate's Court by the Zoning Administrator or his designated representative and shall be prosecuted through that court.

**12-7 Remedies.** In case any building or structure is or is proposed to be erected, constructed, reconstructed, altered, converted, or maintained, or any building, structure, or land is or is proposed to be used in violation of this ordinance, the Zoning Administrator, County Attorney, or other appropriate county Authority or any adjacent or neighboring property owner or occupant who would be damaged by such violation may, in addition to other remedies, institute injunction, mandamus, or other appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use; or to correct or abate such violation, or to prevent the occupancy of said building, structure, or land.

**12-8 Complaints Regarding Violations.** When a violation of this resolution occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint shall state fully the causes and basis thereof and shall be filed with the Zoning Administrator. He shall record properly such complaint, investigate within thirty (30) days and take action thereon as provided in this ordinance.

**12-9 Cancellation of Permits.** A demolition, building, or sign permit shall be canceled by the Zoning Administrator when the method of demolition, construction, or use violates any provision contained in this ordinance, or any state or local ordinance or resolution. Upon such cancellation, any further work upon the demolition, construction, alteration, or repair on said building or structure, and any further use of said building or structure or land, shall be deemed a violation. Each and every day such unlawful demolition, construction, alteration, or repair on said building or structure, or further use of said building or structure or land continues shall be deemed a separate offense.

**12-10 Certificate of Occupancy.** Certificate of Occupancy shall be issued by the Zoning Administrator in accordance with the following provisions:

**12-10.1 Certificate of Occupancy Required:** A Certificate of Occupancy issued by the Zoning Administrator is required in advance of occupancy or use of:

- a. A building hereafter erected.
- b. A building hereafter altered so as to affect height, the side, front, or rear yard.
- c. Any building or premises where a change in the type of use will occur.

**12-10.2 Issuance of Certificate of Occupancy:** Upon payment of all required fees, the Zoning Administrator shall sign and issue a Certificate of Occupancy if the proposed use of

land or building is found to conform to the applicable provisions of this ordinance, and if the building, as finally constructed, substantially complies with the sketch or plan submitted and approved for the building permit. One (1) copy of all Certificates of Occupancy issued which contain a statement of the intended use of the applicable property and other pertinent information, signed by the owner or his agent shall be kept on file in the office of the Zoning Administrator.

**12-10.3 Denial of Certificate of Occupancy:** A Certificate of Occupancy shall not be issued unless the proposed use of a building or land conforms to the applicable provisions of this ordinance, and substantially complies with the sketches or plans submitted for obtaining the building permit.

**12-11 Reason for Denial of Permit.** When a permit is denied, the Zoning Administrator shall provide in writing, upon request of the applicant for a permit, his reasons for denying the permit within ten (10) days after said request.

**12-12 Permits and Licenses Void When Issued in Conflict.** Any permit or license issued in conflict with the provisions of this resolution shall be null and void.

**12-13 Appeals.** Appeals from the decisions of the Zoning Administrator with regard to interpretation, administration, and enforcement shall be made to the Board of Zoning Appeals in accordance with the provisions of Section 13.



**SECTION 13. BOARD OF APPEALS**

**13-1 Membership.**

**13-1.1 Membership and Appointment:** The Ben Hill County Board of Zoning

Appeals hereinafter referred to as the "Board" shall consist of five (5) members residing within Ben Hill County, Georgia. The Board of Commissioners shall serve as the Zoning Board of Appeals. One member shall be an attorney and shall be appointed by the governing bodies jointly. Board members may be removable for cause, upon written charges, and after public hearing. Any member of the Board shall be disqualified to act upon a matter before the Board with respect to property in which the member has an interest.

**13-1.2 Term of Office:** The term of office for each member of the Board shall be for five (5) years; however, in the appointment of the first Board, three (3) of the members shall be appointed for three (3) years and two for two (2) years. Any vacancy in the membership shall be filled for the unexpired term in the same manner as the initial appointment.

**13-1.3 Compensation:** The Board members shall receive no compensation for their service except that they may be reimbursed for out-of-pocket expenditures made in connection with their duties, subject to policies as may be established by the Ben Hill County Board of Commissioners.

**13-2 Rules and Procedures.** The Board shall elect one of its members as Chairman, who shall serve for one year or until he is re-elected or his successor is elected. The Board of Appeals shall appoint a secretary who may be an officer of Ben Hill County, Georgia or of the Planning Commission. The Board shall have Authority to adopt rules of procedure. Meetings of the Board shall be held at the call of the Chairman and at such other times as said Board may determine. The Chairman, or in his absence the acting Chairman, may administer oaths and compel the attendance of witnesses by subpoena. The Board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of said Board and shall be a public record. The decisions of the Board shall be by resolution, which resolution shall contain a statement of the grounds of its decision or action. The full text of the resolution shall be sent to the appellant. No appeal requesting the same relief in regard to the same property shall be received or heard by the Board for a period of twelve (12) months following the date of said resolution, except that this limitation shall not affect the right of said Board to grant a rehearing if provided in the rules of procedure adopted by said Board.

**13-3 Administrative Assistance.** The County Commission may provide such technical, legal, administrative, and clerical assistance as is needed by the Board to carry out its function under the provisions of this ordinance.

**13-4 Appeals.**

**13-4.1 Who May Appeal:** Appeals to the Board may be taken by any person aggrieved or by any officer, department, board, or bureau of the governing Authority affected by any decision of the Zoning Administrator. Such appeals shall be filed no later than thirty (30) days after the date of notification of the decision appealed from by filing with the Zoning Administrator, and with the Board, a notice of appeal specifying the grounds thereof. The Zoning

Administrator shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken.

**13-4.2 Presentation of Evidence:** The appellant, and any public agency or private individual shall be entitled to present evidence on matters before the Board, and said Board may request technical service, advice, data, or factual evidence from the Planning Commission and the respective governing Authority for assistance in reaching decisions. The Board may request legal advice for particular matters, subject to limitations established by the Ben Hill County Board of Commissioners.

**13-4.3 Extent of Board of Appeals' Power:** The Board may, in conformity with the provisions of this ordinance, reverse or affirm, wholly or partly, or may modify the order, requirement, decision, or determination of the Zoning Administrator, and to that end shall have all the powers of the Zoning Administrator. The Board may direct the issuance of a permit. It shall be the duty of the Zoning Administrator to carry out the decisions of the Board.

### **13-5 Public Hearing.**

**13-5.1 Notice of Hearing Shall Be Given:** Before making its decision on an administrative appeal, request for a variance, or any other matter within the Board's Authority, said Board shall hold a public hearing thereon. At least fifteen (15) days but not more than 45 days' notice of the time and place of such hearing. Notices should be sent to owners of all properties either adjoining the property with which the hearing is concerned or situated directly across a public right-of-way from said property. Such notice shall contain the name of the appellant or petitioner, the date, time, and place set for the hearing, and a brief statement of the nature of the hearing.

**13-5.2 Public Notice in Newspaper:** The Board shall give a public notice of the hearing in a newspaper published and circulated in Ben Hill County, Georgia by advertisement published at least fifteen (15) days but not more than 45 days prior to the date of the public hearing.

**13-5.3 Who May Appear:** Any party may appear at the public hearing in person or by agent or by attorney.

**13-5.4 Time Limit on Board's Decision:** The Board shall reach a decision following a public hearing within thirty (30) days.

### **13-6 Powers and Duties.**

**13-6.1 Appeals from Actions of the Zoning Administrator:** The Board shall hear and decide upon appeals where it is alleged there is error in any order, requirement, decision, or determination made by the Zoning Administrator in the enforcement of this ordinance.

**13-6.2 Request for a Variance:** The Board may Authorize upon appeal in specific cases such variance from the terms of this ordinance as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of provisions of this ordinance will, in an individual case, result in unnecessary hardship, so that the spirit of this ordinance shall be observed, public safety and welfare secured, and substantial justice done. Provided, however, that a variance shall not be granted for a use of land or building or structure that

is prohibited by this ordinance in the district in question. Such variance may be granted in an individual case upon finding by the board that all of the following exists:

- a. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape, or topography; and
- b. the application of this ordinance to this particular piece of property would create an unnecessary hardship; and,
- c. such conditions are peculiar to the particular piece of property involved; and,
- d. relief, if granted, would not cause substantial detriment to the public good or impair the purposes and intent of this ordinance; provided that no variance may be granted for a use of land, building or structure that is prohibited by this ordinance. Applications for use variances shall not be accepted by the Zoning Administrator. Such requests shall be properly filed as requests for rezoning, the Authority for such rezoning of property being solely reserved for the Ben Hill County Commission.
- e. Provided that the Board may impose or require such additional restrictions and standards (i.e., increased setbacks, buffer strips, screening, etc.) as may be necessary to protect the health and safety of residents and workers in the community, and to protect the value and use of property in the general neighborhood. Provided, that whenever the Board shall find, in the case of any permit granted pursuant to the provisions of this ordinance that any of the terms, conditions or restrictions upon which such permit was granted are not being complied with, said Board shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for public hearing.

**13-6.3 Request for Extension of Non-Conforming Residential Uses:** The Board may Authorize upon appeal in specific cases an extension or replacement of an existing nonconforming residential use which the Board is specifically authorized to pass on under the terms of this ordinance. Said extension may be granted in an individual case upon finding by the Board that:

- a. The use is a non-conforming use as defined in this ordinance; and
- b. the use is in full compliance with all requirements of this ordinance applicable to nonconforming uses; and
- c. the extension of said use will not further injure a permitted use on adjacent property in the same district.
- d. This section is specifically designed to allow for the replacement of homeowner occupied residential units in areas no longer zoned for residential uses. As such, this provision is not subject to the limits of Section 8-5.

**13-7 Forms.** Appeals from actions of the Zoning Administrator, requests for variances, and requests for extension of a non-conforming residential uses shall be made on forms provided for such purposes. All information required on said forms shall be provided by the applicant. Forms shall be filed with the Zoning Administrator, and the applicant shall pay Ben Hill County for expenses incidental to the appeal. No form

shall be accepted by the Zoning Administrator unless it contains all pertinent information and is accompanied by the required fee of a fee to defray expenses as set from time to time by the County Commission.

**SECTION 14**

**SECTION 14. AMENDMENT**

**14-1 General Conditions.** This ordinance, including the official zoning maps, may be amended by the Board of Commissioners on their own motion, on petition of a property owner or his duly authorized agent, or on recommendation of the Planning Commission, but no amendment shall become effective unless it shall have been proposed by or shall first have been submitted to the Planning Commission for review and recommendation. Before enacting an amendment to this ordinance, the governing authority shall give public notice and hold a public hearing thereon as set forth in this section.

**14-1.1 Establishment of Comprehensive Plan. The 2016 Fitzgerald/Ben Hill County**

Comprehensive Plan, as duly amended, is established as official policy of Ben Hill County. As such, the goals and policies of the Plan, and the resultant Future Land Use Plan, shall serve as the guide under which the unincorporated areas of the county are divided into zoning districts. The recommendations of the Plan are hereby established as official policy of the county, and shall receive due consideration in all requests as reflected in Section 14-2.9(e) Standards for Exercise of Zoning Power.

**14-1.2**

**Limited Use Provision.** The Ben Hill County Board of Commissioners establish the "Limited Use" provision for the purpose of allowing an applicant to request that a certain area be designated as a limited use. In some areas of the county, a specific land use activity out of a general zoning classification may have less community impact than some of the possibilities of use in that specific zoning district. For this reason, an applicant may request in his rezoning petition to limit the use of a proposed property to a specified use only (for example, CC, LU - Community Commercial District limited to a bait and tackle store.) The requested limited use must be among the uses permitted in the zoning district classification for which the limited use is requested. Alteration or change of an approved limited use shall be treated as any normal zoning amendment.

**14-1.3 Special Conditions Limitations.**

An applicant may file site plans, renderings, construction specifications, written development restrictions and other site planning or development conditions which the applicant proposes as binding conditions upon the development and use of the property involved in the application. Should the application be approved with these conditions, any alteration or change of a special condition's limitation shall be treated as any normal zoning amendment.

**14-2 Application for Amendment.**

**14-2.1 General:** Applications for amendment of this ordinance may be in the form of proposals for amendment of the text of this ordinance, proposals for amendment of the zoning maps or requests for Special Exception approval. Applications for amendment shall be submitted to the Zoning Administrator and shall include a fee payable to the county to defray expenses as set from time to time by the County Commission. No application for a zoning change affecting the same parcel of property or part thereof shall be accepted by the Zoning Administrator until the expiration of at least twelve months immediately following the defeat of the rezoning request by the Ben Hill County Commission.

**14-2.2 Signature of Applicant Required:** All applications shall be signed by the applicant, and shall state his name and address.

**14-2.3 Application for Text Amendment:** In the case of a text amendment, the application shall set forth the new text to be added and the existing text to be deleted.

**14-2.4 Application for Map Amendment:** An application for a map amendment shall include the following information:

- a. The community or area in which is located the land proposed to be reclassified and the street number, if any, or if none, the location with respect to the nearby public roads in common use;
- b. a plat of the land in question, and a description by metes and bounds, bearings, and distances of the land, or if the boundaries conform to the lot boundaries within a subdivision for which a plat is recorded in the land records of the County; then the lot, block, and subdivision designations with appropriate plat reference; or the map and parcel number according to the current tax mapping system of Ben Hill County;
- c. the present zoning classification and the classification proposed for such land;
- d. the name and address of the owners of the land; and the names and addresses of abutting property owners.
- e. the area of the land proposed to be reclassified stated in square feet if less than one (1) acre, and in acres if one (1) or more;
- f. the application number, date of application, and action taken on all prior applications filed for the reclassification of the whole or part of the land proposed to be reclassified.

**14-2.5 Application for Special Exception Approval:** An application for a Special Exception approval shall include the following:

- a. The community or area in which is located the land proposed to be reclassified and the street number, if any, or if none, the location with respect to the nearby public roads in common use;
- b. a plat of the land in question, and a description by metes and bounds, bearings, and distances of the land, or if the boundaries conform to the lot boundaries within a subdivision for which a plat is recorded in the land records of the County; then the lot, block, and subdivision designations with appropriate plat reference; or the map and parcel number according to the current tax mapping system of Ben Hill County;
- c. The present zoning classification and the proposed Special Exception usage proposed for the subject property.
- d. The names and address of the owners of the land, and the names and addresses of abutting property owners.
- e. the area of the land proposed to be reclassified stated in square feet if less than one (1) acre, and in acres if one (1) or more;

- f. The application number, date of application, and action taken on all prior applications filed for the rezoning or Special Exception use of the whole or part of the land proposed for Special Exception use.

**14-2.6 Campaign Contributions:** If applicant has made, within two (2) years immediately preceding the filing of the applicant's application for a zoning amendment, campaign contributions aggregating \$250 or more to any member of the Ben Hill County Commission or any member of the Fitzgerald/Ben Hill County Planning Commission, it shall be the duty of the applicant and the attorney representing the applicant to disclose the following in the application:

- a. The name of the local government official to whom the campaign contribution or gift was made;
- b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for the map amendment and the date of each contribution; and
- c. An enumeration and description of each gift having a value of \$250 or more made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for the zoning amendment.
- d. In the event that no such gift or contribution were made, the application shall affirmatively so state.

**14-2.7 Developments of Regional Impact.** The Georgia Department of Community Affairs, pursuant to the Georgia Planning Act, has established criteria for the identification of certain large scale developments which have the potential to cause land use impacts beyond the boundaries of the respective local government where a project might be proposed. These developments, known as Developments of Regional Impact (DRIs), shall be submitted, based on established DCA standards, procedures, and format, to the Southern Georgia Regional Commission (SGRC) for review and recommendation prior to any Planning Commission or Ben Hill County Commission action. As such, these requirements establish an official delay in the local amendment process to allow for compliance with these requirements.

**14-2.8 Referral to Planning Commission:** Within five (5) days after the routine monthly application acceptance deadline, the Zoning Administrator shall transmit a copy of the completed application to applicable local staff members for review and recommendation. The Zoning Administrator shall coordinate this local review process with the County's planning staff and/or planning consultant to prepare a written staff report on all matters brought before the Planning Commission and County Commission. The Planning Commission shall review each application for consistency with the adopted local Comprehensive Plan, and the adopted standards for exercise of the zoning powers. The staff report and Planning Commission recommendations shall then be transmitted to the County Commissioners. The Planning Commission shall have thirty (30) days within which to submit a report to the County Commissioners. If the Planning Commission fails to submit a report within thirty (30) days, it shall be deemed to have recommended denial of

the requested amendment. The passage of a motion to table or postponement to a time and date specific shall constitute a decision for the purposes of this subsection.

- a. **Posting of Property:** Not less than fifteen (15) days prior to the date set for the public hearing on any application for a map or Special Exception amendment (other than a map or Special Exception amendment initiated by the Planning Commission or the County Commission), the Zoning Administrator shall erect a sign on the land proposed to be reclassified. Such sign shall be erected by the Zoning Administrator within (10) feet of whatever boundary line of such land abuts the most traveled public road; and, if no public road abuts thereon, then such sign shall be erected to face in such a manner as may be most readily seen by the public. The sign shall show the application number, the present zoning classification, the proposed zoning classification or Special Exception use, the scheduled date, time, and place of public hearing, and the telephone number to call for further information. If the land sought to be reclassified lies within more than one (1) block as shown on a plat recorded in the land records of the County, then a sign shall be erected on the land in each such block.
- b. **Removal of Sign:** Any such sign shall be maintained at all times by the Zoning Administrator until a decision on the application has been made by the County Commissioners.

#### **14-2.9 Hearing Procedures:**

- a. **Hearing Called:** Before taking action on a proposed zoning amendment, the Board of Commissioners shall hold a public hearing thereon. At least fifteen (15) but not more than forty-five (45) days' notice of the time, place, and purpose of said hearing shall be published in a newspaper of general circulation within Ben Hill County, Georgia. Such notice shall also state the application number and date, and shall contain a summary of the proposed amendment, if a text amendment, and in the case of a map amendment, the location of the property, its area, the name of the owner or their authorized agent, and the present and proposed zoning classification or Special Exception use for the property affected.

Further, such advertisement shall advise the public pursuant to O.C.G.A. 36-67A-3 that any opponent of a proposed rezoning action who has made campaign contributions aggregating \$250.00 or more to a local government official of the local government which will consider the application within two (2) years of the date of the application shall be required to file a disclosure with the governing authority of the respective local government showing: (1) The name and official position of the local government official to whom campaign contributions were made; and (2) the dollar amount and description of each campaign contribution made by the opponent to the local government official during the two (2) years immediately preceding the filing of the application for the proposed rezoning action and the date of each contribution. Such disclosure shall be required to be filed at least five (5) calendar days prior to the scheduled hearing.

- b. **Notice to Interested Parties:** A notice shall be given to the applicant and the Planning Commission of the date, time, and place of the public hearing. All application files shall be placed in the custody of the Zoning Administrator and be open to public inspection during regular office hours.



- c. Letters: As to an application to amend the Official Zoning Map(s) or a Special Exception request, the Zoning Administrator shall send letters to abutting property owners at least fifteen (15) days and no more than forty-five (45) days in advance of the Public Hearing before the County Commission. Letters shall include information as to the application and date, time, and place of the public hearing.
- d. **Public Hearing Procedure:** All public hearings on zoning matters shall be placed on the Planning Commission and County Commission agenda under a section entitled "Public Hearings". The Chairman, or his designee, shall officially declare the public hearing open and shall note that Ben Hill County's written Public Hearing Procedures, Ben Hill County's Standards for Exercise of Zoning Powers, and a copy of Georgia's Conflict of Interest Law are available to the attending public as a handout and are posted for public review.

The Zoning Administrator and/or designee shall then announce the matter for consideration. The Chairman shall then call for acknowledgment of a potential conflict of interest by members of the Commission. (See Subsection 14-2.9h) The Zoning Administrator will then report the staff recommendation and the recommendation of the Fitzgerald/Ben Hill County Planning Commission. The Chairman shall then allow public input. General procedures to be followed will require citizen comments to be heard in an orderly fashion. Citizens speaking in favor of the request shall be heard first, followed by those opposed to the issue. All speakers will be asked to provide his or her name and address for the public record. Citizens are requested to keep their comments as brief as possible so that all who wish to be heard will have adequate time. Where there is a large number of citizens wishing to testify at a given hearing, the presiding officer may invoke reasonable time limitations on both the proponents and opponents of a request. In such cases, these time limits shall apply to both sides of an issue equally, such minimum time period to be no less than ten minutes per side. Citizens shall address their comments to the Commission as a whole. Individual attacks or cross examination of Commission members, county employees or other citizens will be ruled out of order. The Commission retains the privilege to ask any questions of staff or any citizen present for clarification.

After all citizen comments have been received, all further discussion of the specific application is reserved for the Commission. The Chairman shall then declare the public hearing closed and no further public comment will be entertained. The Commission will then render a decision on the application. So that the purpose of this Ordinance will be served, health, public safety, and general welfare secured, the Commission may approve the application, reduce the land area for which the application is made, change the district requested, add or delete conditions of the application, deny an application, or defer consideration of an application to acquire additional information. An action by the Commission to defer the application shall include a statement of the date and time of the next meeting time and place specific at which the application will be considered, which statement shall constitute public notice of the hearing on the application and no further notice is required. IN THE CASE OF TABLING OF A MATTER, NO FURTHER PUBLIC COMMENT WILL BE ENTERTAINED UPON FURTHER CONSIDERATION OF THE MATTER.

When, in the opinion of the Commission, the official public hearing has brought forth substantial new evidence or testimony not available to the Fitzgerald/Ben Hill County Planning Commission at the time of their review of a zoning matter, or should the Commission desire to request further study by the Planning Commission of a particular aspect of an application, it shall be the policy of the Commission to table the issue and request that the Planning Commission restudy the issue and affirm or amend its recommendation, which action shall be reported to the County Commission prior to making a final decision.

- e. **Standards for Exercise of Zoning Powers:** In order to promote the public health, safety, and general welfare of Ben Hill County against the unrestricted use of property, the following standards, and other factors relevant to balancing the above stated public interests shall be considered as they apply to any application brought before the Planning Commission or the County Commission for a zoning decision:
  - 1. Is the proposed zoning or use suitable in view of the zoning and development of adjacent and nearby property?
  - 2. Does the request represent the possible creation of an isolated district unrelated to adjacent and nearby districts and will the proposed use adversely affect the existing use or usability of adjacent or nearby property?
  - 3. Will the proposed use cause an excessive or burdensome use of public facilities or services, including but not limited to streets, schools, water, sewer, or other public utilities, including police and fire protection?
  - 4. Is the proposed use supported by new or changing conditions not anticipated by the Comprehensive Plan or is the proposed use compatible and consistent with the purpose and intent of the Comprehensive Plan?
  - 5. Will the proposed change adversely influence existing conditions in the neighborhood or the city or county at large and are there substantial reasons why the property cannot or should not be used as currently zoned?
  - 6. Are there potential adverse impacts on the environment, including but not limited to drainage, soil erosion and sedimentation, flooding, air quality, and water quality and quantity?
  - 7. Are the costs required of the public in providing, improving, increasing or maintaining public utilities, schools, streets and public safety necessities reasonable when considering the proposed changes?
  - 8. Will the proposed change be detrimental to the value or improvement of development of adjacent or nearby property in accordance with existing requirements and development standards?
  - 9. Is the proposed change out of scale with the needs of the neighborhood or Ben Hill County or does the request reflect a reasonable balance between the promotion of the public health, safety, morality, or general welfare and the right to unrestricted use of property?

10. Will the proposed change constitute a grant of special privilege to the individual owner as contrasted with the adjacent or nearby neighborhood or with the general public?
- f. **Standards for Special Exception Review:** In addition to the standards enumerated in subsection (e) above, the following additional standards shall be considered for Special Exception requests:
1. Is the type of street providing access to the use adequate to serve the proposed Special Exception use?
  2. Is access into and out of the property adequate to provide for traffic and pedestrian safety, the anticipated volume of traffic flow, and to allow access by emergency vehicles?
  3. Are public facilities such as schools, water, sewer or other public utilities and police and fire protection adequate to serve the proposed Special Exception use?
  4. Are refuse, service parking and loading areas on the property located or screened to protect other properties in the area from such adverse effects as noise, light glare and other negative impacts?
  5. Will the hours and manner of operation of the Special Exception use have no adverse impacts on other properties in the area?
  6. Will the height, size or location of the buildings or other structures on the property be compatible with the height, size or location of buildings or other structures on neighboring properties?
  7. Provided, that the Commission may impose or require such additional restrictions and standards as may be necessary to protect the health and safety of workers and residents in the community, and to protect the value and use of property in the general neighborhood; and provided that wherever the Commission shall find in the case of any permit granted pursuant to the provisions of this ordinance that any term, condition or restrictions upon which such permit was granted are not being complied with, said Commission shall rescind and revoke such permit after giving due notice to all parties concerned and granting full opportunity for a public hearing.
  8. Special exceptions granted by the County Commission shall be valid for a period of twelve (12) months from date of approval, shall not be transferable except upon written approval of the County Commission, shall be executed within the granted period or become null and void and subject to procedures for resubmission as hereinabove established.
- g. **Public Hearings Records Standards:** The County Clerk shall mechanically record the proceedings of all zoning public hearings. If requested by any party,

verbatim transcripts of the public hearing can be prepared, but only if requested and purchased in advance by the requesting party, who must arrange at his expense for a certified court reporter to record and transcribe the hearing and furnish the original of the transcript to the commission for its records. The record of the public hearing and all evidence (e.g., maps, drawings, traffic studies, etc.) submitted at the public hearing shall be noted as such and shall become a permanent part of the particular zoning amendment's file.

- h. **Conflict of Interest and Disclosure Rules:** Any Ben Hill County Commissioner or Planning Commission member shall refrain from discussion of or voting upon any matter where the following exist:
1. Has any direct ownership in any real property to be affected by a rezoning action under consideration by Ben Hill County Government;
  2. Has a ten percent (10%) or more direct ownership interest in the total assets or capital stock in any business entity which has any direct ownership in any real property affected by a rezoning action under consideration by the Ben Hill County Government; or
  3. Has a spouse, parent, sibling or child with any interest as described in subsection h, paragraphs 1 and 2, shall disclose the nature and extent of such interest, in writing, to the Ben Hill County Commission as soon as he or she knows of its existence. Such an official, which shall include members of the County Commission, or Planning Commission also shall disqualify himself/herself from voting on the rezoning action and shall not take any other action on behalf of himself or herself or anyone else to influence action on the rezoning action. Any written disclosures made pursuant to this section which result in the inability of the County Commission to obtain a quorum for the purpose of making a final decision when considering a rezoning action, the County Commission shall initiate the special master process set forth in O.C.G.A. s36-67a-5, as amended. Moreover, questions of interpretation as to the application of this statute should be resolved by reference to the Georgia state law governing campaign contribution disclosures, O.C.G.A. s36-67-1 et seq., as amended.

**SECTION 15. DUTIES OF ZONING ADMINISTRATOR, BOARD OF APPEALS, COUNTY COMMISSION, AND COURTS ON MATTERS OF APPEAL**

**15-1 Zoning Administrator.** It is the intent of this ordinance that the Zoning Administrator be chiefly responsible, with due assistance from the County Attorney, for all questions of interpretation of this ordinance. The Zoning Administrator shall also be responsible for the enforcement of this ordinance and shall:

- a) Serve as administrative secretary to the Planning Commission, if requested.
- b) Maintain public records concerning the administration of the Zoning Ordinance, including all maps, amendments, Certificates of Zoning Compliance, Special Uses, Variances, and records of public hearings.
- c) Collect data and keep informed as to the best zoning practices in order to be qualified to make recommendations to the Planning Commission, all of which must be approved by the County Commission.
- d) Undertake other relevant duties as may be delegated by the County Commission.

**15-2 Board of Appeals.** The Board of Appeals shall review questions on interpretation only on appeal from the decision of the Zoning Administrator, and recourse from all decisions of the Board shall be to the courts as provided by law.

**15-3 County Commission.** It is further the intent of this ordinance that the duties of the County Commission shall be to adopt or reject proposed amendments to this ordinance as detailed in Section 14. Matters of non-enforcement of this ordinance may be brought to the County Commission's attention by aggrieved parties only after the aggrieved party has followed the complaint procedure outlined in Section 12-8. Corrections to problems of non-enforcement shall be handled by the Board of Commissioners. Recourse from all decisions of the County Commission shall be to the courts as provided by law.

**SECTION 16. LEGAL STATUS PROVISIONS**

**16-1 Conflict with Other Laws.** All previous zoning ordinances of Ben Hill County, Georgia, are hereby repealed. All ordinances or parts of ordinances not specifically in conflict herewith are hereby continued in force and effect, but all such ordinances or parts of ordinances in conflict herewith are hereby repealed. Whenever other ordinances or parts of ordinances require greater restrictions than those required by this ordinance, such ordinances or parts of ordinances shall govern. Whenever other ordinances or parts of ordinances require lesser restrictions, the requirements here within shall govern.

**16-2 Separability.** If any section, clause, portion or provision of this ordinance is found unconstitutional, such invalidity shall not affect any other portion of this ordinance.

**16-3 Effective Date.** This ordinance shall take effect and be enforced from and after its adoption and passage by the County Commission.

Date of Adoption

S/  
Chairman, Ben Hill County Board of  
Commissioners

S/  
County Clerk, Ben Hill County, Georgia

(SEAL)